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Committee on Import Licensing Original: English

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES[1]

Notification under Article 7.3 of the Agreement on Import Licensing Procedures

CANADA

The following communication, dated 16 November 2011, is being circulated at the request of the delegation of Canada.

Introduction

Import licences are required for goods subject to quantitative restrictions related to measures taken to safeguard domestic producers against injurious imports pursuant to either GATT Article XIX; for textiles and apparel goods for which a tariff preference level (TPL) is sought under the NAFTA; or international commitments (e.g. narcotics and endangered species of fauna and flora). Import controls, although not generally related to quantity, are also imposed on some products on grounds of public interest, or for monitoring purposes. This is accomplished either through import licensing measures or through certain other formalities at the port of entry. Effective 1 January 1995 (1 August 1995 for wheat, wheat products, barley, barley products, butter, dry whey and cream), Canada converted its agricultural import controls to a system of tariff rate quotas (TRQs); import licences are required as a condition of importation of quantities eligible for the in-quota rate of duty.

Import controls are administered by a limited number of government departments. It is not practical, however, to provide a general description of the procedures involved as they vary, in certain particulars, from department to department. Consequently, replies to the Questionnaire have been organized according to the different legislative instruments under which import controls are maintained. In the case of the Export and Import Permits Act, general responses in respect of dairy products; chicken, turkey and eggs; broiler hatching eggs and chicks; beef and veal; margarine; wheat and barley and their products; and pork have been provided for questions 5, 8-10, 12-17 and 19 of the Questionnaire. Replies to the remaining questions have been organized by the different legislative instruments owing to the different procedures involved.

[1] See G/LIC/3, Annex, for the Questionnaire.

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I. CONTROLLED DRUGS AND SUBSTANCES ACT

No changes with respect to this section in G/LIC/N/3/CAN/8, dated 16 October 2009.

II. NATURAL HEALTH PRODUCTS REGULATIONS

Note**:** *The following relates to import licensing and administrative procedures for health products under the* ***Food and Drugs Act*** *and its associated regulations. Different health products, covered under the Act, are subject to different regulations as listed below:*

- *Food and Drug Regulations;*
- *Medical Devices Regulations;*
- *Natural Health Products Regulations;*
- *Processing and Distribution of Semen for Assisted Conception Regulations;*
- *Safety of Cells, Tissues and Organs for Transplantation Regulations.*

Outline of system

1. The importation into Canada of drugs, natural health products and medical devices is subject to establishment or site licensing to ensure that imported substances meet Canadian standards of safety, efficacy and quality. The import of these products is covered by the Food and Drug Regulations, the Natural Health Products Regulations, and Medical Devices Regulations respectively. In addition to establishment or site licences permitting persons to, among other things, import a health product, product licences are required for the sale of each specific health product in Canada.

The importation of semen for assisted conception and cells, tissues and organs (CTO) for transplantation are not subject to licensing, but imported products are expected to meet Canadian standards for safety and quality as expressed in the respective regulations. Canadian CTO establishments are required to be registered with Health Canada.

Purpose and coverage of licensing

2. Establishment licences are required for "import for sale" of drugs (including pharmaceuticals, biologics, vaccines, whole blood and its components, and radiopharmeuticals) and medical devices.

Site licences are required for "import for sale" of natural health products (including vitamins and minerals; herbal remedies; homeopathic medicines; traditional medicines; probiotics; and other products like amino acids and essential fatty acids).

Registration is required for all CTO (organs and minimally manipulated cells and tissues) establishments.

3. The above systems apply to the specified health products from all countries.

4. The licensing is not intended to restrict the quantity or value of imports; it is intended to ensure that imported health products meet Canadian standards of safety, quality, and efficacy. Licensing is the most cost effective way to monitor imports.

5. Licensing is a regulatory requirement under the Food and Drugs Act and its Regulations as listed above.

Product designation is not subject to administrative discretion.

Legislative approval would be required to abolish the licensing/registration systems described above.

Procedures

6. Import of health products by licence holders is not restricted as to the quantity or value of the imports.

7. (a) A licence or registration for the importer must have been obtained prior to importation. No, licences cannot be obtained in a shorter time frame for products arriving at the port where the importer has not already obtained one.

Time to obtain a licence depends on a variety of factors and will depend on the individual case.

(b) No, a licence cannot be granted immediately on request. Establishment licences, site licences, CTO registration and product licences are issued if a review of the application indicates that all requirements of the applicable regulations have been met.

(c) No, licence applications and importation are not limited according to time of year.

(d) Health Canada is the only authority with respect to the above licences or registration.

8. Failure to meet the criteria specified in the regulations will result in an application being refused. Reasons for refusal are given to the applicant. There are regulatory requirements for Health Canada to provide the applicant with an opportunity to be heard. Review of the decision is internal to Health Canada. Applicants have a final right of appeal through the federal court system.

Eligibility of importers to apply for licence

9. Any person, firm or institution is eligible to apply for a licence or registration.

Applicants that do not have a Canadian address must provide the address of a representative in Canada with the exception of medical devices where the applicant is not required to have a Canadian representative. There are fees associated with drugs and medical devices for both product and establishment licences. There are no other fees. There is a published list of drug, medical devices and CTO establishments

Documentational and other requirements for application for a permit to import

10. Applications for product licences vary according to product but all the requirements are detailed in the applicable regulations. Applications for establishment and site licences and CTO registration must contain information on the applicant's name and address and contact information; the activities proposed; the product type; the address of each building where an activity will take place; and evidence that they meet the applicable requirements of the regulations.

11. No specific documents are required upon importation, just evidence that the applicable licences are in place. The Health Products and Food Branch of Health Canada can confirm that these have been issued.

12. There are no fees for semen, CTO, or NHP, these are not cost recovered. There are fees for drugs and medical devices. These are published in the Fees in Respect of Drugs and Medical Devices Regulations and depend on the type of licence involved.

13. Where fees apply a deposit or advance payment is required for the issuance of a licence. Again this amount varies as per the licence and is published in the regulations.

Conditions of permit

14. Establishment licences are subject to annual renewal prior to 1st April each year; CTO registration is subject to renewal every second year; and drug and medical device product licences require annual notification. NHP site licences must be renewed annually for the first 3 years, every other year for the next 6 years, and every third year after that; product licences are for an indefinite period.

The validity period cannot be extended.

15. No penalty is imposed for non-utilization of a licence or registration.

16. Licences are issued to a specific person. To change the name of the licence holder a notification or amendment to the licence is required.

17. A drug establishment licence may be subject to terms and conditions as specified by the Minister on the licence when the licence is issued. These conditions vary according to the licence.

Other procedural requirements

18. Importers of drugs must provide the address of buildings where products will be stored but a licence is not required for these buildings.

19. Not applicable.

III. EXPLOSIVES ACT

No changes with respect to this section in G/LIC/N/3/CAN/8, dated 16 October 2009.

IV. NUCLEAR SAFETY AND CONTROL ACT

No changes with respect to this section in G/LIC/N/3/CAN/9, dated 18 October 2010.

V. NATIONAL ENERGY BOARD ACT

No changes with respect to this section in G/LIC/N/3/CAN/9, dated 18 October 2010.

VI. EXPORT AND IMPORT PERMITS ACT

Note: *There have been minor changes to the Canada's import licensing regime for the Export and Import Permits Act (sections B1-Dairy, B7-Frozen Pork, B8-Clothing, B9-Textiles, B10-Carbon and Specialty Steel)), as described in document G/LIC/N/3/CAN/8, Notification under Article 7.3 of the Agreement on Import Licensing Procedures. The changes in the aforementioned sections of the questionnaire relate to certain clarifications, specific wording changes and updated website addresses. For convenience, the entire questionnaire answers for these sections are provided below. Of additional note, which applies to the entire Export and Import Permits Act notification, the bureau formerly known as Export and Import Controls Bureau is now the Trade Controls and Technical Barriers Bureau.*

A. GENERAL RESPONSES APPLICABLE TO DAIRY PRODUCTS; CHICKEN, TURKEY AND EGGS; BROILER HATCHING EGGS AND CHICKS; BEEF AND VEAL; MARGARINE; PORK; AND WHEAT AND BARLEY

Note: *Effective 1 January 1995 (or 1 August 1995, for wheat, barley and their products, butter, dry whey and cream), in compliance with its World Trade Organization (WTO) commitments, Canada converted its agricultural import controls to a system of tariff rate quotas (TRQs). Under these TRQs, imports within the TRQ level, i.e. within the access commitment, require a permit issued through the Trade Controls and Technical Barriers Bureau of the Department of Foreign Affairs and International Trade in order to benefit from the lower rate of duty. Imports over the quota level, subject to higher rates of duty, may enter under a General Import Permit. For wheat, barley and their products, the TRQ is administered on a first-come, first-served basis.*

Effective 1 August 1999, Canada established a TRQ for frozen pork imported from the EU as a result of the government's retaliation against the EU due to the EU's refusal to implement the WTO dispute settlement findings regarding its ban on imports of Canadian beef produced from cattle using growth hormones.

Effective 8 September 2008, Canada implemented import controls for milk protein substances with a milk protein content of 85 per cent or more by weight, calculated on the dry matter, that do not originate in a NAFTA country, Chile, Costa Rica, or Israel. Import controls were established to implement a change in Canada's WTO obligations subsequent to a re-negotiation of a tariff concession, outlined in Joint Letters, as concluded with New Zealand, Switzerland and the EC under GATT Article XXVIII. A TRQ for milk protein substances with a milk protein content of 85 per cent or more by weight, calculated on the dry matter, that do not originate in a NAFTA country, Chile, Costa Rica, or Israel, was established effective 1st April 2009. Certification of these changes to Canada's Schedule V became effective 6 July 2011.

Outline of system

1. See VI. (B).

Purpose and coverage of licensing

2-4. See Product Outline in VI. (B).

5. Licensing is maintained through regulations under the Export and Import Permits Act, and in the case of frozen pork, pursuant to Subsections 53(2) and 79 of the Customs Tariff, under the European Union Surtax Order.

Individual products are not designated in the Act.

An Import Control List has been established by regulation by the Governor-in-Council. The list includes goods, the import of which it is deemed necessary to control for any of the following purposes, namely:

- To ensure, in accordance with the needs of Canada, the best possible supply and distribution of an article that is scarce in world markets or in Canada or is subject to government controls in the countries of origin or to allocation by inter-governmental arrangement;
- To restrict, for the purpose of supporting any action taken under the Farm Products Marketing Agencies Act, the importation in any form of a like article to one produced or marketed in Canada the quantities of which are fixed or determined under that Act;

- To implement any action taken under the Farm Income Protection Act, the Fisheries Prices Support Act, the Agricultural Products Co-operative Marketing Act, the Agricultural Products Board Act or the Canadian Dairy Commission Act, with the object or the effect of supporting the price of the article;
- To implement an intergovernmental arrangement or commitment; and
- where at any time it appears to the satisfaction of the Governor-in-Council on a report of the Minister made pursuant to an inquiry made under section 20 or 26 of the Canadian International Trade Tribunal Act by the Canadian International Trade Tribunal in respect of any goods, that goods of any kind are being imported or are likely to be imported into Canada at such prices, in such quantities and under such conditions as to cause or threaten serious injury to the production in Canada of like or directly competitive goods, any goods of the same kind may, by order of the Governor-in-Council, be included on the Import Control List in order to limit the importation of such goods to the extent and for the period that, in the opinion of the Governor-in-Council, is necessary to prevent or remedy the injury.

Once an item has been placed on the Import Control List, an import permit, either specific or general, is required by the Act to import such goods into Canada.

Specific products can be made subject to either individual licensing or open general licensing by the Minister.

Licensing requirements may be abolished by the Governor-in-Council by removing an item from the Import Control List. Only Parliament can alter or amend the Export and Import Permits Act.

The Minister may also decide to allocate shares of the within-TRQ access for any product in advance. Where this system is used, import permits (licences) are normally issued automatically up to the level of an importer's share.

Procedures

6-7. See Product Outline in VI. (B).

8. Permit applications that are complete and meet the general requirements are not normally refused. If eligibility criteria have not been met (e.g., no quota entitlement) or the application contains errors, the applicant will be informed; in such event the applicant may correct the application or request reconsideration, or the applicant may choose to pay the over-access tariff and import the goods under a General Import Permit, which is automatically applicable.

Eligibility of importers to apply for licence

9. Any resident of Canada may apply for a permit. Citizenship is not a criterion.

Documentational and other requirements for application for licence

10. The applicant is required to provide the information requested on the application for an import permit. For certain products, additional information and/or documentation may be required, as indicated in the specific product group responses.

11. See Product Outline in VI (B).

12. Any applicant may apply directly to the Department of Foreign Affairs and International Trade in Ottawa for a permit, for which the associated fee ranges from CAN$15.00 to CAN$31.00, according to the value of the goods.

For permits issued at other authorized (non-Government) computer terminals, permit fees range from CAN$10.00 to CAN$26.00 (according to the value of the goods). This fee does not cover the cost of any additional services provided by such issuers.

13. No.

Conditions of licensing

14. Import permits normally have a validity of 30 days. Requests for extension of the validity period submitted prior to the original expiry date are considered on their merits, e.g., supporting documentation outlining extraordinary circumstances that prevented the importation of goods within the time frame of the permit. If a permit has not been used, the importer may apply for its cancellation.

15. There is no penalty for non-utilization of import permits that are returned for cancellation.

16. Permits are not transferable between importers.

17. Under very particular circumstances, special conditions may be attached from time to time.

Other procedural requirements

18. No.

19. Not applicable.

B. OTHER RESPONSES – BY PRODUCT GROUPS

1. Dairy Products

Outline of system

1. Dairy products remain on the Import Control List, established under the Export and Import Permits Act; effective 1 January 1995, existing import controls on these products were replaced with tariff rate quotas (1 August 1995 for butter, cream and dry whey).

Purposes and coverage of licensing

2. Dairy products on the Import Control List and subject to individual import permit licensing are: cheese of all types, butter, ice cream, yoghurt, cream, condensed milk, powdered buttermilk, dry whey, natural milk constituents, and dairy-based products falling within tariff item number 1901.90.33. This action was taken under the authority of Paragraph 5(1) (a) and (d) and Section 5.3 of the Export and Import Permits Act. Individual import permits are required for each shipment.

3. The system applies to goods originating in and imported from all countries.

4. This licensing system is used to implement TRQs for dairy products in accordance with Canada's commitments under the WTO.

5. See General Responses.

Procedures

6. The following is a list of TRQ levels for the dairy products which are subject to import control:

- The TRQ level for **cheese** is 20,411.866 tonnes. As a result of an agreement between Canada and the European Union (EU), not less than 66 per cent of the cheese TRQ is allocated to member states of the EU and the remaining 34 per cent is allocated to any other (non-EU) country in the world. Current cheese TRQ allocation holders who are active in the cheese trade have retained a quota, which is allocated on a yearly basis.
- The TRQ for **butter** is 3,274 tonnes. As a result of an agreement between Canada and New Zealand, there is a country reserve of 2,000 tonnes of butter for New Zealand, with the balance open to all supplying countries; imports from New Zealand are counted against the balance only once the reserve is exhausted. The TRQ that applies to butter has been allocated to the Canadian Dairy Commission for the benefit of processors and further processors.
- The TRQ for **ice cream** is 484 tonnes. Traditional ice cream importers continue to receive an initial allocation, as adjusted, e.g., for under-utilization; the remainder is allocated to ice cream distributors.
- The TRQ level for **yoghurt** is 332 tonnes. Traditional yoghurt importers continue to receive an initial allocation, as adjusted, e.g., for under-utilization; the remainder is allocated to yoghurt distributors.
- The TRQ level for **cream** is 394 tonnes; allocations are made in priority to importers with established distribution lines, and once the requirements of these importing companies have been met, the balance (if any) is allocated to applicants who can support their application by demonstrating that they have in place a distribution line for this kind of product.
- The TRQ level for **condensed milk** is 11.7 tonnes, allocated on a yearly basis to a traditional allocation holder. The TRQ for condensed milk is allocated entirely to Australia.
- The TRQ level for **powdered buttermilk** is 908 tonnes, allocated on a yearly basis to a traditional allocation holder. The TRQ for powdered buttermilk is allocated entirely to New Zealand.
- The TRQ level for **dry whey** is 3,198 tonnes. Allocations are made in priority to users of specialty-type whey not available from domestic sources that can demonstrate a requirement for this product in their manufacturing / production formulations. The balance, if any, is allocated to processors and further processors that can demonstrate a requirement for whey in their manufacturing / production formulations.
- The TRQ level for **other products of natural milk constituents** is 4,345 tonnes. Allocations are made in priority to users of milk protein concentrate that can demonstrate a requirement for this product in their manufacturing / product formulations. The balance, if any, is allocated to processors and further processors that can demonstrate a requirement for other products of natural milk constituents in their manufacturing / product formulations.
- The TRQ level for **milk protein substances** with a milk protein content of 85 per cent or more by weight, calculated on the dry matter, that do not originate in a NAFTA country, Chile, Costa Rica, or Israel, is 10,000 tonnes. 7,500 tonnes are allocated to residents of Canada that can demonstrate a requirement for these products in their manufacturing operations and product formulations. 2,500 tonnes are made available to residents of Canada that purchase (i.e., take ownership of) and re-sell these products.
- The TRQ level for **food preparations falling within tariff item number 1901.90.33** is 70 tonnes. Allocations are made to food processors that can demonstrate a requirement for food preparations in their manufacturing/product formulation containing products classified under tariff headings 04.01 to 04.04.

I. Information on TRQs and related formalities is published in the Canada Gazette and in Notices to Importers, which are distributed to customs brokers, associations and traders and are available upon request from the Department of Foreign Affairs and International Trade (DFAIT).

Notices to Importers and additional information are also available on the DFAIT website at: http://www.international.gc.ca/controls-controles/prod/agri/index.aspx

II. See the introduction to Section 6.

III. If an allocation holder uses less than 90 per cent of its allocation (95 per cent for cheese, products of natural milk constituents, dry whey, milk protein substances with a milk protein content of 85 per cent or more by weight, calculated on the dry matter, that do not originate in a NAFTA country, Chile, Costa Rica, or Israel, and cream), the allocation in the next year will normally reflect the actual level of use. Allocations not used in a quota year are not available for carry-over to the next quota year.

IV. Individual import permits are required for each shipment at the within-TRQ rates of duty.

V-VII. Import permits are issued through an on-line automated system either (a) in the offices of customs brokers in major cities across Canada, or (b) at the Trade Controls and Technical Barriers Bureau of the Department of Foreign Affairs and International Trade in Ottawa. Requests for permits are accepted 30 days prior to the expected date of arrival of the shipment to Canada. Import permits are normally issued with a validity period of 30 days around the date of arrival specified by importers (five days prior to and 24 days after). Utilization of permits for one quota year may not be utlized in the next quota year.

VIII. See the introduction to Section 6.

IX-X. Not applicable.

XI. Supplementary imports may also be authorized for re-export or to meet domestic market shortages.

7. See Section 6.

8. See General Responses.

Eligibility of importers to apply for licence

9. See General Responses.

Documentational and other requirements for application for licence

10. See General Responses.

11. Documents required upon actual importation: import permit, customs entry documents and food certificates as required under the Canadian Dairy Products Act and Regulations.

12. Any applicant may directly apply for a permit via customs brokers equipped with authorized computer terminals. Permit fees range from CAN$10.00 to CAN$26.00 (according to the value of the goods). This fee does not cover the cost of any additional services provided by such issuers.

Permits may also be requested, by fax, from the Department of Foreign Affairs and International Trade in Ottawa for which the associated fees range from CAN$15.00 to CAN$31.00 (according to the value of the goods).

13. No.

Conditions of licensing

14-17. See General Responses.

Other procedural requirements

18-19. See General Responses.

7. Frozen Pork from the European Union

Outline of system

1. Effective 29 July 2011, frozen pork under tariff item 0203.29.00 was removed from Canada's Import Control List (ICL) and the European Union Surtax Order was repealed.

8. Clothing

Outline of system

1. Clothing is on the Import Control List, established pursuant to the Export and Import Permits Act (EIPA). Quantitative restraints (i.e., quotas) on imports of clothing and handbags were eliminated for goods shipped after 31 December 2004 in accordance with the WTO Agreement on Textiles and Clothing (ATC). Individual import licensing or open general licensing requirements for such goods were eliminated on 1 April 2005. An import licensing system remains in place for clothing shipped in connection with Tariff Preference Level (TPL) provisions established pursuant to the North American, Canada-Chile and Canada-Costa Rica Free Trade Agreements.

Purposes and coverage of licensing

2. Clothing products on the Import Control List subject to individual import permits for TPL are as follows: cotton or man-made fibre apparel and made-up goods; and, wool apparel and made-up goods.

3. The system applies to imports from United States, Mexico, Chile and Costa Rica.

4. Tariff Preference Levels (TPL) are special FTA provisions that provide tariff preferences for imports of non-originating textile and apparel goods up to a specified quantity. Above these specified quantities, non-originating textile and apparel goods are subject to the Most-Favoured-Nation rate of duty. The import licensing system is in place in order to administer quantitative import limits on goods shipped in connection with TPL provisions established pursuant to these Free Trade Agreements.

5. The EIPA provides for the establishment of an Import Control List to implement an intergovernmental arrangement or to prevent the frustration or the circumvention of such arrangements. Import permits are issued for goods, including clothing, on the Import Control List.

Procedures

6. The TPL levels primary units of measure are converted into Square Metre Equivalents (SME) by means of conversion factors found in each FTA. The yearly TPL levels for each FTA are as follows:

- Canada-Costa Rica Free Trade Agreement - Apparel goods: 1,379,570 SME.
- Canada-Chile Free Trade Agreement - Cotton or man-made fibre apparel and made-up goods: 2,252,324 SME; and Wool apparel and made-up goods: 112,616 SME.
- North America Free Trade Agreement - United States: Cotton or man-made fibre apparel and made-up goods: 9,000,000 SME; and Wool apparel and made-up goods: 919,740; Mexico: Cotton or man-made fibre apparel and made-up goods: 6,000,000 SME; and Wool apparel and made-up goods: 250,000 SME.
- There are no allocations to importers. The TPLs are administered on a first-come, first-served basis from 1 January to 31 December each year.

I. Information on TPL and related formalities are published in the Canada Gazette, Canada Border Services Agency (CBSA) D-Memoranda and in Notices to Importers. This information is available to customs brokers, associations and traders and upon request from the Department of Foreign Affairs and International Trade (DFAIT).

Notices to Importers and additional information are also available on the DFAIT and CBSA websites at:
http://www.international.gc.ca/controls-controles/textiles/index.aspx?menu_id=21&view=d
http://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-4-22-eng.html

II. See the introduction to Section 6.

III. TPL not used in one year is not available for carry-over in the following year.

IV. Applications for TPL permits are accepted until the TPL level for a given TPL is filled.

V-VII. Import permits are issued through an on-line automated system either (a) in the offices of customs brokers in major cities across Canada, or (b) at the Trade Controls and Technical Barriers Bureau of the Department of Foreign Affairs and International Trade in Ottawa. Requests for permits are accepted 30 days prior to the expected date of arrival of the shipment to Canada. Import permits are normally issued with a validity period of 30 days around the date of arrival specified by importers (five days prior to and 24 days after). Utilization of permits for one quota year is not allowed in the next quota year.

VIII. TPL is made available on a first-come, first-served basis, whereby import permits are issued to importers on demand until the TPL has been filled in a given year.

IX-X. Not applicable.

XI. No.

7.(a) An import permit is required for each shipment of clothing for which a TPL benefit is sought. An importer may apply for an import permit up to 30 days prior to the expected date of arrival of the associated goods.

(b) A permit is normally granted immediately upon request.

(c) See response to 7(a).

(d) Permit applications are considered by only one organization, the Trade Controls and Technical Barriers Bureau, Department of Foreign Affairs and International Trade.

8. Import permits are not normally refused if the criteria relating to issuance are met. If a permit is refused, for example, because of incomplete information on the application, the applicant is advised and given the opportunity to correct the application.

Eligibility of importers to apply for licence

9. Any resident of Canada may apply for an import permit.

Documentational and other requirements for application for licence

10. Instructions and the information required to complete an import permit application and the form can be found on the web at:

http://www.international.gc.ca/controls-controles/about-a_propos/impor/permits-licences.aspx? menu_id=62&view=d
http://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-4-22-eng.html

11. Import permits and normal customs entry forms are required.

12. Any applicant may directly apply for a permit via customs brokers with access to the Export and Import Controls System. Import permit fees range from CAN$10.00 to CAN$26.00 (according to the value of the goods). This fee does not cover the cost of any additional services provided by such issuers. Import permits may also be requested, by fax, from the Department of Foreign Affairs and International Trade in Ottawa for which the associated fees range from CAN$15.00 to CAN$31.00 (according to the value of the goods).

13. No.

Conditions of licensing

14. A permit is valid for 30 days. Should the permit expire, the cancellation and subsequent issuance of a replacement permit may be completed upon request.

15. No.

16. Licences are not transferable.

17. (a) No.

(b) No.

Other procedural requirements

18. No.

19. Import permits issued pursuant to the Export and Import Permits Act are not a condition of foreign exchange transactions.

9. Textiles

Outline of system

1. Textiles are on the Import Control List, established pursuant to the *Export and Import Permits Act* (EIPA). Quantitative restraints (i.e., quotas) on imports of textiles were eliminated for goods shipped after 31 December 2004 in accordance with the WTO Agreement on Textiles and Clothing (ATC). Individual import licensing or open general licensing requirements for such goods were eliminated on 1 April 2005. An import licensing system remains in place for textiles shipped in connection with Tariff Preference Level (TPL) provisions established pursuant to the North American, Canada-Chile and Canada-Costa Rica Free Trade Agreements.

Purposes and coverage of licensing

2. Textile products on the Import Control List subject to individual import permits for TPL are as follows: cotton or man-made fibre fabrics and made-up goods; wool fabrics and made-up goods (Chile and Costa Rica only); and, cotton or man-made fibre spun yarns.

3. The system applies to imports from United States, Mexico, Chile and Costa Rica.

4. Tariff Preference Levels (TPL) are special FTA provisions that provide tariff preferences for imports of non-originating textile and apparel goods up to a specified quantity. Above these specified quantities, non-originating textile and apparel goods are subject to the Most-Favoured-Nation rate of duty. The import licensing system is in place in order to implement quantitative import limits on goods shipped in connection with TPL provisions established pursuant to the Free Trade Agreements.

5. The EIPA provides for the establishment of an Import Control List to implement an intergovernmental arrangement or to prevent the frustration or the circumvention of such arrangements. Import permits are issued for goods, including textiles, on the Import Control List.

Procedures

6. The TPL levels primary units of measure (other than for yarns) are converted into Square Metre Equivalents (SME) by means of conversion factors found in each FTA. The yearly TPL levels for each FTA are as follows:

- Canada-Costa Rica Free Trade Agreement - Cotton or man-made fabrics and made-up goods: 1,000,000 SME; Wool fabrics and made-up goods: 250,000 SME; and Cotton or man-made fibre spun yarn: 150,000 kg.
- Canada-Chile Free Trade Agreement - Cotton or man-made fabrics and made-up goods (limited to goods of Chapter 60 of the HS): 1,000,000 SME; Wool fabrics and made-up goods: 250,000 SME; and Cotton or man-made fibre spun yarn: 500,000 kg.
- North America Free Trade Agreement - United States: Cotton or man-made fabrics and made-up goods: 2,000,000 SME; and Cotton or man-made fibre spun yarn: 1,000,000 kg; Mexico: Cotton or man-made fabrics and made-up goods: 7,000,000 SME; and Cotton or man-made fibre spun yarn: 1,000,000 kg.
- There are no allocations to importers. The TPLs are administered on a first-come, first-served basis from 1 January to 31 December each year.

I. Information on TPLs and related formalities are published in the Canada Gazette, Canada Border Services Agency (CBSA) D-Memoranda and in Notices to Importers. This information is available to customs brokers, associations and traders and upon request from the Department of Foreign Affairs and International Trade (DFAIT).

Notices to Importers and additional information are also available on the DFAIT and CBSA websites at:

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http://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-4-22-eng.html

II. See the introduction to Section 6.

III. TPL not used in one year is not available for carry-over in the following year.

IV. Applications for TPL permits are accepted until the TPL level for a given TPL is filled.

V-VII. Import permits are issued through an on-line automated system either (a) in the offices of customs brokers in major cities across Canada, or (b) at the Trade Controls and Technical Barriers Bureau of the Department of Foreign Affairs and International Trade in Ottawa. Requests for permits are accepted 30 days prior to the expected date of arrival of the shipment to Canada. Import permits are normally issued with a validity period of 30 days around the date of arrival specified by importers (five days prior to and 24 days after). Utilization of permits for one quota year is not allowed in the next quota year.

VIII. TPL is made available on a first-come, first-served basis, whereby import permits are issued to importers on demand until the TPL has been filled in a given year.

IX-X. Not applicable.

XI. No.

7. (a) An import permit is required for each shipment of textiles for which a TPL benefit is sought. An importer may apply for an import permit up to 30 days prior to the expected date of arrival of the associated goods.

(b) A permit is normally granted immediately upon request.

(c) See response to 7(a).

(d) Permit applications are considered by only one organization, the Trade Controls and Technical Barriers Bureau, Department of Foreign Affairs and International Trade.

8. Import permits are not normally refused if the criteria relating to issuance are met. If a permit is refused, for example, because of incomplete information on the application, the applicant is advised and given the opportunity to correct the anomaly.

Eligibility of importers to apply for licence

9. Any resident of Canada may apply for an import permit.

Documentational and other requirements for application for licence

10. Instructions and the information required to complete an import permit application and the form can be found on the web at:

http://www.international.gc.ca/controls-controles/about-a_propos/impor/permits-licences.aspx ?menu_id=62&view=d

http://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-4-22-eng.html

11. Import permits and normal customs entry forms are required.

12. Any applicant may directly apply for a permit via customs brokers equipped with authorized computer terminals. Permit fees range from CAN$10.00 to CAN$26.00 (according to the value of the goods). This fee does not cover the cost of any additional services provided by such issuers.

Permits may also be requested, by fax, from the Department of Foreign Affairs and International Trade in Ottawa for which the associated fees range from CAN$15.00 to CAN$31.00 (according to the value of the goods).

13. No.

Conditions of licensing

14. A permit is valid for 30 days, and may be extended for a further 30 days if the request for extension is submitted prior to expiry.

15. No.

16. Licences are not transferable.

17. (a) No.

(b) No.

Other procedural requirements

18. No.

19. Import permits issued pursuant to the Export and Import Permits Act are not a condition of foreign exchange transactions.

10. Carbon and Specialty Steel

Outline of system

1. Carbon and specialty steel are on the Import Control List, established under the *Export and Import Permits Act*, and are subject to individual and general licensing.

Purposes and coverage of licensing

2. Carbon steel products were placed on the Import Control List under the authority of subsection 5(3) of the Export and Import Permits Act with effect 1 September 1986, for the purpose of monitoring their entry into Canada following a reference to the Canadian Import Tribunal pursuant to section 48 of the Special Import Measures Act. The Tribunal concluded that carbon steel products are being and are likely to be imported into Canada at such prices, in such quantities and under such conditions as to make it advisable to collect information with respect to the importation of such goods. Carbon steel products are defined as semi-finished steel (ingots, blooms, billets, slabs and sheet bars), plate, sheet and strip, wire rods, wire and wire products, railway-type products, bars, structural shapes and units and pipe and tube. Specialty steel products were added to the Import Control List 1 June 1987, following an amendment to the Export and Import Permits Act, in order that the

monitoring system for steel would be comprehensive. Specialty steel products are defined as stainless flat-rolled products (sheet, strip and plate), stainless steel bar, stainless steel pipe and tube, stainless steel wire and wire product, alloy tool steel, mould steel and high speed steel.

3. The monitoring system applies to carbon and specialty steel imports from all countries.

4. The licensing is not intended to restrict the quantity or value of imports: it is intended to monitor the volume and the origin of carbon and specialty steel products.

5. The action of placing carbon steel on the Import Control List was taken under the authority of section 5(1) of the Export and Import Permits Act.

Procedures

6. Not applicable

7. An import permit is required for each shipment of carbon and specialty steel as described in paragraph 2 above. Applications for permits may be made up to 30 days prior to the expected date of arrival of the associated goods. Licences are granted automatically upon submission of a completed application in accordance with the Act. There are no limitations as to the period of the year during which applications and/or importation may be made. Licence applications are considered by only one organization, the Trade Controls and Technical Barriers Bureau, Department of Foreign Affairs and International Trade.

The following exceptions for any carbon or specialty steel product may be imported under general licensing:

(i) where the total value for duty of the goods, as determined under the Customs Act, is not more than CAN$5,000.00; and

(ii) where those goods are classified as Canadian goods returned without any processing abroad.

8. See Section 7.

Eligibility of importers to apply for licence

9. Any resident of Canada may apply for an import permit.

Documentational and other requirements for application for licence

10. Nil.

11. Documents required upon actual importation:

(i) Import licence; and

(ii) Documents in accordance with the Customs Act.

12. Any applicant may directly apply for a permit via customs brokers equipped with authorized computer terminals. Permit fees range from CAN$10.00 to CAN$26.00 (according to the value of the goods). Effective 9 November 2010, permit fees were eliminated for all imports of carbon steel and specialty steel under the Export and Import Permits Act. This fee does not cover the cost of any additional services provided by such issuers.

Permits may also be requested, by fax, from the Department of Foreign Affairs and International Trade in Ottawa for which the associated fees range from CAN$15.00 to CAN$31.00 (according to the value of the goods). Effective 9 November 2010, permit fees were eliminated for all imports of carbon steel and specialty steel under the Export and Import Permits Act.

13. No.

Conditions of licensing

14-17. See Section 6.

Other procedural requirements

18. No.

19. Not applicable.

VII. ANIMALS AND PLANTS

Note: *There have been minor changes to the Canada's import licensing regime for the Plant Protection Act (sections 2, 3, 4, 12), as described in document G/LIC/N/3/CAN/9, Notification under Article 7.3 of the Agreement on Import Licensing Procedures. The changes in the aforementioned sections of the questionnaire relate to certain clarifications, and specific wording changes. For convenience, the entire questionnaire for the Plant Protection Act is provided below.* For all other sections under *Animals and Plants, **no changes** with respect to this section in G/LIC/N/3/CAN/9, dated 18 October 2010.*

A. PLANT PROTECTION ACT

Outline of system

1. A permit to import outlines phytosanitary conditions which must be met prior to export from the country of origin, during export and upon arrival in Canada. These conditions are required to prevent the introduction or spread within Canada of a plant pest.

Purpose and coverage of licensing

2. In accordance with Section 31 of the Plant Protection Regulations and pursuant to the Plant Protection Act, a prospective importer must apply in writing for an import permit. According to section 32 of the Plant Protection Regulations, the Minister of Agriculture and Agri-Food, on the basis of a pest risk assessment, may issue a permit for the importation of a thing that is either a plant pest, constitutes or could constitute a biological obstacle to the control of a plant pest or is/could be infested with either a plant pest or a biological obstacle to the control of a plant pest if, the Minister determines that every precaution necessary can and will be taken to prevent the introduction into Canada or the establishment and spread within Canada of a plant pest or biological obstacle to the control of a plant pest.

3. The system applies to plant pest (e.g., disease cultures, insects), plants and plant products and any other article whose importation into Canada is regulated under the Plant Protection Act and Regulations from all countries.

4. The permit system is not intended to restrict the quantity or value of imports. The purpose of the import permit system is to ensure that plant pest, plants and plant products and other articles

regulated under the Plant Protection Act and Regulations imported in Canada conform to Canada's plant protection import requirements. The permit system protects against the introduction into and spread of pests injurious to plants in Canada.

5. The permit system is legislated and regulated under the Plant Protection Act and the Plant Protection Regulations. The permit system is statutorily required. Furthermore, the legislation does not allow the designation of products to be subjected to administrative discretion. Lastly, it is not possible for the government to abolish the system without legislative approval.

Procedures

6. There are no quantitative or value limits on the importation of products from other countries.

7.(a) An importer must obtain a valid import permit prior to importation. Written permit applications may be mailed/e-mailed or faxed to the Integration Division of the Canadian Food Inspection Agency (CFIA). Once all required information has been received and a review of the permit application form has been completed, the CFIA will endeavour to issue a Permit to Import within five working days (subject to change).

The Canadian Food Inspection Agency will not issue an import permit for regulated commodities that have already arrived in Canada. This is because an import permit is not retroactive.

(b) No. An application cannot be granted immediately upon request as it must be subject to a pest risk review.

(c) No, there are no limitations as to the period of the year in which an application for a permit to import can be submitted.

(d) Yes. All applications for a permit to import are sent to and approved by one administrative body. All applications are sent to the Permit Office, Plant Program Integration Division, Plant Health and Biosecurity Directorate of the Canadian Food Inspection Agency.

8. The plant protection import permit may be refused on the grounds that the plants, plant products or other matter intended for importation will result or is likely to result in the introduction into Canada of a plant pest. A permit can also be refused or revoked if a person has contravened the Act and/or Regulations. The importer is advised of the refusal or revocation. The Plant Protection Act or Plant Protection Regulations do not prescribe an appeal procedure in cases where a permit is refused/revoked.

Eligibility of importers to apply for licence

9. An applicant for a Permit to Import must be one of the following: 1) a Canadian citizen or permanent resident; 2) a person authorized under the laws of Canada to reside in Canada for a period of six months or more and who will have possession, care or control of the thing to be imported; or 3) in the case of a corporation with a place of business in Canada, the applicant must be an agent or officer of the corporation who resides in Canada.

Note: *The CFIA will not accept applications for Permits to Import submitted by Brokerage Firms on behalf of their clients. The actual Canadian importer (person / company) must submit the application.*

Documentational and other requirements for application for a permit to import

10. An application for a permit shall be in writing, signed and dated by the person applying for the permit and contain the following information:

(a) The name, complete address and telephone number of the person;

(b) The name, complete address and telephone number of the owner of the thing to be imported, if different from paragraph (a);

(c) The name and complete address of the exporter;

(d) A description and the common and scientific names of the thing;

(e) The quantity of the thing;

(f) The purpose for which the thing is to be admitted into Canada;

(g) The place of entry and the location of the place of destination of the thing in Canada;

(h) The means by which the thing will be transported;

(i) The country and place where the thing was propagated or produced, and the country and place from which it was shipped to Canada;

(j) The number of packages, if sent by mail or courier service; and

(k) Any other information respecting any activity undertaken in respect of the thing, or the precautions that will be taken to prevent the spreading of any pest or biological obstacle to the control of a pest while the thing is transported, as the Minister may require.

11. The documents (e.g., phytosanitary certificate, certificate of inspection, certificate of treatment, certificate of origin, affidavit, etc.) specified on the permit are required at the time of importation.

12. Fees for each permit application can range between CAN$15 and CAN$250, depending on the reason for importation and the need for a pest risk assessment.

13. There is no deposit or advance payment that is required or associated with the issuance of a permit. However, full payment is required before a permit can be issued.

Conditions of permit

14. Permits to import are valid for the period of time specified on the permit. The permit to import is valid for multiple shipments and unlimited quantities unless otherwise specified. Permits to import issued to persons travelling or collecting will be valid for no more than one year. When a permit has expired, it is the responsibility of the importer to apply for a new permit.

15. There is no penalty for the non-utilization of a permit or a portion of a permit.

16. Import permits are not transferable between importers.

17. The issuance of an import permit is only subject to the provisions of the Plant Protection Act and Regulations.

Other procedural requirements

18. Generally, there are no other administrative procedures apart from the import permit application procedures.

19. Not applicable.

VIII. EXPORT AND IMPORT OF ROUGH DIAMONDS ACT

Outline of system

1. The Export and Import of Rough Diamonds Act (S.C., 2002, c.25) received Royal Assent on 12 December 2002 and came into force on 1st January 2003. The Act provides for controls on the export, import or transit across Canada of rough diamonds and for a certification scheme for the export of rough diamonds in order to meet Canada's obligations under the Kimberley Process. Under this system, every person who exports rough diamonds must ensure that the diamonds are in a container that meets the requirements of the Export and Import of Rough Diamonds Regulations (SOR/2003-15) and are accompanied by a Canadian Certificate. On receiving an application for a Canadian Certificate from a resident of Canada for the export of rough diamonds, the Minister of Natural Resources must issue a Canadian certificate if the application meets the requirements of the Regulations. Before issuing a Canadian Certificate, the Minister must be satisfied that the export is to a participant, the information contained in the application is accurate, and the rough diamonds in respect of which the application is made originated in Canada, were extracted from mineral concentrates in Canada, were imported from a participant or were in Canada prior to 1st January 2003.

Every person who imports rough diamonds must ensure that the diamonds are in a container that meets the requirements of the regulations and are accompanied by a valid Kimberley Process Certificate that was issued by a participant, has not been invalidated by the participant and that contains accurate information. For the purpose of this Act, in-transit rough diamonds are deemed not to be imported or exported.

Purposes and coverage of licensing

2. The purpose of this Act is to provide for controls on the export, import or transit across Canada of rough diamonds in order to meet Canada's obligations under the Kimberley Process. The Kimberley Process is an international understanding among participants that was recognized by Resolution 55/56 adopted by the General Assembly of the United Nations on 1st December 2000. The Kimberley Process establishes minimum requirements for an international scheme of certification for rough diamonds with a view to breaking the link between armed conflict and the trade in rough diamonds. A rough diamond is defined as a diamond that is unsorted, unworked or simply sawn, cleaved or bruted, and that falls under subheading 7102.10, 7102.21 or 7102.31 in the List of Tariff Provisions set out in the schedule to the Customs Tariff, but does not include diamonds that are of a class prescribed by regulation.

3. The system applies to rough diamonds originating in and coming from a participant. A participant is defined as a State, international organization of States or dependent territory of a State, or a customs territory, named in the Schedule to the Act.

4. The licensing is intended to impose controls on rough diamonds to regulate their import, export and transit across Canada in order to meet Canada's obligations under the Kimberley Process.

The Kimberley Process establishes minimum requirements for an international certification scheme for rough diamonds with a view of breaking the link between the illicit transaction of rough diamonds and armed conflict as a contribution to prevention and settlement of conflicts.

5. The licensing of exports is a requirement under section 8 of the Act, which establishes that a Canadian Kimberley Process Certificate is required for exporting rough diamonds from Canada. Section 12 provides that if the Minister of Natural Resources determines that information provided by an applicant in order to obtain a Canadian Certificate, or information appearing on the certificate, is inaccurate or has changed, the Minister may invalidate the certificate.

Section 14 of the Act requires that imports of rough diamonds be accompanied by a Kimberley Process Certificate issued by a participant, that has not been invalidated, and that contains accurate information. Subsection 15(1) provides that if imported rough diamonds arrive in Canada accompanied by a Kimberley Process Certificate that meets the requirements of section 14 of the Act but are in a container that has been opened, the Minister may order the person who imported the rough diamonds to return them to the participant who issued the certificate.

Pursuant to paragraph 35(a), the Minister of Natural Resources may make regulations to prescribe the classes of diamonds to be excluded from the definition of "rough diamond".

Legislative approval would be required to abolish this system.

Procedures

6. Not applicable. Quantity and value restrictions, beyond the minimum requirements forCertificates in Annex I of the Kimberley Process Certification Scheme Document, do not apply to imports of rough diamonds.

7. The Kimberley Process Certification Scheme is implemented through the national legislation of the respective participants. The participants' exporting authority is responsible for issuance of licenses for export. Although participants' licensing systems conform to the Kimberley Process minimum requirements, the terms vary from participant to participant in respect to application requirements and time frame for issuance of licenses.

It takes typically a business day to issue a Canadian license for exports of rough diamonds from Canada. For clients with remote printing capability, it may take as little as a couple of hours from the submission of an application to issue a Canadian Certificate for exports. The Canadian licenses for exports are issued by the Kimberley Process Office in the Department of Natural Resources based in Ottawa. There are no further approvals required from other administrative entities for the issuance of export licenses.

8. If an application for a Canadian license for exports does not meet the criteria in subsection 9(2) of the Act, paragraph 9(1)(c) provides that the Minister must reject the application and the applicant is provided with the reasons for rejection in writing. Section 10 provides that if the applicant does not remedy the deficiency, within such time as the Minister considers reasonable, the Minister may reject the application.

9. Import licenses are issued by foreign authorities of the respective participants. Export licenses are issued by the Kimberley Process Office in the Department of Natural Resources under the authority of the Export and Import of Rough Diamonds Act. Only Canadian residents may apply for a license to export rough diamonds from Canada. Although the system does not currently require registration of persons or firms, the Minister may make regulations respecting the manner of

submitting an application, specifying the information that must be included in it and the documents that must accompany the application.

Documentational and other requirements for application for licence

10. An application for a Canadian license for export of rough diamonds under section 9 of the Act must include the following information as set out in section 2 of the Regulations:

(a) The applicant's name and address in Canada and, if the applicant is a corporation, the name of the individual submitting the application on its behalf;
(b) If the applicant is not the exporter of the rough diamonds, the name and address of the exporter;
(c) The name and address of the person to whom the exporter is exporting the rough diamonds;
(d) The name of the participant to which the rough diamonds are to be shipped;
(e) the origin of the rough diamonds including:
    (i) if they were mined in Canada, the place and name of the mine,
    (ii) If they were recovered during exploration in Canada, the longitude and latitude of the exploration site, and the place and name of the facility in which they were extracted,
    (iii) if they were extracted in Canada from mineral concentrates that originated outside Canada, the place and name of the facility in which they were extracted,
    (iv) if they were present in Canada at the coming into force of section 8 of the Act, documentary evidence establishing their presence in Canada at that time, and
    (v) if they were imported into Canada after the coming into force of section 8 of the Act, the serial number of each Kimberley Process Certificate that accompanied the rough diamonds;
(f) The mass, measured in carats, of the rough diamonds in the shipment;
(g) The value, in United States dollars, of the rough diamonds in the shipment;
(h) The subheading in the List of Tariff Provisions in the schedule to the Customs Tariff under which the rough diamonds are classified;
(i) The number of containers in the shipment and a seal number for each container; and
(j) A declaration signed and dated by the applicant stating that the information contained in the application is accurate.

Section 3 of the Regulations provides that an application for the replacement of a Canadian license for the export of rough diamonds under section 11 of the Act must meet the following criteria:

(a) Be made before the export of the rough diamonds;
(b) Contain all the information required under section 2 of the Regulations including any information appearing on the Canadian license that is inaccurate of has changed; and
(c) Be accompanied by the Canadian license in respect of which the application is made.

Under section 4 of the Regulations, an application to the Minister under section 9 or 11 of the Act must be delivered by hand or sent by mail or courier or by facsimile or other electronic means.

11. Pursuant to subsection 14(1) of the Act, a Kimberley Process Certificate issued by a participant is required to accompany import shipments of rough diamonds into Canada.

12. There are currently no licensing fees or administrative fees charged to applicants for the issuance of licenses for export of rough diamonds from Canada. However, section 34 of the Act provides that the Governor in Council may make regulations to prescribe the fees payable for the issuance or replacement of a Canadian license.

13. There is no deposit or advance payment requirement associated with the issuance of export licenses.

Conditions of licensing

14. Section 6 of the Regulations provides that a Canadian Certificate is valid until 24:00 Greenwich mean time of the day that is 60 days after the date of issue. The validity of a license cannot be extended. However, the period of validity may be changed by regulation by the Minister of Natural Resources pursuant to subsection 35 (b) of the Act.

15. There is no penalty for the non-utilization of a license.

16. Licenses are not transferable.

17.(a) Not applicable.

(b) The Minister of Natural Resources may make regulations specifying the content of Canadian licenses. Additionally, pursuant to section 7 of the Regulations, every exporter of rough diamonds must report the export to attest to the accuracy of the information contained in the Canadian license by signing the report and sending it to the Minister within seven days of Export.

Other procedural requirements

18. Apart from procedures provided for in the Act and the Regulations, including requirements associated with inspections, record keeping and export and import reporting, no additional administrative procedures are required.

19. Not applicable.