

AGREEMENT ON IMPORT LICENSING PROCEDURES

Notification under Article 7.3 of the
Agreement on Import Licensing Procedures

BRAZIL

The following communication, dated 15 September 2011, is being circulated at the request of the Delegation of Brazil.

Outline of system

1. As a rule, the Brazilian importation regime does not require licensing. However, for some products, automatic import licensing and non-automatic import licensing are foreseen by means of the Integrated System of Foreign Trade (SISCOMEX).

All import licenses shall be required through the Integrated System of Foreign Trade (SISCOMEX). Such administrative procedure – which integrates the registration activities and monitors imports and exports – is based on a sole flow of computerised information so as to make the process efficient and fast.

The importer may require the import licensing directly from his/her institution if it is registered in SISCOMEX. It is also possible for authorized representatives to require the import licensing through the system. No specific form is necessary and it is sufficient to register the computerised operation.

Purpose and coverage of licensing

2. The products subject to automatic licensing are listed in the Administrative Treatment of SISCOMEX and can also be found on the web page of the Ministry of Development, Industry and Foreign Trade (www.mdic.gov.br). Products under the special customs regime of drawback are also subject to automatic licensing.

The products subject to non-automatic licensing are listed in the Administrative Treatment of SISCOMEX and can also be found on the web page of MDIC. In their majority, they are products which may cause damage to human, plant or animal health; products capable of causing environmental damage; products classified as weapons or made for warlike purpose; products subject to non-tariff quotas as established in the agreements of the Uruguay Round; products subject to tariff quotas; and products subject to trade defence measures established in accordance with the WTO agreements.

3. Licensing is applied to all origins, without distinction.

4. The purpose of automatic licensing is to allow, through information collected by the SISCOMEX, the statistic follow-up of trade flows of drawback operations, involving legal suspension of taxes or some products of interest to the Foreign Trade policy.

5. The Brazilian import licensing regime is based on the following legislation:

- Decree No 660 of 25 September 1992, instituting the Integrated System of Foreign Trade (SISCOMEX);
- Ministerial Act MF/MICT No 291 of 12 December 1996, on processing import operations within SISCOMEX;
- Ministerial Act DECEX No 8 of 13 May 1991, on rules for imports of used good, as amended by: Ministerial Act MDIC No 235 of 7 December 2006; Ministerial Act MDIC No 77 of 19 March 2009; Ministerial Act MDIC No 92 of 30 April 2009; Ministerial Act MDIC No 171 of 1 September 2009; Ministerial Act MDIC No 207 of 8 December 2009; Ministerial Act MDIC No 84, of 20 April 2010; and Ministerial Act MDIC No 175, of 17 August 2010.
- Ministerial Act SECEX No 23 of 14 July 2011, that, in its Chapter II, regulates the procedures for obtaining import licenses.

Most import licensing is statutorily required. For most goods mentioned in the relevant legislative texts, legal coverage is defined within and is not subjected to administrative discretion. Statutorily required licensing cannot be abolished without legislative approval. Other products are left to administrative discretion. The list of products subjected to licensing is available at the Ministry of Development, Industry and Foreign Trade's website: www.mdic.gov.br.

Procedures

6. Brazil does not maintain import quantitative restrictions which are inconsistent with WTO rules.

7.

- (a) In cases of non-automatic licensing, we recommend to the importer to obtain the license before the departure of the products. As for the automatic license, the requirement shall be made at any time before the beginning of the customs clearance.
- (b) Periods for processing and issuing licenses are in accordance with dispositions laid down in articles 2 and 3 of the Agreement on Import Licensing Procedures. Once the requirements specified in legislation are fulfilled, periods tend to be shorter.
- (c) There are no limitations regarding the time of the year when requests shall be made, unless they are related to quantitative restrictions under the agreements of the Uruguay Round.

- (d) All import licenses shall be required online, through the Integrated System of Foreign Trade (SISCOMEX). Each application is effected online by the competent administrative authority, and need not to be passed on to other authorities. For most goods, the application shall be effected for a single competent authority, and must not be passed on to other authorities for visa, note or approval. The importer has to approach only SISCOMEX. A list of bodies in charge of import licensing in Brazil, as well as their scope and legal framework, is available at the Ministry of Development, Industry and Foreign Trade's website: www.mdic.gov.br.
8. Requests of license may be refused if they do not fulfil the requirements of the applicable legislation, as in the case of imports which may threat human or animal health or cause environmental risks. Refusals may be, however, challenged by the importer.

Eligibility of importers to apply for license

9. Any person, enterprise or institution may request import licensing. The only requirement is the registration in the Integrated System of Foreign Trade (SISCOMEX). From the first operation on, the institution is automatically registered in SISCOMEX.

Documents and other requirements for application for license

10. There are no especial forms. Necessary information for requesting licensing is available under SISCOMEX.

As a general rule, presentation of documents is not required unless in specific situations established by the Brazilian legislation (Ministerial Act SECEX No 25/2008).

11. There is no need for the importer to present the import license in order to conclude the customs procedures. The importer must present only the documents concerning the customs procedures.
12. There are no fees for licensing or administrative expenses. The importer may request licensing through SISCOMEX directly from his/her institution once he/she is registered, or through institutions registered for that finality. In case the importer prefers to use such institutions he/she will be subject to the conditions established by who provides the service, but never on an *ad valorem* basis.
13. Deposits of advanced payments or guarantees concerning the issuance of licenses are not necessary.

Conditions of licensing

14. Both automatic and non-automatic licenses validity expires within 90 days after their issuance. In case it is necessary to extend their validity under exceptional circumstances, the importer shall present to the competent bodies a request justifying its/their extension before its expiration date.
15. In case of non-utilisation of the licenses, or partial utilisation, there are no penalties.
16. The ownership of the issued licenses shall not be transferred.
17. In both cases, there are no other conditions to be observed for the issuance of licenses other than those related to the goals of automatic and non-automatic licensing.

Other procedural requirements

18. The importer is required to obtain an authorization from the Federal Revenue of Brazil in order to operate within SISCOMEX.
 19. There is no relation between the licensing regime and foreign currency exchange regime.
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