

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Committee on Trade in Industrial Products

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REPLIES TO THE QUESTIONNAIRE ON LICENSING

Addendum

CANADA¹

MOTOR GASOLINE

Outline of system

1. This system is maintained to facilitate enforcement of the Canadian National Energy Policy which has been in effect since 1961. The import of motor gasoline for consumption in any part of Canada requires a licence of the National Energy Board. In exercising the authority vested in it for granting such a licence, the Board must consider and decide whether in its view the specific import is consistent with the development and utilization of Canadian indigenous oil resources.

Purposes and coverage of the licensing

2. Motor gasoline and motor gasoline blending components are subject to an import licensing process administered by the National Energy Board.

3. This licensing system applies to relevant imports from any country.

4. The licensing is intended to restrict, where found necessary, the relevant imports to levels consistent with the development and utilization of Canadian indigenous resources. Prior to the introduction of a licensing system in May 1969, voluntary restraint of import levels was sought, but this proved ineffective. Earlier attempts to achieve the same end by the imposition of minimum import prices and surcharges had also failed. It was concluded that import licensing would be effective in the prevailing circumstances.

5. Licensing of oil imports is statutorily established by Part VI of the National Energy Board Act, as modified and implemented by the Regulations made under that Part. These Regulations by Section 22 limit the licensing to motor gasoline and components thereof, as defined, so that the legislation does not leave the designation of the product to the administrative discretion of the National Energy Board. This licensing could be abolished through suitable amendment of the Regulations by Order-in-Council.

¹This document supplements COM.IND/W/55/Add.25. The Canadian delegation has also submitted supporting material to its replies in COM.IND/W/55/Add.25. This material is available for consultation in the secretariat.

Procedures

6. (a) There are no quotas. The formalities of applying for licences have been advised to all registered importers of oil. Customs' offices refer enquiries to the National Energy Board; the nature of the trade does not warrant advertisement. Licences have the nature of public documents; copies in reasonable number are freely available on request.

(b) There are no quotas.

(c) There is no allotment of licences partly or wholly to domestic producers of like goods. Copies of each licence are provided to the appropriate customs' port and one of these is returned to the Board with details of imports made against it. No requests have ever been made by governments concerning details of licensed gasoline importers, but, if made, they would be met.

(d) Not relevant.

(e) The Board normally considers applications twice each month, but deals with emergency applications as necessary. The actual processing time normally takes a day or so in non-urgent cases, given compliance with the formalities of application. In special cases, the Board may order a public hearing, with attendant delay arising from the necessity to give notice of the time and place.

(f) There is no "opening of the period of importation".

(g) The Board is the sole administrator of the licensing.

(h) Each application is considered on its merits and against the criteria of the legislation. Hitherto, no cases have arisen of conflicting applications and the likelihood of such an instance is remote. There is no specific maximum amount for any applicant. Applications from new importers are treated pari passu with those from established importers. New applications are examined routinely twice a month at the first opportunity following receipt, or as necessary in cases of urgency.

(i) Not relevant.

(j) Not relevant.

(k) A licence may be issued on the condition that the product imported will be consumed in the area of Canada specified in the application for it. No applications have been received for the import of gasoline other than for consumption in Canada. All licences issued have contained conditions as to the area of Canadian consumption.

7.(a) There is no specific period of advance application. In the case of bulk cargoes, inadvertent omission to make timely application for a licence is unlikely, and has not occurred. Regular imports by truck are covered by licences for specific time periods; the nature of the trade renders unlikely the occurrence of unforeseen imports subject to licensing, but any instance is subject to ad hoc treatment.

(b) A quorum of the Board is normally available during business hours and can consider and approve the issue of a licence on completion of the formalities.

(c) Applications may be made at any time during a year.

(d) This is the same question as 6(g) above.

8. Licences are approved for issue in all cases in which the criteria are met. Applicants are advised of the reasons for withholding approval.

A decision or order of the Board upon a question of law or of jurisdiction may be appealed to the Federal Court of Appeal, on leave being obtained from that Court; other remedies may be available depending upon the particular circumstances concerned.

Eligibility

9. Any person may apply for a licence. There are no fees. There are no "authorized importers". Persons who import into Canada oil or oil products in excess of 1,000 barrels (or 5,000 lb.) in any one month register with the Board under separate administrative procedure not related to import licensing.

Documentation

10. The applicant must, in effect, provide sufficient information to enable the Board to decide whether the importation envisaged meets the criteria of the legislation, viz its effects on the development and utilization of Canadian indigenous resources. There is no form. Applicants must, however, submit details of the quantities, the approximate date or period, and the areas of Canada in which consumption will occur. In the cases subsequent to a first licensed import, the applicant must be prepared to satisfy the Board that any conditions of earlier licences have been or will be met.

11. Entry at customs requires a copy of the licence. At the discretion of customs officials, entry may be permitted without production of the document provided its number and existence are known.

12. There are no charges.

13. There are no payments associated with the issue of licences.

Conditions of licensing

14. A licence is valid for the period stated therein or, if issued in respect of specific vessel and voyage, for the time in which that voyage might reasonably be made; if the voyage is not made, the licence is null and void. The validity of a licence can be extended by Order-in-Council; in practice, the question of extension does not arise.

15. There are no penalties for non-utilization of licences or parts thereof.

16. Licences are not transforable.

17. Licences issued that are valid for a stated period permit import up to a maximum specified quantity. Licences for cargo-lots permit import of a stated quantity, 10 per cent more or less.

Other procedural requirements

18. There are no other administrative procedures other than licensing and the normal customs requirements for similar goods not subject to licensing.

19. Normally, foreign exchange is freely available from commercial banks, which are not concerned with licensing; the associated formalities conform to customary commercial banking practice.

NATURAL GAS

Outline of system

1. The National Energy Board Act and the Part VI Regulations made thereunder control imports of natural gas by pipelines, railway tank cars and tank trucks or tankers. Imports are authorized by both licences and orders. Licences are issued for large volume imports while orders are used in the case of small volume and emergency imports. An application is made to the Board for import authorization and depending on the type of authorization requested (licence or order) the application may or may not be set down for a public hearing. Any licence or order, other than an emergency import order, is not effective until approved by the Governor in Council.

Purposes and coverage of the licensing

2. As stated, the licences are issued for the larger volume imports of natural gas while orders are used in the case of small volume and emergency imports of natural gas (or liquefied natural gas).

3. To date, the system described applies to goods originating in and coming from the United States.

4. The licensing of imports is for regulatory and emergency purposes. Since the formation of the National Energy Board there has been a shortage of natural gas in the United States and a surplus of natural gas produced in Canada. Therefore, the purpose of licensing has not been to restrict the quantity or value of imports per se.

5. The licensing is maintained under the National Energy Board Act. The Act is a statute of the Government of Canada. The designation of products i.e. natural gas, is specifically referred to in the Act and is not subject to administrative discretion. It is not possible for the Government to abolish the system without legislative approval.

Procedures

6. (a)(b)(c)(d) Since natural gas is not restricted as such as to the quantity or value of imports, sub-sections (a), (b), (c) and (d) of this section of the questionnaire would not seem to be applicable.

(e) For processing applications, the minimum length of time is approximately one month, while the maximum length would depend on whether a public hearing is required and could take up to four months or longer. Applications for emergency import purposes can be approved immediately.

(f) Between the granting of licences and the date of opening of the period of importation, the time remaining may be immediate or some practical interval not unduly restrictive.

(g) The importer has to approach one administrative organ only, the National Energy Board. However, the licence or order granted for such an import, other than an emergency import order, has to be approved by the Governor-in-Council before final authorization is granted.

(h) Applications are examined on receipt, except for special situations arising as a result of emergency conditions. To date, import licences have not been allocated. Any licences authorized to date have recognized the special circumstances of export - imports (passage through foreign soil only), emergency situations and trade-offs.

(i) There are no applicable bilateral arrangements.

(j) The granting of import licences would be conditional on an export licence being granted by the appropriate foreign government agency (the US Federal Power Commission in this case).

(k) This sub-section is not applicable.

7.(a) Application for a licence should be made in advance of importation by a reasonable length of time, depending on the scope of the importation.

(b) An order can be granted immediately by the Board in an emergency situation.

(c) There are no limitations as to the period of the year during which application for licence and/or importation may be made.

(d) The importer has to approach only one administrative organ, the National Energy Board. However, the licence or order, other than an order issued in emergency circumstances, requires approval from the Governor-in-Council.

8. An application for a licence may be refused under failure to meet ordinary criteria such as price, failure to consider alternate domestic supplies, etc. An applicant, in the event of refusal to issue a licence may resubmit his application with appropriate amendments to the same Board.

Eligibility of importers to apply for licences

9. All firms, persons and institutions, under the meaning of the Act, are eligible to apply for licences. The eligible importers are defined in the Act.

Documentational and other requirements for application of licence

10. The Board may have regard to the following information in the application: the availability of gas; the existence of markets, actual or potential; the economic feasibility; the financial responsibility; and the public interest. The Governor-in-Council may make regulations respecting the information to be furnished by applicants for licences and the procedure to be followed in applying for licences as constituted in the National Energy Board Act under the Regulations made pursuant to Part VI of the National Energy Board Act, and specifically the section entitled "Information to be Furnished by Applicant for Licence to Export Gas".

11. Documents required upon actual importation are stated in the licence or order authorizing the import. Full details of the documents required are stated in the section entitled "Regulations Made Pursuant to Part VI of the National Energy Board Act".

12. There is no licensing fee or administrative charge in respect of an application.

13. There is no deposit or advance payment requirement associated with the issue of licences.

Conditions of licensing

14. No import licence shall be issued for any period in excess of twenty-five years from a date to be fixed in the licence. The validity of a licence cannot be extended beyond this period without an amendment to the Act, by Parliament.
15. There is no penalty for the non-utilization of a licence or a portion of a licence.
16. Licences are not transferable between importers.
17. Natural gas import licences would be subject to quantitative restriction. Conditions attached to the issue of a licence would include installation of metering, inspection and reporting, subject to requirements defined by the Board.

Other procedural requirements

18. There are no other administrative procedures, apart from import licensing and similar administrative procedures, required prior to importation, other than those defined in the Regulations made pursuant to the Act.
19. Foreign exchange is not automatically provided by banking authorities. In respect to importation of natural gas from the United States, foreign exchange would be arranged privately.