

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES¹

Notification under Article 7.3 of the Agreement on Import Licensing Procedures for 2008

CAPE VERDE

The following communication, dated 26 October 2009, is being circulated at the request of the delegation from Cape Verde.

Outline of system

1. Decree-Law 68/2005, of 31 October 2005, which describes Cape Verde's Licensing Regime, was revised to bring it in conformity with the WTO "Agreement on Procedures on the Matter of Importation Licensing".

The revised legislation takes the following operations in consideration:

- Imports that are subject to automatic licensing; and
- Imports subject to non-automatic licensing
- Imports that are totally exempt from licensing;

According to Decree-Law 68/2005, all imported goods are subject to automatic licensing except goods that require sanitary/phytosanitary control, or security control (handguns, explosives and the like), or mandatory restrictions, required by law. These goods are subject to a non-automatic license regime.

The automatic licensing becomes effective upon presentation of a Customs Declaration to Customs.

The importation request for the goods subject to non-automatic license require a certificate of compliance issued by the sanitary/phytosanitary authorities or security control authorities, or other applicable competent authorities, depending on the nature of the goods in question.

The non-automatic license takes effect within a maximum of 21 days, counting from the date the Customs Declaration is presented to the competent authorities. In unusual and exceptional circumstances (such as military arms or security reasons) it may be impossible to grant a non-automatic license within the 21 days period. In those limited situations, the 21 days period is suspended.

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

Under the revised regime, the following are exempt from any kind of licensing:

- Importation of goods without commercial value, under the terms that will be defined in ordinance of the government member responsible for the area of foreign trade;
- Active and passive improvement operations, of temporary importation, reimportation in the state, reexportation and transit;
- Importations of goods subject to the special customs regimes in the modalities of franc stores, bonded warehouses, franc deposit and special customs storage;
- Industrialized goods, destined for consumption in the area of congresses, fairs and international expositions and assimilated events;
- Importation of goods destined for the provisionment of ships and aircrafts, under the terms of the applicable legislation;
- Goods apprehended, abandoned, found at sea or stranded by it or salvaged from shipwreck and sold at auction;
- Importation of goods without expenditure of currency, property of air and maritime navigation companies and destined for their exclusive use.

Export operations in Cape Verde are exempt from licensing, under the terms of Article 9 of law No. 92/IV/93 of 15 December 1993.

Purposes and Coverage of Licensing

2. There are three licensing systems in Cape Verde:

- For imports subject to automatic license;
- For imports subject to non-automatic license;
- For imports exempt from licensing.

The goods exempt from licensing consist of :

- (a) Goods without commercial value, under the terms that will be defined in ordinance of the government member responsible for the area of foreign trade.
- (b) Goods involved in active and passive improvement operations, of temporary importation, reimportation in the state, reexportation and transit.
- (c) Goods subject to the special customs regimes in the modalities of franc stores, bonded warehouses, franc deposit and special customs storage.
- (d) Industrialized goods destined for consumption in the area of congresses, fairs and international expositions and assimilated events.
- (e) Goods destined for the provisionment of ships and aircrafts, under the terms of the applicable legislation.
- (f) Goods apprehended, abandoned, found at sea or stranded by it or salvaged from shipwreck and sold at auction.
- (g) Goods that do not require expenditure of currency, property of air and maritime navigation companies and destined for their exclusive use.

All other goods are subject to automatic licensing, except goods subject to sanitary, phytosanitary and security control and goods subject to mandatory restrictions defined by law, which are subject to a non-automatic license.

3. The systems applies equally to all goods, regardless of the country or countries where they originate.

4. The licensing system does not restrict the quantity or value of imports. However, the non-automatic license protects human, animal and plant health, the eco-system, and safeguards the national security.

5. The previous licensing legislation, Decree-Law 51/2003 of 24 November 2003 was replaced by Decree-Law 68/2005 of 31 October 2005. The new legislation is in conformity with the WTO Agreement on Import Licensing Procedures. The new legislation requires that a non-automatic license be issued to goods subject to mandatory restrictions defined by law. The licensing system can only be altered by law.

Procedures

6. For products under restriction as to the quantity or value of imports (whether applicable globally or to a limited number of countries or whether established bilaterally or unilaterally):

I. The Cape Verde licensing system is not intended to nor does it restrict the quantity or value of imports but is to ensure human, animal and plant health, protect the eco-system, safeguard the national security. All issues pertaining to the licensing regime are published in the applicable Cape Verde legislation.

II. The Cape Verde licensing system imposes no quotas, and it is not intended to restrict the quantity or value of imports. The law does not fix a validity period for sanitary-phytosanitary non-automatic licenses. Licenses for this category are issued for each importation and are valid for the period requested by the importer. This license category cannot be extended. In the case of arms or security products licenses are issued for 90 days and exceptionally they can be extended for an additional 60 days. Non-automatic licenses are issued only by request of the importer, after verification that the importer meets the established legal requisites. Import and export operations are unencumbered for the importers and exporters, credentialed as such under the terms of the law.

III. The Cape Verde licensing system imposes no quotas, and it is not intended to, nor does it restrict the quantity or value of imports, and the import and export operations are unencumbered.

IV. The Cape Verde licensing system imposes no quotas.

V. The Cape Verde licensing system imposes no quotas hence no applications are required.

VI. Under the Cape Verde licensing system, import and export operations are unencumbered. The importer is free to initiate import and export operations at its discretion.

VII. No. Import licenses are automatic save for the exceptional cases referred to above.

VIII. Import licenses are automatic save for the exceptional cases referred to above.

IX. The Cape Verde licensing system foresees no quotas or restraint arrangements.

- X. The provisions indicated in this number do not apply in Cape Verde. Cape Verde's import and export operations are completely liberalized.
- XI. Cape Verde's legislation does not require any kind of licensing for export operations and does not foresee any situation, regardless of the type of products.
7. Where there is no quantitative limit on importation of a product or on imports from a particular country:
- (a) It depends on the type of products being imported. If the product is subject to the automatic license regime, the license is issued automatically. If the product is subject to a non-automatic license regime, the law requires that the license be issued within a maximum of 21 days.
 - (b) Yes, if the product is not subject to a non-automatic license.
 - (c) There is no limitation.
 - (d) Import licenses are automatic except for the exceptional cases referred to above.
8. Cape Verde's law does not foresee any circumstances under which applicants may be denied a license. Denials of non-automatic licenses may be appealed juridically in conformity with the law.

Eligibility of Importers to Apply for Licence

- 9.(a) Yes.
- (b) Yes.

Documentational and Other Requirements for Application for Licence

10. No information or form is required for automatic licenses.
11. Invoices, bill of lading, certificate of origin and certificate of quality.
12. No.
13. No.

Conditions of Licensing

14. There is no period of validity for automatic licenses. The law does not fix a validity period for non-automatic licenses such as sanitary-phytosanitary. Licenses for this category are issued for each importation and are valid for the period requested by the importer. This license category cannot be extended. In the case of arms or security products licenses are issued for 90 days and exceptionally they can be extended for an additional 60 days. Non-automatic licenses are issued only by request of the importer, after verification that the importer meets the established legal requisites. Import and export operations are unencumbered for the importers and exporters, credentialed as such under the terms of the law.
15. No.
16. No.

17(a) No.

(b) No.

Other Procedural Requirements

18. No.

19.(a) No, the importer must authorize the banking authorities to transfer the money in payment of Customs duties.

(b) No, a license is not a condition to obtain foreign exchange.

(c) No, but in exceptional cases the Central Bank may have restrictions on foreign exchange balance of payments.

(d) The importer must present his/her commercial documents including the Customs declaration and authorize the bank to make payment.
