

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/NIM/W/73

17 November 1976

Special Distribution

Multilateral Trade Negotiations

Group "Non-Tariff Measures"

Sub-Group "Quantitative Restrictions"

IMPORT LICENSING PROCEDURES

Note by the Secretariat

1. At its November 1976 meeting the Sub-Group "Quantitative Restrictions" requested the secretariat to prepare a single working document based on the specific comments and proposals that had been made thus far by delegations together with the respective paragraphs of the draft texts on import licensing procedures prepared by Working Group 4 of the Committee on Trade in Industrial Products (MTN/NIM/24 paragraph 13).
2. This document is circulated in response to this request. It sets out:

Annex I: Automatic Import Licensing

Annex II: Licensing to Administer Import Restrictions.

ANNEX I

Automatic Import Licensing

PARAGRAPH 1

CTIP text:

1. Automatic import licensing is defined as licensing which is not used to administer import restrictions such as those employed pursuant to the relevant provisions of inter alia Articles XI, XII, XVII, XVIII, XIX, XX and XXI of the General Agreement and when foreign exchange is granted automatically. The term "automatic licensing" covers technical visa requirements, surveillance systems, exchange formalities related to imports, and other administrative reviews of an equivalent kind effected as a prior condition for entry of imports.

PARAGRAPH 2

CTIP text:

2.

Alternative I

Automatic licensing systems, where required, shall not be used to restrict imports. Such systems shall be governed by the provisions of the General Agreement, in particular Article VIII, and be subject to the provisions set out in paragraphs 3-10 below.

Alternative II

No automatic licensing shall be required for the importation of goods after ... However, during the interim period, in special cases justified by the need to carry out certain administrative controls which could not be made in a more appropriate way, a system of automatic licensing may be applied subject to the following provisions.

Proposed amendments:

- replace the two alternatives by the following:

"Automatic import licensing shall not be required as a general and permanent prior condition for the entry of any product described in Part I of the appropriate schedules to the General Agreement. Where required, any automatic licensing requirement shall be applied in accordance with the following provisions:"

Canada (MTN/NTM/W/11/Add.7)

- merge the two alternatives to read as follows:

"(a) Automatic licensing systems, where required, shall not be used to restrict imports.

"(b) After ..., the developed countries shall eliminate the system of licensing for imports of goods to which they applied the automatic licensing system.

"(c) Automatic licensing shall be subject to the provisions set out in paragraphs 3 to 10 below."

Mexico (MTN/NTM/W/11/Add.8)

- replace the two alternatives by the following:

"No automatic licensing shall be required for the importation of goods after ... except in special cases where this system is appropriate on the basis of an international arrangement or justified by particular circumstances for sanitary or security reasons. However, in the cases of imports of developing countries in special cases justified by the need to carry out certain administrative controls which could not be made in a more appropriate way, a system of automatic licensing may be applied temporarily.

"Automatic licensing systems, where required, shall not be used to discourage or restrict imports. Such systems shall be governed by the provisions of the General Agreement, in particular Article VIII, and be subject to the following provisions."

Yugoslavia (MTN/NTM/W/11)

- amend the text as proposed above with the deletion of the word "temporarily" at the end of the first sub-paragraph.

Brazil (oral statement)

Add new paragraphs to read as follows:

"It shall not be used, either directly or indirectly, to restrict or otherwise influence the quantity, composition, conditions or sources of imports.

"It shall be limited to those products for which specific administrative controls are deemed necessary by the authorities of the contracting party concerned with respect to some or all sources of imports.

"It shall be removed as soon as the circumstances which gave rise to its introduction no longer prevail."

Canada (MTN/NTM/W/11/Add.8)

PARAGRAPH 3

CTIP text:

3. The rules governing presentation of applications for automatic licences and the lists of products subject to automatic licensing shall be published, with a specific indication as to the purpose and character of the system and in such a manner as to enable governments and traders to become acquainted with them. Any changes in either the rules governing automatic licensing or the lists of products subject to automatic licensing shall also be promptly published in the same manner.

Proposed amendments:

- amend the first sentence to read as follows:

"The rules governing presentation of applications for automatic licences and the lists of products subject to automatic licensing shall be promptly published, with a specific indication as to the purpose and character of the requirement and in such a manner as to enable traders to become acquainted with them."

Canada (MTN/NTM/W/11/Add.7)

- replace by the following text:

"The rules governing presentation of applications for automatic licences and the lists of products subject to automatic licensing shall be published, with a specific indication as to the purpose and character of the system. The said rules and lists may be amended at any time without prior notice.

"Any changes in either the rules governing automatic licensing or the lists of products subject to automatic licensing shall be published."

Mexico (MTN/NTM/W/11/Add.8)

Add new paragraph after paragraph 3 to read as follows:

"The rules governing presentation of application for automatic licences or changes thereto shall be notified annually to the GATT. Each contracting party shall also promptly notify any product for which an automatic licensing requirement is introduced or removed, as and when it is introduced or removed with a specific indication of the purpose and character of the licensing requirements."

Canada (MTN/NTM/W/11/Add.7)

PARAGRAPH 4

CTIP text:

/4. Automatic licensing systems shall not be designed nor operated in such a manner as to discriminate between sources of imports./

Proposed amendments:

- delete the paragraph.

Austria (MTN/NTM/W/11/Add.6)
WGC (oral statement)

- delete the square brackets.

United States (MTN/NTM/W/11/Add.5)
Japan (oral statement)

- replace by the following text:

"Within the framework of the political, economic and trade relations of each country with other countries and in the light of the relevant resolutions of the United Nations, automatic licensing systems shall not as a general rule be designed in such a manner as to discriminate between sources of imports."

Mexico (MTN/NTM/W/11/Add.8)

- amend the text to read:

"Automatic licensing systems shall not be designed nor operated in such a manner as to discriminate between sources of imports. No automatic licensing shall be used in respect of one or a group of countries."

Yugoslavia (MTN/NTM/W/11)

PARAGRAPH 5

CTIP text:

5. All persons, firms and institutions which fulfil the legal requirements for engaging in import operations involving products subject to automatic licensing shall be equally eligible to apply for and to obtain licences.

PARAGRAPH 6

CTIP text:

6. Application forms shall be as simple as possible. No document shall be required on application other than a pro forma invoice or, where strictly indispensable, other documents necessary to determine the nature and composition of the product.

Proposed amendments:

- replace the second sentence by the following:

"Documentation requirements shall, wherever practicable, be limited to those for normal customs entry purposes:"

Canada (MTN/NTM/W/11/Add.7)

- replace by the following text:

"Application forms shall be as simple as possible. Together with the application, a pro forma invoice may be required or, where strictly indispensable, in accordance with the administrative policy of the country concerned, other documents necessary to determine the nature and composition of the product."

Mexico (MTN/NTM/W/11/Add.8)

- make it clear that expression "other documents necessary to determine the nature and composition of the product" includes documents necessary to verify the value, quantity and nature of the product.

Nordic countries (oral statement)

PARAGRAPH 7

CTIP text:

7. No application shall be refused for minor errors in documentation easily rectifiable.

PARAGRAPH 8

CTIP text:

8. The applicant shall have to approach only one administrative organ for a licence.

Proposed amendments:

- replace by the following text:

"The applicant for a licence shall have to approach the administrative organ or organs previously specified in the applicable rules referred to in paragraph 3 above."

Mexico (MTN/NTM/W/11/Add.8)

PARAGRAPH 9

CTIP text:

9. Applications for licences may be submitted at any time.

Proposed amendments:

- amend to read:

"Adherents shall be free to require that applications for licences must be submitted no later than seven days after the placement of a firm order and in no event later than the date of shipment of any of the goods involved."

Australia (written notification)

PARAGRAPH 10

CTIP text:

10. Applications for licences shall be granted immediately on receipt or if this is not administratively feasible within a maximum of five working days from the date of receipt of the application.

Proposed amendments:

- add at the beginning:

"To the extent administratively feasible,"

Canada (MTN/NTM/W/11/Add.7)

- amend to read:

"Applications for licences shall be granted immediately on receipt and the licences shall be issued to the person concerned as soon as the signatures and stamps further required by the customs authorities and the body granting authorization for transfers abroad have been affixed."

Colombia (MTN/NTM/W/11/Add.4)

- replace "within a maximum of five working days" by "within a delay of five working days".

Israel (oral statement)

- make it clear that applications must be submitted in appropriate and complete form.

Nordic countries (oral statement)

Add new paragraph after paragraph 10 to read as follows:

"Each contracting party shall, upon request, afford sympathetic consideration to and afford opportunity for prompt consultation with regard to any matter related to automatic import licensing. If no satisfactory solution of the matter has been reached within sixty days, the matter may be brought before the CONTRACTING PARTIES."

Canada (MTN/NTM/W/11/Add.7)

ANNEX II

Licensing to Administer Import Restrictions

CTIP text:

Licensing procedures adopted and practices applied for the issue of licences for administration of import restrictions may, in some cases, have additional restrictive effects on imports. The following provisions shall accordingly apply when a licensing system is used for the administration of quotas and other import restrictions.

PARAGRAPH 1

CTIP text:

1. Licensing systems to administer import restrictions shall not be designed nor operated in such a manner as to prohibit imports from certain sources or discriminate between sources of imports, unless otherwise permitted under the General Agreement.

Proposed amendments:

- delete the paragraph.

Austria (MTN/NTM/W/11/Add.6)
EEC (oral statement)

- delete the square brackets.

Japan (oral statement)
United States (MTN/NTM/W/11/Add.5)

- replace by the following text:

"Within the framework of the political, economic and trade relations of each country with other countries and in the light of the relevant resolutions of the United Nations, the systems to administer import restrictions shall not as a general rule be designed in such a manner as to discriminate between sources of imports."

Mexico (MTN/NTM/W/11/Add.8)

PARAGRAPH 2

CTIP text:

2. The foreign exchange necessary for the payment of imports subject to licensing shall, where required, be made available to import licence holders on the same basis as to importers of goods that do not require import licences.

PARAGRAPH 3

CTIP text:

3. All useful information concerning formalities for filing applications for licences shall be published by the government which imposes or maintains the licensing requirement, as far in advance as possible of any opening date for submission of applications for licences.

PARAGRAPH 4

CTIP text:

4. All relevant information shall be provided to governmental authorities, upon their request, concerning the administration of import restrictions, the import licences granted over a recent period, and the distribution of such licences among supplying countries, including wherever possible names of importing enterprises on a confidential basis.

Proposed amendments:

- amend to read:

"Adherents shall, upon request, supply all relevant information to other adherents concerning the administration of import restrictions, the import licences granted over a recent period and the distribution of such licences among supplying countries, including, wherever agreed to by importing enterprises, the names of those enterprises."

Australia (written notification)

- add additional sentence:

"When adherents which are members of a customs union or free-trade area allocate an import quota among members of the union in fixed proportions, the allocations should, on request, be disclosed to other adherents."

Australia (written notification)

- delete the phrase:

"including wherever possible names of importing enterprises on a confidential basis."

Canada (MTN/NTM/W/11/Add.7)
United States (MTN/NTM/W/11/Add.5)

PARAGRAPH 5

CTIP text:

5. In the case of licences for import restrictions involving fixed quotas the overall amount of quotas, by quantity or value, including revisions during the quota period, of goods that could be imported during that specified period, dates of opening of quotas and, where applicable, the amount allocated by country, shall be published.

Proposed amendments:

- delete the word "fixed" in the phrase "involving fixed quotas".

United States (MTN/NTM/W/11/Add.5)

- as above and add: "as far as practicable" at the end of the paragraph.

Japan (oral statement)

PARAGRAPH 6

CTIP text:

6. Any person, firm or institution which fulfils the legal requirements shall, to the extent possible, having regard to the provisions of paragraph 14 below, be equally eligible to apply for licences and to get their applications considered accordingly.

PARAGRAPH 7

CTIP text:

7. A reasonable period shall be allowed for submission of applications for licences.

PARAGRAPH 8

CTIP text:

8. Application forms and procedures for application and, where applicable, renewal shall be as simple as possible.

PARAGRAPH 9

CTIP text:

9. The period for processing of applications shall be as short as possible.

PARAGRAPH 10

CTIP text:

10. In the event of refusal of an application, the applicant shall be given on request the reasons for such refusal and shall have the right of appeal.

Proposed amendments:

- add a second sentence to read as follows:

"In exceptional cases, e.g. in the interest of public security, the reasons may be withheld."

Hong Kong (MTN/NTM/W/11/Add.1)

PARAGRAPH 11

CTIP text:

11. The validity of the licence shall be of reasonable duration, and in no case, except in special cases where imports are necessary to meet unforeseen short-term requirements, so short as to prevent imports from countries situated at a distance, taking into account transport and communications conditions.

PARAGRAPH 12

CTIP text:

12. When administering quotas, the authorities of the importing country shall take all possible steps to ensure that licences will be issued and importation can be effected within the period prescribed for this purpose and to facilitate the full utilization of the quotas.

Proposed amendments:

- amend to read:

"When administering quotas, the authorities of the importing country shall take all possible steps to ensure that licences will be issued and importation can be effected within the period prescribed for this purpose and to facilitate the full utilization of the quotas, wherever for reasons of economic policy, the conditions under which the quotas under reference were established remain in existence, in the opinion of the governments which established those quotas."

Mexico (MTN/NTM/W/11/Add.8)

PARAGRAPH 13

CTIP text:

13. The administrative authority issuing the licence shall take into account inter alia whether licences issued to the applicant in previous periods have been utilized or not.

Proposed amendments:

- amend to read:

"The administrative authority issuing the licence may take into account inter alia whether licences issued to the applicant in previous periods have been utilized or not, for which purpose it may require the production of the appropriate evidence."

Mexico (MTN/NTM/W/11/Add.8)

PARAGRAPH 14

CTIP text:

14. Licences should not be issued to importers for goods in such small quantities as to make imports uneconomical and, so far as consistent with this, should not be allocated to an unduly small number of importers.

Proposed amendments:

- delete the paragraph.

Mexico (MTN/NTM/W/11/Add.8)

PARAGRAPH 15

CTIP text:

15. Consideration shall be given to ensuring a reasonable distribution of licences to new importers, taking into account the desirability of issuing licences for goods in economic quantities.

Proposed amendments:

- amend to read:

"Consideration shall be given to ensuring a reasonable distribution of licences to new importers taking into account the desirability of issuing licences for goods in economic quantities and also the rights of traditional importers especially where quotas are applied for emergency protection purposes."

Australia (written notification)

- replace "consideration shall be given to ensuring" by "There shall be".

Canada (MTN/NTM/W/11/Add.7)

- replace by the following text:

"In the distribution of licences, developed countries should reserve a substantial share to new importers, in the case of new products originating in developing countries; in addition, they should authorize a larger number of licences for traditional imports originating in developing countries."

Mexico (MTN/NTM/W/11/Add.8)

PARAGRAPH 16

CTIP text:

16. In the case of quotas administered through licences which are not allocated among supplying countries, licence-holders shall be free to choose the sources of imports.

Proposed amendments:

- add at the end:

"with the exception of supplying countries with which no trade relations are maintained and under international agreements".

Mexico (MTN/NTM/W/11/Add.8)

PARAGRAPH 17

CTIP text:

17. In the case of quotas allocated among supplying countries, the licence shall clearly stipulate the country or countries from which imports must be made.

PARAGRAPH 18

CTIF text:

18. Imports of goods under restrictions should, wherever practicable, be allowed on the basis of normal customs procedures, or in accordance with procedures worked out in agreement between exporting and importing countries, on the basis of export permits issued by the exporting countries.

Proposed amendments:

- replace "normal customs procedures" with "normal import licensing procedures".

Australia (written notification)

PARAGRAPH 19

CTIP text:

19. Where export permits are issued by exporting countries according to a procedure worked out in common agreement with an importing country, but where the importing country for certain purposes requires import licences, the latter shall be issued automatically, within the limit of the quotas, in accordance where appropriate with the provisions of Annex I.