

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

Multilateral Trade Negotiations

Group "Non-Tariff Measures"

Sub-group "Quantitative Restrictions"

IMPORT LICENSING PROCEDURES

Revision

The following revised text of a draft Agreement on Import Licensing Procedures is circulated at the request of a number of delegations.

The circulation of this text does not prejudice the right of delegations to revert to specific issues.

Delegations reserve the right to propose amendments to the French and Spanish texts in order to bring these into line with the English text.

AGREEMENT ON IMPORT LICENSING PROCEDURES

PREAMBLE

Having regard to the Multilateral Trade Negotiations, the Parties to this Agreement on Import Licensing Procedures;

Desiring to further the objectives of the General Agreement on Tariffs and Trade;

Taking into account the particular trade, development and financial needs of developing countries;

Recognizing the usefulness of automatic import licensing for certain purposes and that such licensing should not be used to restrict trade;

Recognizing that import licensing may be employed to administer measures such as those adopted pursuant to the relevant provisions of the General Agreement on Tariffs and Trade;

Recognizing also that the inappropriate use of import licensing procedures may impede the flow of international trade;

Desiring to simplify, and bring transparency to, the administrative procedures and practices used in international trade, and to ensure the fair and equitable application and administration of such procedures and practices;

Desiring to provide for a consultative mechanism and the speedy, effective and equitable resolution of disputes arising under this Agreement;

Hereby agree as follows:

General provisions

1. For the purpose of this Agreement, import licensing is defined as administrative procedures¹ used for the operation of import licensing régimes requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation into the customs territory of the importing country.
2. The Parties to this Agreement shall ensure that the administrative procedures used to implement import licensing régimes are in conformity with the relevant provisions of the General Agreement on Tariffs and Trade² including its annexes and protocols, as interpreted by this Agreement, with a view to preventing trade distortions that may arise from an inappropriate operation of those procedures, taking into account the economic development purposes and financial and trade needs of developing countries.
3. The rules for import licensing procedures shall be neutral in application and administered in a fair and equitable manner.
4. The rules and all information concerning procedures for the submission of applications, including the eligibility of persons, firms and institutions to make such applications, and the lists of products subject to the licensing requirement shall be published promptly in such a manner as to enable governments and traders to become acquainted with them.

¹Those procedures referred to as "licensing" as well as other similar administrative procedures.

²Hereinafter referred to as "the GATT".

Any changes in either the rules concerning licensing procedures or the list of products subject to import licensing shall also be promptly published in the same manner. Copies of these publications shall also be made available to the GATT Secretariat.

5. Application forms and, where applicable, renewal forms shall be as simple as possible. Such documents and information as are considered strictly necessary for the proper functioning of the licensing régime may be required on application.

6. Application procedures and, where applicable, renewal procedures shall be as simple as possible. Applicants shall have to approach only one administrative body previously specified in the rules referred to in paragraph 4 above in connexion with an application and shall be allowed a reasonable period therefor. In cases where it is strictly indispensable that more than one administrative body is to be approached in connexion with an application, these shall be kept to the minimum number possible:

7. No application shall be refused for minor documentation errors which do not alter basic data contained therein. No penalty greater than necessary to serve merely as a warning shall be imposed in respect of any omission or mistake in documentation or procedures which is obviously made without fraudulent intent or gross negligence.

8. Licensed imports shall not be refused for minor variations in value, quantity or weight from the amount designated on the licence due to differences occurring during shipment, differences incidental to bulk loading and other minor differences consistent with normal commercial practice.

9. The foreign exchange necessary to pay for licensed imports shall be made available to licence holders on the same basis as to importers of goods not requiring import licences.

10. With regard to security exceptions, the provisions of Article XXI of the GATT apply.

11. The provisions of this Agreement shall not require any Party to this Agreement to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

Automatic import licensing^{1/}

12. Automatic import licensing is defined as import licensing where approval of the application is freely granted.

^{1/} Those import licensing procedures requiring a security which have no restrictive effects on imports, are to be considered as falling within the scope of paragraphs 12 and 13 below.

13. The following provisions,¹ in addition to those in paragraphs 1 to 12 above, shall apply to automatic import licensing procedures:

- (a) Automatic licensing procedures shall not be administered in a manner so as to have restricting effects on imports subject to automatic licensing.
- (b) Parties to this Agreement recognize that automatic import licensing may be necessary whenever other appropriate procedures are not available. Automatic import licensing may be maintained as long as the circumstances which gave rise to its introduction prevail or as long as its underlying administrative purposes cannot be achieved in a more appropriate way.
- (c) Any person, firm or institution which fulfils the legal requirements of the importing country for engaging in import operations involving products subject to automatic licensing shall be equally eligible to apply for and to obtain import licences.
- (d) Applications for licences may be submitted on any working day prior to the customs clearance of the goods.
- (e) Applications for licences when submitted in appropriate and complete form shall be approved immediately on receipt, to the extent administratively feasible, but within a maximum of ten working days.

¹ A developing country party to this Agreement, which has specific difficulties with the requirements of sub-paragraphs (d) and (e) below, may, upon notification to the Committee referred to in paragraph 15, delay the application of these sub-paragraphs by not more than two years from the date of entry into force of this Agreement for such party.

Non-automatic import licensing

14. The following provisions, in addition to those in paragraphs 1 to 11 above, shall apply to non-automatic import licensing procedures, that is, import licensing procedures not falling under paragraphs 12 and 13 above:

- (a) Licensing procedures adopted and practices applied in connexion with the issuance of licences for the administration of quotas and other import restrictions shall not have trade restrictive effects on imports additional to those caused by the imposition of the restriction.
- (b) Parties to this Agreement shall provide, upon the request of any Party to this Agreement having an interest in the trade of the product concerned, all relevant information concerning:
 - (i) the administration of the restrictions;
 - (ii) the import licences granted over a recent period;
 - (iii) the distribution of such licences among supplying countries;
 - (iv) where practicable, import statistics (i.e., value and/or volume) with respect to the products subject to import licensing. The developing countries would not be expected to take additional administrative or financial burdens on this account.

- (c) Parties to this Agreement administering quotas by means of licensing shall publish the overall amount of quotas to be applied by quantity and/or value, the opening and closing dates of quotas, and any change thereof.
- (d) In the case of quotas allocated among supplying countries, the Party to this Agreement applying the restrictions shall promptly inform all other Parties having an interest in supplying the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and shall give public notice thereof.
- (e) Where there is a specific opening date for the submission of licensing applications, the rules and product lists referred to in paragraph 4 shall be published as far in advance as possible of such date, or immediately after the announcement of the quota or other measure involving an import licensing requirement.
- (f) Any person, firm or institution which fulfils the legal requirements of the importing country shall be equally eligible to apply and be considered for a licence. If the licence application is not approved, the applicant shall, on request, be given the reasons therefor and shall have a right of appeal or review in accordance with the domestic legislation or procedures of the importing country.
- (g) The period for processing of applications shall be as short as possible.

- (h) The period of licence validity shall be of reasonable duration and not be so short as to preclude imports. The period of licence validity shall not preclude imports from distant sources, except in special cases where imports are necessary to meet unforeseen short-term requirements.
- (i) When administering quotas, Parties to this Agreement shall not prevent importation from being effected in accordance with the issued licences, and shall not discourage the full utilization of the quotas.
- (j) When issuing licences, Parties to this Agreement shall take into account the desirability of issuing licences for products in economic quantities.
- (k) In allocating licences, Parties to this Agreement should consider the import performance of the applicant, including whether licences issued to the applicant have been fully utilized, during a recent representative period.
- (l) Consideration shall be given to ensuring a reasonable distribution of licences to new importers, taking into account the desirability of issuing licences for products in economic quantities. In this regard, special consideration should be given to those importers importing products originating in developing countries and, in particular, the least developed countries.

- (m) In the case of quotas administered through licences which are not allocated among supplying countries, licence holders¹ shall be free to choose the sources of imports. In the case of quotas allocated among supplying countries, the licence shall clearly stipulate the country or countries.
- (n) In applying paragraph 8 above, compensating adjustments may be made in future licence allocations where imports exceeded a previous licence level.

Institutions, consultation and dispute settlement

15. There shall be established under this Agreement a Committee on Import Licensing composed of representatives from each of the Parties to this Agreement (referred to in this Agreement as "the Committee"). The Committee shall elect its own Chairman and shall meet as necessary for the purpose of affording Parties the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives.

16. Consultations and the settlement of disputes with respect to any matter affecting the operation of this Agreement, shall be subject to the procedures of Articles XXII and XXIII of the GATT.

Final provisions

17. Acceptance and accession

- (a) This Agreement shall be open for acceptance by signature or otherwise, by governments contracting parties to the GATT and by the European Economic Community.

¹Sometimes referred to as "quota holders".

- (b) This Agreement shall be open to accession by any other government on terms, related to the effective application of rights and obligations under this Agreement, to be agreed between that government and the parties to this Agreement, by the deposit with the Director-General to the CONTRACTING PARTIES to the GATT of an instrument of accession which states the terms so agreed.
- (c) Contracting parties may accept this Agreement in respect of those territories for which they have international responsibility, provided that the GATT is being applied in respect of such territories in accordance with the provisions of Article XXVI:5(a) or (b) of the GATT; and in terms of such acceptance, each such territory shall be treated as though it were a Party to this Agreement.

18. Reservations

Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other parties to this Agreement.

19. Entry into force

This Agreement shall enter into force on 1 January 1980 for the governments¹ which have accepted or acceded to it by that date. For each other government it shall enter into force on the thirtieth day following the date of its acceptance or accession to this Agreement.

20. National legislation

- (a) Each government accepting or acceding to this Agreement shall ensure, not later than the date of entry into force of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement.

¹For the purpose of this Agreement, the term "governments" is deemed to include the competent authorities of the European Economic Community.

- (b) Each Party to this Agreement shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

21. Review

The Committee shall review as necessary, but at least once every two years, the implementation and operation of this Agreement taking into account the objectives thereof and shall inform the CONTRACTING PARTIES to the GATT of developments during the period covered by such reviews.

22. Amendments

The Parties to this Agreement may amend it, having regard, inter alia, to the experience gained in its implementation. Such an amendment, once the Parties have concurred in accordance with procedures established by the Committee, shall not come into force for any Party until it has been accepted by such Party.

23. Withdrawal

Any Party to this Agreement may withdraw from this Agreement. The withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT. Any Party to this Agreement may upon such notification request an immediate meeting of the Committee.

24. Non-application of this Agreement between particular parties

This Agreement shall not apply as between any two Parties to this Agreement if either of the Parties, at the time either accepts or accedes to this Agreement, does not consent to such application.

25. Secretariat

This Agreement shall be serviced by the GATT secretariat.

26. Deposit

This Agreement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT, who shall promptly furnish to each Party to this Agreement and each contracting party to the GATT a certified copy thereof and of each amendment thereto pursuant to paragraph 22 and a notification of each acceptance thereof or accession thereto pursuant to paragraph 17, or each withdrawal therefrom pursuant to paragraph 23.

27. Registration

This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this day of

nineteen hundred and seventy-nine in a single copy, in the English, French and Spanish languages, each text being authentic.