

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

**NOTIFICATION UNDER ARTICLE 7.3 OF THE AGREEMENT ON
IMPORT LICENSING PROCEDURES**

COLOMBIA

The following notification, dated 12 January 1996, has been received from the Permanent Mission of Colombia.

Outline of systems¹

1. As a rule, imports to Colombia are free, apart from those specified in the national legislation. Hence, there are two import regimes, the "free import" regime, similar to an automatic licensing system and the "prior licence" regime, equivalent to a non-automatic licensing system.

Pursuant to Article 3 of Law No. 7 of 1991 which regulates Colombia's foreign trade, goods are imported and exported in keeping with the principle of free international trade, insofar as economic circumstances permit. The above Law also confers authority on the Central Foreign Trade Council to determine procedures and requirements for imports.

AUTOMATIC LICENSING

2. Apart from the goods listed under the prior licensing regime and agricultural products subject to authorization certificates (vistos buenos), imports to Colombia are free and are therefore processed as import registrations (automatic licences in international parlance).

The Colombian Foreign Trade Institute (INCOMEX) is the authority responsible for processing import registrations in accordance with the criteria and procedures established in Articles 1 to 20 of Resolution 001 of 2 January 1995 of the Central Foreign Trade Council.

3. The system applies to all countries, other than exceptions established in specific provisions.

4. The purpose of this system is, essentially, to apply foreign trade policy, particularly the aspects relating to customs, foreign exchange, health and the development of the domestic agricultural sector.

5. Decree Law No. 444 of 1967 and Law No. 7(a) of 1991. Law 7(a) of 1991 established the Central Foreign Trade Council, the highest body dealing with foreign trade, which is the competent

¹The laws and regulations referred to in this notification are available (Spanish only) for consultation in the Secretariat (Market Access Division).

authority for determining the import regime for all and each of the products included in the Customs Tariff.

Procedures

6. There are quantitative restrictions on certain agricultural products, in accordance with the provisions of the multilateral and regional agreements concluded by Colombia. The relevant licensing procedures are currently being revised.

7. (a) Applications must be processed by INCOMEX at least two days before the goods are removed from customs.

(b) If goods arrive at a port without an import registration, the importer may apply for one to INCOMEX, at his own risk and responsibility. On obtaining it he must clear the goods within two months of the date of their arrival. Otherwise, he must opt for re-exportation, abandonment or legalization, as provided in the customs legislation (Decree 1909 of 1992).

(c) There are no limitations as to the period of the year during which application for import registration may be made.

(d) INCOMEX is the authority responsible for processing applications for import registrations. At present, they are issued one day after application.

Some applications require authorization from other State bodies such as the Ministry of Agriculture, Ministry of Health, the Colombian Agricultural Institute (ICA) or the National Institute of Fisheries and Agriculture (INPA), for the import of food, medicines, plant material, animals, agro-chemicals and fish products.

8. Import registrations may be refused if the legal requirements for their authorization are not met or if the data supplied by the importer are false or inaccurate. Applicants are always informed of the reason for the refusal.

Eligibility of importers to apply for registrations

9. Any natural person or legal entity in the private sector may apply for an import registration.

10. Applications for import registrations must be made on the special forms issued by INCOMEX with instructions for the user on the back. The form is the same for import registrations and licences. A sample is appended.

Resolution 001 of 1995 authorizes INCOMEX to determine the documents to be appended to import applications. Importers are informed thereof by circulars.

11. The documents required upon actual importation are those specified in Decree 1901 of 1992 *inter alia*: import registration or licence, commercial invoice, transport document, certificate of origin in some cases, documents required by special provisions, power of attorney, packing list where applicable and import declaration.

12. Import registrations are issued free of charge, but there is a charge of approximately US\$14.00 to cover the cost of the import form. The issue of registrations is not subject to any deposit or advance payment. As stated above, it takes approximately one day to issue a registration.

Conditions of registration

14. The period of validity of import registrations and licences is set out in Resolution 001 of 1995 of the Central Foreign Trade Council. At present, it extends for six months from the date of approval or registration. Import registrations and licences for capital goods on the special list also issued by the Central Foreign Trade Council are valid for 12 months starting automatically on the date of approval or registration.

Approved registrations and licences may be used throughout the period of their validity, regardless of any changes in the import regime, for part or all of the goods covered.

Import registrations may be extended for up to three months provided that the conditions and requirements in the original registration are met and there has been no change or regime for any of the goods covered. In exceptional cases, duly evidenced, in particular specially manufactured capital goods or products difficult to obtain in the international market owing a shortage of supply, the Deputy Director of Operations of INCOMEX may grant further extensions for successive periods of up to three months each.

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

16. Import registrations may be modified if there is a change of importer. In this case, the relevant application must be signed by the assignor and the assignee.

17. No.

Other procedural requirements

18. No.

19. INCOMEX does not establish the availability of foreign exchange for payment of imports. Currently, there is complete availability of foreign exchange to cover the value of imports.

NON-AUTOMATIC LICENSING

1. In issuing non-automatic import licences, the INCOMEX Imports Committee applies the import policy and criteria established by the Central Foreign Trade Council. Imports subject to this regime cover: goods classified for national security reasons, i.e. armaments and other combat equipment; chemical products used in the manufacture and processing of narcotics; used goods, seconds, remaindered goods, wastes, defective goods, remnants, etc.

Purposes and coverage of non-automatic licensing

2. The Central Foreign Trade Council issued Resolution 001 of 2 January 1995 to take account of the new conditions of the international market and the economic internationalization model being developed by the Government to change and adapt support instruments and mechanisms for foreign trade operations, particularly importation.

Colombia has also addressed the need to streamline procedures for conducting foreign trade operations to make them easier for users, by establishing simple mechanisms for expeditious processing by the various government agencies involved in foreign trade.

Article 21 of Resolution 001 of 1995 sets out the "prior licensing" or non-automatic licensing regime. It stipulates that, besides the goods included in the prior licensing list, the regime also covers applications under the free regime which are "non-refundable"; applications for exemption from customs duties; applications for defective, used or remaindered goods; applications under the annual licensing system; and applications submitted by official bodies, other than for gasoline and urea.

The prior licensing list updated at 9 June 1995 is appended.

3. The regime applies to all countries other than exceptions established in specific provisions.
4. See No. 1.
5. Decree Law 444 of 1967 and Law 7(a) of 1991. Law 7(a) of 1991 established the Central Foreign Trade Council, the highest foreign trade body in Colombia, which is the competent authority for determining the import regime of all and each of the products making up the tariff universe.

Article 21 of Resolution 001 of 1995 of the Central Foreign Trade Council establishes the imports which are subject to prior licensing.

Procedures

6. There are no restrictions on the quantity or value of imports subject to prior licensing. The Constitution confers exclusivity on the National Government for the import of raw materials for explosives, armaments and, in general, goods for use solely by the armed forces.
7. (a) In accordance with Decree 1909 of 1992, in order to be cleared by the customs authority, goods subject to prior or non-automatic licensing must be covered by an import licence which is valid on the date when customs clearance is effected.

The above-mentioned Decree authorizes advance deliveries of goods in special cases.

(b) If goods subject to prior or non-automatic licensing arrive at a port without a licence, the importer may apply for one to the INCOMEX Imports Committee at his own risk and responsibility. If it is granted, he must clear the goods within two months of their arrival. Otherwise, he must opt for re-exportation, abandonment or legalization, as provided in the customs legislation (Decree 1909 of 1992).

(c) As a rule, there are no limitations as to the period of the year during which licence applications may be made. However, to ensure effective control, in accordance with the Joint Circular of INCOMEX, No. 059, and the National Narcotics Directorate, No. 01 of 25 July 1995, applications for prior or non-automatic licences for imports of substances classified as narcotics precursors in Resolutions 009 of 1987, 007 of 1992 and 001 of 1995 of the National Narcotics Council must be filed with the INCOMEX Imports Committee not later than the 25th day of the month preceding the month of importation, subject to an authorization certificate having been obtained from the National Narcotics Directorate within the first 10 day of the month preceding the month of importation.

(d) The INCOMEX Imports Committee is the body authorized to examine and decide on applications for prior or non-automatic import licences. At present, it takes approximately three days to issue an import licence.

Some applications require authorization from other State bodies:

- Authorization certificate from the National Narcotics Directorate for imports of narcotics precursors;
- Authorization certificate from the Ministry of Health for imports of X-ray apparatus;
- Authorization certificate or permission from the Ministry of Health or the ICA for imports of foods and chemicals, depending on whether they are for human or animal use;
- Authorization certificate from the Ministry of Mines and Energy for applications for exemption from customs duties for goods to be used in exploration for mines or hydrocarbons;
- Authorization certificate from the Institute for Nuclear Affairs for imports of radioactive material.

8. Non-automatic import licences may be refused if the legal requirements for their authorization are not met or if the data supplied by the importer are incorrect or inaccurate.

Applicants are always informed of the reason for the refusal. They may appeal against refusals under the Administrative Disputes Code.

If all applications for redress to government bodies fail, they may apply for judicial review by the administrative courts, the procedures for which are established in the Administrative Disputes Code.

Eligibility of importers to apply for licence

9. Any natural person or legal entity, public or private, may apply for prior or non-automatic import licences.

As stated above, exclusivity is conferred on the National Government for the importation of armaments, raw materials for explosives, explosives etc., through the military industry, in accordance with Decrees 2535 of 1993 and 1809 of 1994.

10. Import applications must be made on the special forms issued by INCOMEX, with instructions on the back for users. A sample is appended.

Resolution 001 of 1995 empowers the INCOMEX Imports Committee to determine the documents to be appended to import applications. Users are informed thereof by circulars.

11. The documents required upon actual importation are set out in Decree 1909 of 1992 *inter alia* others: import registration or licence, commercial invoice, transport document, certificate of origin in certain cases, documents required by special provisions, power of attorney, packing list where applicable and import declaration.

12. Import licences are issued free of charge, but there is a charge of approximately US\$14.00 to cover the cost of the import form.

13. The issue of licences is not subject to any deposit or advance payment. Currently, it takes approximately three days to issue a licence.

14. The period of validity of prior or non-automatic import licences is established in Resolution 001 of 1995 of the Central Foreign Trade Council. As stated above, under Article 17 *et seq.* of the Resolution, prior licences have a period of validity of six months starting automatically on the date of approval. Licences for the capital goods on the special list issued by the Central Foreign Trade Council, have a period of validity of 12 months starting automatically on the date of approval or registration. Licences for imports of substances classified as narcotics precursors are valid for one month, determined in advance by the National Narcotics Directorate.

Approved licences may be used throughout the period of validity, regardless of any change in the import regime, for all or part of the goods covered.

Import licences may be extended once only and for up to three months provided that application is made before the expiry of the licence and is fully justified. In exceptional cases, duly evidenced, in particular specially manufactured capital goods or goods difficult to obtain on the international market owing to shortage of supply, the Imports Committee may grant further extensions for successive periods of up to three months each.

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

16. Import licences may be modified if there is a change of importer. In such cases the relevant application must be signed by both assignor and assignee. In the specific case of goods imported solely through the Military Industry, INDUMIL, transfers are not allowed. Modifications of import licences for narcotics precursors are subject to authorization by the National Narcotics Directorate.

17. No.

Other procedural requirements

18. No.

19. INCOMEX and in particular the Imports Committee, are not responsible for establishing the availability of foreign exchange for payment of imports. Currently, there is complete availability of foreign exchange to cover the value of imports.