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Committee on Import Licensing

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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

NOTIFICATION UNDER ARTICLE 7.3 OF THE AGREEMENT ON IMPORT LICENSING PROCEDURES

UNITED STATES

The following notification, dated 29 September 1995, has been received from the delegation of the United States.

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DEPARTMENT OF AGRICULTURE

1. Plants and Plant Products

Outline of System

1. Import permits are required for the importation of most plants and some plant products, to protect against the introduction of pests and diseases. Permits are also required for the import, export or re-export of terrestrial plants that are on the endangered species list. Permits are only issued to a firm or individual resident in the United States.

Purposes and Coverage of Licensing

2. Permits are required for:

- plants and plant products for or capable of propagation;
- fruits and vegetables;
- grains;
- certain cut flowers (roses, gardenia, lilac, camellia, rhododendron and azalea);
- cotton and cotton covers;
- sugar cane bagasse;
- broom corn and straw;
- certain rice products;
- bags, bagging, brassware;
- logs, lumber, other manufactured wood products;
- soil and quarry products;
- plants and plant products in transit through the United States.

3. The permit system applies to products coming from all countries with exceptions.

4. The permit system is to protect against the entry of plant pests and diseases, and to protect endangered plant species.

5. The permit system is a statutory requirement of the Plant Quarantine Act, 7 U.S.C. 154. The law specifies broad categories for the permit system. The Endangered Species Act and the Convention on International Trade in Endangered Species establish a permit system for certain plants on the endangered species list.

Procedures

6. Not applicable.

7. (a) The amount of time in advance of importation within which a permit must be applied for is not specified in the legislation. However, a reasonable period of time must be allowed for permit issuance. Permits should be applied for 30 days in advance of expected arrival of material.

(b) Permits are not generally granted immediately on request.

(c) There are no limitations as to the period of the year during which permit applications may be made.

(d) Permit applications are effected by one office, U.S. Department of Agriculture, Permit Section, Unit 136, 4700 River Road, Riverdale, Maryland 20782-1236. Most applications are not passed on to other offices for visas, note or approval, and the importer does not have to approach more than one administrative organ. The exception to this are the permit applications for soil and for plants required to be grown in post-entry quarantine.

8. There are no circumstances other than failure to meet standard criteria under which a permit may be refused. Reasons for refusal are given to the applicant. No appeal procedures are specified in the legislation.

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions resident in the United States are eligible to apply for licences. There is no registration fee. There is no published list of authorized importers. There is a US$70.00 fee for plants and plant products regulated by CITES.

Documentational and Other Requirements for Application for Licence

10. The information required in applications is set forth in the PPQ Form 587 (for plants and plant products), 588 (application for prohibited material), and PPQ 621 for endangered plants. Plants and plant products in transit through the United States require a PPQ Form 586. Applications to import soil are contained in PPQ Form 525.

11. For all plants and some plant products, a phytosanitary certificate must accompany the shipment. Endangered species have special documentation requirements.

12. There is no licensing fee or administrative charge for permits other than the US$70.00 fee per permit for commercial trade in endangered plants.

13. No deposit or advance payment is required in connection with the issue of permits.

Conditions of Licensing

14. Permits are valid for specified periods of time, and they can be extended by re-application. The permit for endangered or threatened plants is valid for two years.

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

16. Permits are not transferable between importers.

17. There are no other conditions attached to the issuance of a permit other than for plants requiring post-entry growing.

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. Not applicable.

DEPARTMENT OF AGRICULTURE

2. Animals and Animal Products

Outline of System

1. Import permits are required for the importation of certain animals and animal products, organisms and vectors, and veterinary biological products, to protect U.S. livestock and poultry against the introduction of diseases that do not exist in the United States.

Purposes and Coverage of Licensing

2. Permits are required for:

- domestic farm livestock and other species that may carry diseases that could affect U.S. livestock and poultry;
- certain animal (livestock) derived products for any reason, commercial or research uses;
- poultry and hatching eggs and other avian species;
- animal and avian specimens, tissues or blood products;
- materials that have been exposed to animal products capable of contamination with disease agents;
- samples of dairy products, hay, straw, grasses etc. for scientific uses from countries considered to be affected with diseases such as foot-and-mouth disease (FMD);
- germplasm - semen and embryos (livestock);
- organisms that affect livestock and avian species and various vectors of such organisms; and
- veterinary biological products including seeds and substrates.

3. The permit system applies to animals coming from all countries (except for Canada and Mexico) with some variation resulting from the species and country of origin's disease status. Permits for products apply to all countries depending on disease status and type of product.

4. The permit system is not used to restrict the quantity or value of imports, but only to protect domestic agriculture from the introduction or entry of animal diseases or disease vectors.

5. The permit system is not a statutory requirement. The pertinent regulations are contained in Title 9 C.F.R., Parts 92, 94.7, 94.16, 95.4, 95.18, 95.19, 95.20 through 98, 104 and 122; and in the following laws as codified: 21 U.S.C-102 to 105, 111, 134, 135, 151-159 and 19 U.S.C-1306.

Procedures

6. Not applicable.

7. (a) The amount of time in advance of importation within which a permit must be applied for is not specified in the regulations.

(b) A permit cannot be granted immediately upon request. Prior review of the application is required.

(c) There are no limitations as to the period of the year during which permit applications may be made.

(d) Permit applications are effected by one office. The application is not passed on to other offices for visa, note or approval, and the importer does not have to approach more than one administrative office.

8. In general, there are no circumstances other than failure to meet ordinary criteria under which a permit may be refused. In the case of live animals or animal products, poultry, or birds, a permit for a particular time period could be refused if space at a Quarantine Station is not available. An outbreak of a particular disease in the exporting country could be a cause to revoke a permit which was issued prior to the disease outbreak; for example, African Horse Sickness in Spain, Hog Cholera in Europe and Bovine Spongiform Encephalopathy (BSE) in Europe. Reasons for refusal are given to the applicant. No appeal procedures are specified in the legislation or regulations.

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions in the United States are eligible to apply for permits. There is no published list of authorized importers.

Documentational and Other Requirements for Application for Licence

10. The information required in applications is set forth in VS forms 16-3 and 16-7, 17-129, 17-128 and BBEP form 2005.

11. In the case of live animals and birds, the original and copies of the import permits must accompany the shipment as well as a health certificate issued by the national veterinary services of the country of origin. Copies of the import permit should also accompany animal products and organism and vector shipments, and shipments of veterinary biological products.

12. There are import-related user fees associated with permit application review, inspections required for imports, testing and quarantines. Facilities manufacturing veterinary biologicals for importation are inspected under cooperative service agreements.

13. Reservation fees for quarantine space are required for live animals and birds. The amount of the fee varies according to the animal and the bird.

Conditions of Licensing

14. Permits for animal products and organisms and vectors vary in length of their validity, but are generally for about one year. Permits for live animals and birds are valid for seven to 60 days, depending on the species. Permits for veterinary biological products for importation for distribution and sale do not have expiration dates.

15. There is no penalty for non-utilization of a permit. Application user fees and quarantine reservation fees are not refundable.

16. Permits are not transferable between importers.

17. There are no conditions attached to the issuance of a permit. The applicant must comply with the terms of the permit. The importer certifies that the information on the application is accurate.

Other Procedural Requirements

18. There are no other administrative procedures required prior to importation.

19. Not applicable.

DEPARTMENT OF AGRICULTURE

3. Sugar

Outline of System

1. Additional U.S. note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) established by Presidential Proclamation 6763 of December 1994, authorizes the Secretary of Agriculture to establish, for each fiscal year, the quantity of sugars and syrups that may be entered at the lower tariff rates of tariff-rate quotas. The tariff-rate quotas cover sugars and syrups described in HTS subheadings 1701.11, 1701.12, 1701.91, 1701.99, 1702.90 and 2106.90. This authority was proclaimed to implement the results of the Uruguay Round of multilateral trade negotiations as reflected in the provisions of Schedule XX (United States), annexed to the Agreement Establishing the World Trade Organization.

Under the tariff-rate quota system, the Secretary of Agriculture establishes the quota quantity that can be entered at the lower tier of import duty rates, and the United States Trade Representative (USTR) allocates this quantity among the 40 eligible sugar-exporting countries. The quantities allocated to beneficiary countries under the Generalized System of Preferences (GSP), the Caribbean Basin Initiative (CBI) and Andean Trade Initiative receive duty-free treatment. Certificates of Quota Eligibility (CQE) are issued to the exporting countries and must be executed and returned with the shipment of sugar in order to receive in-quota tariff treatment. Regulations governing the Certificate of Quota Eligibility (CQE) programme are published in Title 15, Part 2011 of the Code of Federal Regulations.

Purposes and Coverage of Licensing

2. The products covered by the certificate of eligibility are sugars, syrups and molasses described in HTS 1701.01.10, 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44. Specialty sugar certificates are issued for those sugars in HTS 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44 which (1) are defined in 15 CFR 2011.202(j); (2) are the product of countries with no base sugar quota allocation; and (3) require no further processing. Licences are issued for sugars not to be further processed under HTS 1701.11.20 which are: (1) used for the production, other than by distillation, of polyhydric alcohol except that used as a substitute for sugar in human food, or (2) re-exported in refined form in sugar-containing products.

3. The CQE system applies to those countries from which sugar is imported under the tariff-rate quota. Certificates for imports of specialty sugars apply to those countries allocated shares of the specialty sugar amount. Licences for sugar for production of polyhydric alcohol or re-export are applicable to imports of sugar from all countries.

4. The purpose of the certificate of eligibility is to facilitate reasonable and orderly access to the United States sugar market for those countries to which a quota allocation has been given, and to promote orderly marketing and distribution of sugar within the United States. The purpose of the quota for specialty sugar is to allow entry of certain refined sugars used for specialized purposes, such as ethnic market demand and gourmet specialties. Licences for quota-exempt sugar are intended to increase the utilization of excess domestic capacity and improve employment in refining and related industries.

5. The certificates of quota eligibility are issued under 15 CFR 2011, Sub-part A. Certificates for specialty sugar are issued pursuant to 15 CFR 2011, Sub-part B. The regulations governing licences for the importation of sugar exempt from quota are under 7 CFR 1530. Authority exists to suspend

each of these systems whenever it is determined that such action is appropriate. Notice of such suspension shall be published in the Federal Register.

Procedures

6. I. Information on the allocation of quotas and on the certificates and licensing system is published in the Federal Register, press releases from the Office of the United States Trade Representative, and reports from the United States Department of Agriculture.

II. The sugar tariff-rate quota for raw and refined sugar is determined annually by the Secretary of Agriculture and announced before the fiscal year for which the quota will be in effect. The annual quota for specialty sugars of 2,000 short tonnes (1,815 metric tonnes) is announced at the same time as the quota for raw and refined sugar. Certificates of quota eligibility are issued by the Secretary of Agriculture to countries to coincide with the applicable quota year. Certificates for importing specialty sugars are likewise issued to importers to coincide with the quota year. Licences issued for quota-exempt sugar are not subject to the quota year limitations.

III. Governments of countries participating in the certificate system in turn execute and issue these certificates to a shipper or consignee of a cargo of sugar destined for the United States. Sugar is allowed entry into the United States at the in-quota tariff rate only if a valid and properly executed certificate of quota eligibility is presented at time of entry to the appropriate customs official.

Certificates for specialty sugar are issued for imports by the United States Department of Agriculture, Foreign Agricultural Service if sufficient evidence has been provided to make a reasonable determination that the sugar fits the definition of specialty sugar. Importers must apply for certificates for specialty sugar each quota year. Any unused portion of a country's specialty sugar quota may not be carried over into the next quota year. The certificate is presented to the appropriate customs official at the time of entry.

Licences for sugar imports exempt from quotas are issued to United States sugar refiners and United States manufacturers of polyhydric alcohol. A summary of transactions form (balance sheet showing charges and credits under the licence) must be presented to the appropriate customs official at the time of entry along with a licence.

IV. Not applicable.

V. Not applicable.

VI. Not applicable.

VII. The United States Department of Agriculture administers the licensing and certificate systems.

VIII. The certifying authority designated by the participating country issues certificates of eligibility to the shipper or consignee of sugar. The maximum quantity of sugar to be shipped with each certificate shall not exceed 10,000 short tonnes. Specialty sugar certificates are issued to importers on a first-come first-served basis. The certificate may cover more than one type of specialty sugar. Issuance of a certificate does not guarantee entry at the in-quota rate if the specialty sugar quota is already filled. However, subject to quota availability, an unlimited number of shipments may enter.

The maximum quantity of sugar that can be entered under a quota exempt licence for re-export in refined form cannot exceed 50,000 metric tonnes at any time unless specifically authorized by the Licensing Authority. As sugar is re-exported, however, a quantitative amount may be imported equal to the amount that has been re-exported. Licences issued for the importation of quota-exempt sugar for the production of polyhydric alcohol do not require renewal. The maximum amount of sugar which may be entered under the licence cannot exceed the anticipated requirements of the manufacturer.

Licences are issued to manufacturers for obtaining quota-exempt refined sugar to be used for re-export in sugar-containing products. The maximum amount which may be transferred under an import licence is 10,000 short tonnes of sugar.

IX. Not applicable.

X. Not applicable.

XI. Licences for quota-exempt sugar are issued only if: (1) a quantity of sugar equal to the sugar imported is re-exported in a refined form, or (2) a quantity of sugar equal to the sugar imported or transferred is re-exported in a sugar-containing product, or (3) a quantity of polyhydric alcohol equal to sugar imported must be produced.

7. Not applicable.

8. There are no provisions for refusing to issue certificates of eligibility, certificates for importing specialty sugars, or licences for importing quota-exempt sugar other than failure to meet the ordinary criteria.

Eligibility of Importers to Apply for Licence

9. All domestic importers are eligible to apply for certificates for specialty sugars. Only United States refiners and United States manufacturers of polyhydric alcohol can apply for licences to import quota-exempt sugar. Import agents may be employed to import or export quota-exempt sugar. Domestic manufacturers are eligible to apply for licensing in the sugar-containing products re-export programme. There is no published list of authorized importers.

Documentational and Other Requirements for Application for Licence

10. Each certificate of eligibility must be numbered and identified by the foreign country and must provide the following information: (1) quantity eligible to be entered; (2) name of shipper; (3) name of vessel; and (4) port of loading. The following information may also be included (if known): the name and address of consignee; expected date of departure; expected date of arrival in the United States; and expected port(s) of arrival in the United States.

Refiners wishing to apply for licences to import sugar for re-export in refined form must apply in writing. Their application must include: (1) name and address of the applicant; (2) licence amount requested (not to exceed 50,000 metric tonnes); (3) polarity; (4) name of firm that will establish a performance bond in favour of the United States Government on behalf of the applicant, if such firm is not the applicant; and (5) anticipated date of entry of sugar and export of refined sugar (if known). The licence holder shall submit a certified statement of the weight of the imported sugar to be charged to the licence.

Manufacturers applying for a licence in the sugar-containing products re-export programme must apply in writing. Their letter of application must include: (1) name and address of the applicant; licence amount requested (not to exceed 10,000 short tonnes); (2) HTS number and description of sugar to be imported or transferred; (3) name of firm (if known) that will establish a performance bond in favour of the United States Government on behalf of the applicant; (4) the name(s) of anticipated refinery from which processed non-quota sugar will be received (if known); and (5) a description of sugar-containing products to be exported (if known) and the estimated sugar content of such products.

Only manufacturers of polyhydric alcohol are eligible to receive licences to import sugar for use in the manufacture of polyhydric alcohol. Applications for such licences must contain the following: (1) the name and address of the manufacturer; (2) statement of anticipated requirements of the manufacturer for sugar to be used in the production of polyhydric alcohol; (3) anticipated amount of sugar to be imported during the specific effective period; (4) the name of the person that will establish a performance bond in favour of the U.S. Government on behalf of the applicant; and (5) certification that the manufacturer shall use the quantity of sugar imported solely for the production, other than by distillation, of polyhydric alcohol, except polyhydric alcohol imported for use as a substitute for sugar in human food consumption.

Applications for certificates to import specialty sugar(s) must be in writing and must provide the following information: (1) name and address of applicant; (2) anticipated quantity of imports; (3) the appropriate six-digit HTS number; (4) a description of the specialty sugar(s) expected to be imported during the period of the certificate, including the manufacturers' or exporters' usual trade name or designation and use of such specialty sugar; (5) sufficient evidence that it is a specialty sugar(s); (6) anticipated consumers (if known) at time of application; and (7) anticipated date of entry (if known).

11. Quota sugar entered from countries that participate in the certificate system must be accompanied by a certificate of quota eligibility which has been signed by the certifying authority in the country of origin and affixed with a seal or form of authentication.

A certificate issued from the Department of Agriculture authorizing the importation of specialty sugar(s) must be presented to the appropriate customs official at the time of entry.

Licences issued by the Department of Agriculture for entry of sugar exempt from quota for re-export in refined form, for the production of polyhydric alcohol must be presented to the appropriate customs official at the time of entry.

12. Not applicable.

13. To enter the United States, sugar exempt from quota and entering under licence must meet all the applicable customs bond requirements and be subject to a performance bond. No bond is required for any sugar entered for which an equal quantity of the sugar has been exported prior to the date of entry or transfer of the sugar, and which has been credited to the licence. A bond may cover imports or transfers made during the period specific in the bond (term bond). Only the refiner who imports the sugar or the manufacturers who will use it may be the principal on a bond to cover such sugar to be imported or transferred. The amount of bond for sugar entering exempt from quota shall be US$0.20 per pound of the sugar entered under licence.

The appropriate customs official will release the obligation under bond for sugar imported by an amount computed in the preceding manner for a corresponding quantity of sugar credited to the licence as having been exported in refined form or transferred in refined form to a licensed manufacturer participating in the sugar-containing product re-export programme. The Department of Agriculture releases the obligation under bond for sugar transferred when a corresponding quantity of sugar is re-exported in sugar-containing products.

Customs releases the obligation under bond for sugar used in the production of polyhydric alcohol when a certificate of use has been filed within one month after the use of the sugar indicating that the sugar was used for the production of polyhydric alcohol.

Under the re-export programme for refined sugar, if the licence holder fails to export (or transfer to a licence holder under the sugar-containing product re-export programme) a quantity of sugar equal to the amount of sugar imported under licence within three months of the date of entry, payment shall be made to the United States under the bond equal to the amount of sugar not offset by exportation. Under the re-export programme for sugar-containing products, if a licence holder fails to export within eighteen months of the date of a licence transfer, payment shall be made equal to the monetary amount of sugar not offset by timely export. Failure to use the total amount of sugar for production of polyhydric alcohol within 180 days of entry will require payment covering the quantity of sugar not used for the stated purpose.

Conditions of Licensing

14. The certificates of eligibility are valid only for the quota period for which they are issued. Under the sugar-containing products re-export programme, the licences issued will expire upon written notice to the licence holders by the Licensing Authority if there have been no charges or credits on the licence within 12 months of the date on which the licence was issued or any subsequent period of 18 months the licence may be deemed to have expired. A certificate for specialty sugar is valid only for the quota year in which it is used.

15. There is no penalty for non-utilization.

16. Only licences issued for re-exporting sugar in refined form can be transferred with the written permission of the Department of Agriculture provided that the refiner does not have a licence. If an entry of sugar is made by an agent of the licence holder, the agent shall produce for inspection to a U.S. Customs official a written authorization by the licence holder designating such a person to act as his/her agent for the purpose of entering sugar.

17. There are no other conditions attached to issuing certificates.

Other Procedural Requirements

18. No other procedures are required.

19. Not applicable.

DEPARTMENT OF AGRICULTURE

4. Certain Dairy Products

Outline of System

1. Presidential Proclamation 6763 of 23 December 1994 modified the Harmonized Tariff Schedule of the United States (HTS) in various ways that affected the import system for certain dairy products. The Proclamation terminated quantitative restrictions that had been imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933, as amended (U.S.C. 624); proclaimed tariff-rate quotas (TRQs) for such articles pursuant to P.L. 103-465; and specified which imports of dairy articles may require import licences issued in accordance with the terms and conditions in regulations issued by the Secretary of Agriculture.

Purposes and Coverage of Licensing

2. The licensing system covers the following dairy commodities as defined in the Additional U.S. notes to Chapter 4 of the HTS: butter and fresh or sour cream containing over 45 per cent by weight of butterfat (note 8); dried skim milk (note 7); dried whole milk (note 8); dried buttermilk and whey (note 12); butter substitutes (note 14); other cheese, NSPF (note 16); blue-mould cheese (note 17); Cheddar cheese (note 18); American cheese other than Cheddar (note 19); Edam and Gouda cheese (note 20); Italian-type cheese (note 21); Gruyere-process cheese (note 22); lowfat cheese (note 23); and Swiss/Emmenthaler cheese (note 25).

3. The licensing system applies to dairy products coming from all supplying countries.

4. The licensing system is an administrative tool which governs the importation of certain dairy products which are subject to TRQs resulting from entry into force of the Uruguay Round Agreement. Under the TRQ system, the in-quota quantity of imports enters at the low-tier tariff rate, and the over-quota quantity enters at the high-tier tariff rate. Dairy articles subject to licensing cannot enter at the in-quota rate unless such imports are accompanied by a licence. An article may be entered only in the name of the licensee, or the licensee's agent acting in the licensee's name under the power of attorney, and the quantity entered must be owned by the licensee on the date of entry, and must be charged against the licence in effect. The licensing system was originally implemented as a requirement of Presidential Proclamation 3019 for the purpose of providing for an equitable distribution of trade in dairy products covered by Section 22 quotas among importers, users, and supplying countries. Under a TRQ system, licensing serves the same trade-stabilizing and equity purposes.

5. The licensing system is not a statutory requirement. The authority to make such allocations was delegated to the Secretary of Agriculture by Presidential Proclamation 6763 of 23 December 1994.

Procedures

6. I. The procedures for submitting licence applications, eligibility criteria, licence use requirements and other provisions of the regulation are codified in 7 CFR 6.20-6.34. The application forms, which are readily available from the Department, provide complete information on the TRQs and allocations by supplying country. Limitations on the size of individual licences are in the regulation. An Advanced Notice of Proposed Rulemaking was published in the Federal Register on 2 June 1994 seeking comments on methods for allocating Uruguay Round TRQs through the year 2000, and comments on updating or improving the existing regulation. On 6 January 1995 and 2 May 1995, notices were published in the Federal Register amending the Import Regulation to implement those U.S. Uruguay Round commitments for 1995. The Department anticipates having a revised regulation in place for 1996 which will be published in the Federal Register in the near future.

II. Under the Uruguay Round Agreement, the in-quota TRQ quantities will be increased annually from 1995 to 2000 as a result of the Uruguay Round market access negotiations and the implementation schedule is included in GATT Schedule XX - United States of America. Licence applications must be submitted annually during the application period specified in the Import Regulation. Licences are issued on 1 January of each year and are valid for 12 months. For those countries which did not begin to implement their Uruguay Round commitments until 1 July 1995, the United States did not issue licences for the 1995 Uruguay Round increments until 1 July.

III. Licences are allocated to importers of dairy products regardless of whether they are producers of like products. Unused allocations may not added to the allocation of the

succeeding year. The Import Regulation requires that licensees must utilize a specified percentage of licences issued and must voluntarily surrender unused amounts which are then reallocated to other eligible licensees through an application process. A list of names of licensed importers is mailed to all licensees each year. The list is available upon request.

IV. When a new quota for a dairy product is announced, the applications have at least 30 days after the announcement of application procedures to submit applications and supporting documentation.

V. Applications are processed as quickly as possible after they are received to determine if the eligibility criteria in the Import Regulations are met. In general, over 4,000 applications are reviewed and the application process is completed within five weeks.

VI. Licences are issued for use beginning 1 January and generally issued in the last two weeks of December.

VII. Only the Import Licensing Group, Foreign Agricultural Service, United States Department of Agriculture, considers licence applications on dairy products.

VIII. If demand for licences exceeds licence availability, licences are issued to:

- historical licensees each year for the same volume of imports from the same supplying countries provided applications are submitted, and the eligibility criteria, licence use provisions, and other requirements of the Import Regulation are met;

- designated licences are issued annually for certain cheese articles to eligible applicants who are designated by the government of the country of origin as preferred importers. Any quantities available for designation which are not designated will be transferred to the non-historical/supplementary licence pool;

- non-historical/supplementary licences are issued annually through a random lottery system. Licences received for a specific cheese or non-cheese dairy product are not renewable in the following year. Eligible applicants may apply annually for a licence.

IX. Export permits from foreign countries are not required.

X. Same as above.

XI. Pursuant to General Note 15 of the HTS, in-quota quantities of TRQ imports may be imported which will not enter the commerce of the United States which are imported as samples for taking orders, for exhibition, display or sampling at a trade fair, for research, for use by embassies of foreign governments or for testing of equipment, provided that written approval of the Secretary of Agriculture or his designated representative is presented at the time of entry. The Licensing Authority issues ex-quota permits for these entries after careful review of applications and documentation as requested.

7. Where there is no quantitative limitation on imports from a particular country:

(a)-(d) The application period is specified in the Import Regulation. Applications cannot be made outside this period. Imports subject to licences can enter without a licence at a higher tariff rate. All licences are granted effective 1 January for the entire in-quota quantities of all articles subject to licensing.

8. The circumstances under which an application for a licence may be refused other than failure to meet the ordinary criteria is failure to complete the application form and submit the full documentation requested within the application deadline period. Reasons for refusal to accept an application may be given to applicants upon request. There are no rights of appeal.

Eligibility of Importers to Apply for Licences

9. Importers or manufacturers of dairy products are eligible to apply for import licences if they meet the performance criteria set forth in the Import Regulation with respect to the quantity of imports entered in a previous 12-month period (1 September-31 August), and for manufacturers the specified level of dairy production in a previous 12-month period. In addition, manufacturers must be listed in USDA's "Dairy Plants Surveyed". For the 1995 quota year, exporters of dairy products were eligible to apply for non-historical (lottery) licences for non-cheese dairy products provided that documentation was provided that exports of dairy products exceeded specified quantities in a previous 12-month period. The required documentation providing proof of importation must be submitted with application forms. Historical licence eligibility is established primarily on the basis of proof of importation of the item, for which application for licence is made, during a specified representative period.

Documentational and Other Requirements for Application for Licence

10. The information required in applications is set forth in FAS Publication: 922, 923, 923A and 923B.

11. At the time of the actual importation, a licence number and control number, taken from the licensee's copy of the licence, must be presented to the Port Director of Customs at the port where entry is made.

12-13. As of 1 January 1986, a fee has been charged for or associated with the issuance of licences. For 1995, a fee of US$89.00 is being charged.

14. Licences are valid from 1 January through 31 December. Licence validity cannot be extended into the next quota year.

15. Licensees who do not meet an 85 per cent utilization requirement may voluntarily surrender unused amounts by 1 October or have that licence amount reduced the following year. Licence quantities which are surrendered are reissued to other licensees who apply for unused licence shares following an announcement by the Licensing Authority. Such licences are issued through a random lottery process. Historical licence eligibility can be revoked if the licensee fails to import against his licence for two consecutive years, or three non-consecutive years within a five-year period. Revocation of any licence may be appealed within 30 days of the notification of revocation.

16. Licences are not transferable between importers.

17. No other conditions are attached to the issuance of a licence.

Other Procedural Requirements

18. All food imports are subject to the requirements of the Food, Drug and Cosmetic Act and the Fair Packaging and Labelling Act, including sanitation and labelling requirements, and milk products are subject as well to the Federal Import Milk Act. These requirements are administered by the Food and Drug Administration (FDA). The importation of certain dairy products is regulated by both FDA and the Animal and Plant Health Inspection Service (APHIS). Importers should contact FDA in regard to FDA requirements and APHIS in regard to APHIS requirements.

19. Not applicable.

DEPARTMENT OF ENERGY

5. Natural Gas[1]

Outline of System

1. Imports of natural gas, whether by pipeline or as liquefied natural gas (LNG), are regulated under Section 3 of the Natural Gas Act (NGA) (15 U.S.C. 717b), which provides that "no person shall … import any natural gas from a foreign country without first having secured an order … authorizing it to do so". Section 3 also provides that such orders shall be issued unless, after opportunity for hearing, it is found that the proposed importation will not be consistent with the public interest. Authority over imports of natural gas rests with the Secretary of Energy. The Secretary has delegated the authority to "authorize" the import to the Assistant Secretary of Fossil Energy (FE) (Delegation Orders Nos. 0204-111 (49 FR 6690, 22 February 1984) and 0204-127 (54 FR 11436, 20 March 1989)).

In addition, the Secretary has delegated authority to the Federal Energy Regulatory Commission (FERC) to regulate the imported natural gas within the domestic gas system (Delegation Order No. 0204-112 (49 FR 6690, 22 February 1984)). FERC responsibility includes the functions of approval or disapproval of the construction and operation of particular facilities, the site at which such facilities shall be located, and, with respect to natural gas that involves the construction of new domestic facilities, the place of entry.

On 24 October 1992, the Energy Policy Act of 1992 (EPACT) was enacted. Section 201 of EPACT amends Section 3 of the NGA by eliminating the Department of Energy's (DOE) need to make a public interest finding for natural gas imports from "a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas", and for imports of liquefied natural gas (LNG). Therefore, natural gas (and LNG) imports between the United States and other countries with which the United States has a free trade agreement are "deemed to be consistent with the public interest, and applications for such importation shall be granted without modification or delay".

Currently, virtually all natural gas import applications filed with DOE are reviewed under EPACT standards. DOE is not required to evaluate these applications to determine whether they are "in the

[1]A copy of each of the following is available for consultation in the Secretariat:
- Natural Gas Act of 21 June 1938, as amended;
- How to Obtain Authorization to Import or Export Natural Gas (4 October 1993);
- Procedures for Filing and Processing an Application before the Office of Fossil Energy for Authorization to Export/Import Natural Gas under Section 3 of the Natural Gas Act;
- New Policy Guidelines and Delegation Orders on the Regulation of Imported Natural Gas (17 February 1984).

public interest". Because DOE's discretionary authority has been eliminated by EPACT in these cases, there is no longer a need to initiate public proceedings or to solicit public comments. Rather, after these import applications are reviewed for completeness and legal sufficiency, DOE prepares and issues authorizations as requested. Orders granting authorizations are required in these cases, but applications take less time to process than cases which do not fall under EPACT.

Purposes and Coverage of Licensing

2. The products covered are natural gas and liquefied natural gas (LNG).

3. The system applies to goods originating from any country, but predominately Canada and Algeria.

4. The licensing is not intended to restrict the quantity or value of natural gas imports.

5. See response to Question 1.

Procedures

6. Not applicable.

7. (a) DOE regulations (10 C.F.R. Part 590) specify that an applicant for a natural gas import authorization should apply 90 days prior to the anticipated date for start-up of the import. However, the issuance of an import authorization normally takes less than two weeks if reviewed under EPACT standards.

(b) An authorization to import natural gas can be granted as soon as an applicant has filed a legally sufficient application, and as soon as that application is reviewed and processed.

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

(d) Licensing applications are considered by a single administrative organ, the Office of Fossil Energy, U.S. Department of Energy, the Forestal Building, 1,000 Independence Avenue, S.W., Washington D.C. 20585.

8. There are no circumstances under which an import authorization can be refused, as long as an applicant has submitted a legally sufficient application. Information which must be contained in the application is specified in 10 C.F.R. 590.

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions are eligible to apply for authorization to import natural gas. Traditionally, entities applying for such authorizations have been natural gas pipeline companies, natural gas producers, natural gas marketers and utility companies.

Documentational and Other Requirements for Application for Licence

10. Import authorization proceedings are initiated by the filing of an application. The application is not a standard form but rather an individual document incorporating basic information about the proposed import arrangement, and exhibits required by the rules covering such applications set forth in DOE regulation (10 C.F.R. Part 590). EPACT has necessitated creation of a bifurcated process in the manner in which DOE reviews applications to import natural gas. Applications which involve

gas imports with nations with which the United States has a free trade agreement must be granted by DOE "without modification or delay". As a result, DOE's action of issuing such import authorizations is ministerial in nature.

However, for applications involving gas imports with nations with which the United States does not have a free trade agreement requiring national treatment for trade in natural gas, DOE must determine whether the import proposal is "in the public interest". Those applications are subject to the administrative procedures specified in 10 C.F.R. Part 590.

Import Applications not Affected by EPACT - Natural gas import applications not affected by EPACT, that is, those cases which involve imports from a nation with which the United States does not have a free trade agreement requiring national treatment for trade in natural gas, are subject to procedural requirements found in 10 C.F.R. Part 590. After receipt of an application, DOE provides public notice of the filing in the Federal Register and solicits comments on the proposed import. Depending upon the response to the notice and intervention by interested parties, DOE may act on the application immediately, or may institute further proceedings. An opportunity to request these additional proceedings must be provided to the parties before an application can be denied.

DOE's review of these import applications is guided by Delegation Order No. 0204-111 and certain natural gas import policy guidelines issued in February 1984 by the Secretary of Energy. the Delegation Order specifies that the regulation of imports shall be based on matters appropriate to each particular case, including:

(1) the competitiveness of the import;
(2) the need for the gas; and
(3) security of the supply.

With respect to the competitiveness of a proposed import, the applicant must demonstrate that the provisions of the arrangement are flexible enough to ensure continued competitiveness over the duration of the import, including flexibility to meet changing market conditions. If the import arrangement is considered competitive, a presumption is made that there is a need for this supply in the proposed market area. With regard to security of the supply, the policy guidelines provide that reference will be made to the historical reliability of the supplier as a source of natural gas for the United States.

11. There is no application form. The application takes the form of a written petition which must contain the information specified in the regulation (10 C.F.R. Part 590).

12. A filing fee of US$50.00 is charged for each application.

13. There is no deposit or advance payment requirement associated with the issuance of an order to import natural gas.

Conditions of Licensing

14. The duration of a natural gas import authorization usually is specified in the Opinion and Order issued by DOE, and depends upon the particular circumstances of the import arrangement. An import authorization can be extended upon application to DOE.

15. There is no penalty for non-utilization of an order to import natural gas.

16. Authorizations to import natural gas are not transferable between importers.

17. Not applicable.

Other Procedural Requirements

18. Each import authorization order requires natural gas importers to report sales information quarterly to DOE. Information reported includes volume, price, names of sellers and buyers, and other details of the import transactions.

19. Not applicable.

DEPARTMENT OF INTERIOR

6. Fish and Wildlife (Including Endangered Species)

Outline of System

1. On 25 August 1980, the Service published final rules revising 50 CFR Part 14 (Importation, Exportation, and Transportation of Wildlife) to implement provisions of a number of wildlife laws enforced by the Service. As part of that rulemaking and under authority of the Endangered Species Act of 1973 (ESA), an import/export licence requirement was imposed on any person who engages in business as an importer or exporter of fish or wildlife unless that person imports or exports certain excepted wildlife or falls within one of the categories of persons excepted from the requirement by the rules. The licensing provision was promulgated under section 9(d) of the ESA [16 U.S.C. 1538(d)] which provides that it is illegal for any person to engage in business as an importer or exporter of fish or wildlife (other than certain shellfish or fishery products) without first having obtained permission from the Secretary of the Interior. On 24 March 1974, the Service had published a notice granting temporary permission to all persons needing it. The import/export licence was proposed on 27 March 1978. After two comment periods and two public hearings the Service retained the licence requirement with certain exceptions in the final rules. The licence requirement went into effect on 1 January 1981. On 27 January 1989, after publication of the proposed rule and comment period, the Service published a final rule amending the previous import/export licensing, inspection and billing procedures, which became effective on that date.

The licence requirement is found at 50 CFR 14.91-93. Licensees must:

(1) pay US$125 per year;
(2) pay an inspection fee of US$25 for each shipment, at, or prior to the inspection;
(3) importers or exporters of wildlife will pay fees for actual costs of inspections conducted at special times or locations at the shipper's request;
(4) keep certain records and retain them for five years;
(5) allow Service inspection of records and inventories of imported wildlife; and
(6) file any requested reports.

Exceptions to the licence requirement are found at 50 CFR 14.92. Certain persons excepted from the licence requirement by 50 CFR 14.92(b) must still comply with the requirements of section 9(d) of the ESA, which are to:

(1) keep records which fully and correctly disclose each importation or exportation of wildlife by them;
(2) keep records which fully and correctly disclose the subsequent disposition by them of the imported or exported wildlife; and
(3) allow Service inspection of records and inventories of imported wildlife.

Purposes and Coverage of Licensing

2. The licensing system covers all "wildlife" which by regulation means the same as "fish or wildlife", which is defined by 50 CFR 10.12 as follows:

> The term "fish or wildlife" means any wild mammal, whether alive or dead, including without limitation any wild animal, bird, reptile, amphibian, fish, mollusc, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and including any part, product, egg, or offspring thereof.

3. The licensing system applies to any person who "engages in business as an importer or exporter of wildlife". That phrase means for a person to devote time, attention, labour or effort to any activity for gain or profit that involves the importation or exportation of wildlife whether or not such person is an importer or exporter within the meaning of the customs laws of the United States.

Persons excepted from the licence requirement by 50 CFR 14.92(b) include:

(1) common carriers;

(2) customs house brokers;

(3) public museums, or other public, scientific or educational institutions, importing or exporting wildlife for research or educational purposes and not for resale;

(4) Federal, State, or municipal agencies;

(5) circuses importing or exporting wildlife for exhibition purposes only and not for purchase, sale, or transfer of such wildlife; and

(6) any person if the value was declared on the Declaration of Importation or Exportation of Fish and Wildlife (Form 3-177) of the wildlife that person imports and exports during a year totals less than US$25,000.

4. The licensing system is not intended to restrict the quantity or value of imports. The purposes of the licence requirement are to: identify large commercial importers and exporters of wildlife, require records which fully and correctly disclose each importation or exportation of wildlife and the subsequent disposition of the wildlife by the importer or exporter, allow the Service to inspect records required to be kept and inventories of imported wildlife, remove repeat wildlife law violators from commercial wildlife trade, improve communications between the Service and commercial wildlife importers and exporters, and assist the Service in its effort to conserve endangered and threatened species and identify species which may be threatened or endangered.

5. Section 9(d) of the Endangered Species Act of 1973 [16 U.S.C. 1538(d)] makes it unlawful "for any person to engage in business as an importer or exporter of fish or wildlife…without first having obtained permission from the Secretary [of the Interior]". By regulation the term "permission" was treated as a grant of authority to require a licence, but the licence is not statutorily required. Exceptions to the licence requirement can be created by regulation. Further, the coverage of the licence can be broadened or narrowed by changing the definition of either "fish or wildlife" or the phrase "engage in business as an importer or exporter of fish or wildlife".

Procedural Requirements

6. Not applicable.

7. (a) No time-limit is set for receiving an application in advance of importation. However, 50 CFR 14.91(a) states it is unlawful after 31 December 1980, for any person to engage in business as an importer or exporter of wildlife without first having obtained a valid import/export licence from the Director (of the Service). It is required that applications for licence renewals be received by the issuing office at least 30 days before the current licence expires.

(b) Yes.

(c) No.

(d) Applications are submitted to and processed by Service law enforcement regional offices. The Assistant Regional Director - Law Enforcement of each office has been delegated authority to issue licences.

8. Applications must meet the provisions of 50 CFR 13.11 and 13.12. Under 50 CFR 13.21(b) a licence may be refused if:

(1) the applicant has been assessed a civil penalty, has been convicted of any civil or criminal provision of any statute or regulation relating to the activity for which the application is filed, if such assessment or conviction evidences a lack of responsibility;

(2) the applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his application;

(3) the applicant has failed to demonstrate a valid justification for the permit and a showing of responsibility;

(4) the authorization requested potentially threatens a wildlife or plant population; or

(5) the Director finds through further inquiry or investigation, or otherwise, that the applicant is not qualified.

An applicant must be notified in writing if the application is denied and given reasons for the denial. If authorized in the notice of denial, the applicant may submit further information, or reasons why the licence should be granted. The final action by the Director is considered the final administrative decision of the Department of the Interior.

Eligibility of Importers to Apply for Licence

9. (a) Not applicable.

(b) All persons, firms, and institutions are eligible to apply for a licence.

Documentational and Other Requirements for Application for Licence

10. The following information is required:

(1) applicant's name, mailing address, and phone number;

(2) where the applicant is an individual, his date of birth, height, weight, colour of hair, colour of eyes, and sex; and business or institutional affiliation, if any, having to do with the wildlife to be covered by the licence;

(3) where the applicant is a corporation, firm, partnership, institution, or agency, either private or public, the name and address of the President, all partners and principal officers, and of the registered agent for the service of process;

(4) location where the permitted activity is to be conducted;

(5) certification in the following language:

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Sub-chapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the suspension or revocation of this permit and to the criminal penalties of 18 U.S.C. 1001.

(6) desired effective date of licence;

(7) date;

(8) signature of the applicant;

(9) a brief description of the nature of the applicant's business as it relates to the importation or exportation of wildlife, e.g., "live animal dealer", "fur broker", "taxidermist", "retail department store", and "pet shop";

(10) a statement of where books or records concerning wildlife imports or exports will be kept;

(11) a statement of where inventories of wildlife will be stored;

(12) name, address, and telephone number of the officer, manager, or other person authorized to make records or wildlife inventories available for examination by Service officials; and

(13) the anticipated dollar amount of wildlife to be imported or exported during a calendar year. A copy of the application has been attached.[1]

[1]Available for consultation in the Secretariat (Market Access Division).

11. An import/export licence is only permission to engage in business as an importer or exporter of wildlife. Such a licence is in addition to, and does not supersede, any other requirement established by law for the importation or exportation of wildlife.

12. The licence fee is US$125.00.

13. Applications must be accompanied by the licence fee.

Conditions of Licensing

14. Licences are valid for one year. The licensee must apply for renewal to the issuing office at least 30 days before the current licence expires.

15. If a licensee discontinues engaging in business as an importer or exporter of wildlife, the licensee must within 30 days mail the licence and a request for cancellation to the issuing officer.

16. Licences are not transferable between importers. Agents under the direct control of, employed by, or under contract to the licensee may carry out the activities authorized by the licence.

17. (a) Not applicable.

(b) In addition to the general conditions found in 50 CFR Part 13, under 50 CFR 14.93(c) licensees are subject to the following special conditions:

(1) the licensee shall, from the effective date of the licence, keep such records as will fully and correctly disclose each importation or exportation of wildlife made by the licensee and the subsequent disposition made by the licensee with respect to such wildlife. The records must include a general description of the form of the wildlife, such as "live", "raw hides", or "fur garments"; the quantity of wildlife, in numbers, weight, or other appropriate measure; the common and scientific names; the country or place of origin of the wildlife, if known; the date and place of import or export; the date of the subsequent disposition of the wildlife; the manner of disposition, whether by sale, barter, consignment, loan, delivery, destruction, or other means; and the name and address of the person who received the wildlife pursuant to such disposition, if applicable;

(2) licensees shall include and retain in their records copies of all permits required by the laws and regulations of the United States and any country of export or origin;

(3) licensees shall maintain such books and records for a period of five years;

(4) subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to the licensee's places of business, an opportunity to examine the licensee's inventory of imported wildlife and the records required to be kept and an opportunity to copy such records;

(5) licensees shall, upon written request by the Director, submit within 60 days of such request a report containing the information required to be maintained in the records of the licensee.

Other Procedural Requirements

18. A licence must comply with the requirements of 50 CFR Part 14 which apply to the importation, exportation, or transportation of wildlife generally. Further, a licensee importing or exporting a particular species may have to comply with other requirements found in 50 CFR Parts 10-23 and other State or Federal laws.

19. Not applicable.

DEPARTMENT OF JUSTICE

7. Controlled Substances

Outline of System

1. The system of import permits, declarations and quotas is designed to restrict the importation of controlled substances to that quantity necessary to meet the medical, scientific or other legitimate needs of the United States, and to monitor the handlers of such substances. The system also establishes a method by which the United States can meet its international treaty obligations under the 1961 Single Convention Treaty on Narcotic Drugs and the Convention on Psychotropic Substances, 1971.

Purposes and Coverage of Licensing

2. In order to import any controlled substance, the importer must apply to the Drug Enforcement Administration (DEA) for registration as an importer. The registration application must be approved by the DEA and is issued annually. Upon registration approval, prior to importation, the registered importer must:

(a) apply for and receive a permit to import any Schedule I or Schedule II, or any narcotic controlled substance in Schedules III, IV, or V or any non-narcotic controlled substance in Schedule III which the Administrator has specifically designated by regulation in Title 21, Code of Federal Regulations, Section 1312.30 or any non-narcotic controlled substance in Schedule IV or V which is also listed in Schedule I or II of the Convention on Psychotropic Substances; or

(b) submit a specific import declaration per shipment for all non-narcotic controlled substances in Schedules III, IV or V. The list of basic classes of controlled substances covered under the authority of the Controlled Substances Act is listed in Title 21, Code of Federal Regulations, Part 1308.

The attached copy of Title 21, Code of Federal Regulations, Part 1300 to end, revised as of 1 April 1995[1], includes all the latest scheduling actions. Since 1 April 1995, there has been one scheduling action:

4-bromo-2, 5-dimethoxyphenethylamine was placed into Schedule I, effective 2 June 1995. The substance had been placed in Schedule I on 6 January 1994 under temporary scheduling provisions (60 Federal Register 28718, 2 June 1995).

[1]Available for consultation in the Secretariat (Market Access Division).

Other than opium, poppy straw, concentrate of poppy straw or coca leaf, no Schedule I or II substance, or narcotic substance in Schedule III, IV or V may be imported unless the Attorney General finds (a) an emergency exists in which domestic supplies are inadequate or (b) competition among domestic manufacturers is inadequate and will not be rendered adequate by the registration of additional manufacturers.

3. In general, the import restrictions apply to all controlled substances, regardless of the country of origin. However, Title 21, Code of Federal Regulations, Section 1312.13 poses additional limitations on the imports of narcotic raw materials. In effect, the importation of approved narcotic raw materials (opium, poppy straw and concentrate of poppy straw) into the United States shall have as its source:

(a) Turkey,
(b) India,
(c) Yugoslavia,
(d) France,
(e) Poland,
(f) Hungary, and
(g) Australia.

And, at least 80 per cent of the narcotic raw material imported into the United States shall have as its source Turkey and India. Except under conditions of insufficient supplies of narcotic raw materials, not more than 20 per cent of the narcotic materials imported annually shall originate in Yugoslavia, France, Poland, Hungary and Australia. This policy has been in effect since 17 September 1981.

4. The system is designed to restrict the quantity of imports of controlled substances (not monetary value) and to maintain a monitoring system. Previous systems were used prior to the import requirements of the Controlled Substances Act (effective 1 May 1971). However, the current system is mandated by United States law and is based upon two international treaties (The Single Convention on Narcotic Drugs, 1961 and the Convention on Psychotropic Substances, 1971).

5. The system of registration of importers and the system of quotas (for Schedule I and II drugs) are statutory requirements established in the Comprehensive Drug Abuse Prevention and Control Act of 1970, Part C (Sections 301, 302, 303, 306) and the import requirements established in the Controlled Substances Import and Export Act (Sections 1002, 1007 and 1008) (21 United States Code, Sections 822, 823, 826, 953, 957 and 958) and implementing regulations. The Controlled Substances Act statutorily establishes criteria by which drugs are controlled in one of five schedules subject to import requirements. The system required by statute cannot be abolished without legislative approval.

Procedures

6. I. Annual notice of publications of aggregate production quotas designed to account for the total needs of the United States (either through domestic manufacture or importation) for all Schedule I and II controlled substances is published in the Federal Register on or about 1 July of the year prior to that to which the quota applies. No quota is established for Schedules III, IV or V controlled substances. Additional notice of regulations is published in Title 21, Code of Federal Regulations, Part 1300 to End.

II. Quotas for legitimate need are determined on an annual basis, but determinations regarding importations are made at the time of individual applications.

III. Import permits are issued only on application by registered importers who have demonstrated the legitimate need for the imported substance. Declarations are submitted as an advanced notice of import only for monitoring purposes by DEA.

IV. Not applicable; individual determinations are made.

V, VI. Applications to import are reviewed upon receipt by DEA.

VII. DEA considers and approves all applications for importation of controlled substances. Copies of import permits are provided to the U.S. Customs Service for monitoring and certification purposes.

VIII. Registration is based, in part, on security, records, history of violations, and State approval. Import permits are based upon available supply and legitimate need for the substance in the United States.

IX. Not applicable.

X. Not applicable.

XI. Controlled substances on permits may only be imported for legitimate needs of the United States.

7. Schedules III, IV, and V non-narcotic controlled substances are subject to import declarations, and importers are subject to registration.

(a) Importation may be made only by approved, registered importers. An import declaration must be filed 15 days in advance of the proposed date of import. In special circumstances, the 15 days may be waived administratively.

(b) Not applicable.

(c) Not applicable.

(d) Yes. DEA.

8. A registered importer can be refused an importation if the importer cannot demonstrate the need in the United States, in line with the above criteria.

Eligibility of Importers to Apply for Licence

9. Imports are only approved for registered importers who must be inspected for adequate records, security, State approval, etc., prior to registration. The registration fee is US$438.00. Researchers are also allowed to import those substances for which they are registered to conduct research. Their registration fee is US$70.00 annually.

Documentational and Other Requirements for Application for Licence

10. The information required for an import permit is set forth in Title 21, Code of Federal Regulations, Section 1312.12 and include (a) name, address of consignor, (b) foreign port of export, (c) United States port of entry, (d) dates of shipment, (e) name of carrier, (f) amount and (g) importer's allotment for the year.

11. Import permit.

12. No fee is levied per import permit.

13. No.

Conditions of Licensing

14. Registration is annual. Permits are valid for six months.

15. Importation not pursuant to a permit or declaration is subject to seizure, civil and criminal penalties.

16. No.

17. No.

Other Procedural Requirements

18. No.

19. Not applicable.

DEPARTMENT OF TREASURY

Bureau of Alcohol, Tobacco and Firearms

8. Distilled Spirits (Beverages); Wine and Malt Beverages

Outline of System

1. Producers, bottlers, wholesalers and importers of distilled spirits, wine and malt beverages are required to have permits, issued under the Federal Alcohol Administration Act, to engage in their respective businesses. Primary purposes of this requirement are to protect the consumer by oversight of labelling, advertising and other practices.

Purposes and Coverage of Licensing

2. An importer's basic permit under the Federal Alcohol Administration Act is one of several different permits controlling the distilled spirits, wine and malt beverage industries.

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

4. No. Intent of permitting is to ensure that commodities are packaged, marked, branded and labelled in conformity with the Federal Alcohol Administration Act.

- No.
- Not applicable.

5. The permit system is a statutory requirement of the Federal Alcohol Administration Act, 27 U.S.C. 201 et seq. 27 CFR Part 1, et seq.

- Yes.
- No.
- No.

Procedures

6. Not applicable.

7. (a) Basic permits are issued usually within four to six weeks of application. Under certain circumstances a permit can be obtained, within a shorter time frame.

(b) Not normally, however, under certain circumstances a licence can be granted immediately on request.

(c) No.

(d) Yes, consideration of permit applications is effected by a single administrative organ.

- No.
- Not applicable.

8. None.

- The reasons for any refusal are given to the applicant in writing.

- In the event of refusal to issue a permit, administrative appeals may be made through Director, ATF to the United States Court of Appeals.

Eligibility of Importers to Apply for Licence

9. (a) Yes.

(b) Not applicable.

- Not applicable.

Documentational and Other Requirements for Application for Licence

10. Importer's basic permit. ATF Form 5170.4.

- Such supporting documentation as required.

11. Certificate of Age and Origin (if issued by country of origin) and certificate of Label Approval.

12. No.

- Not applicable.

13. No.

- Not applicable.

Conditions of Licensing

14. Continuing, unless revoked or surrendered.

- Not applicable.
- Not applicable.

15. If inactive for two years, may ask permittee to surrender permit.

16. No.

17. (a) Not applicable.

(b) No.

Other Procedural Requirements

18. Payment of Special (occupational) Tax yearly under Internal Revenue Code: importer/wholesaler in liquors (spirits, wines and beer): US$500 - importer/wholesalers in beer: US$500 - 27 CFR Parts 194 and 251.

19. Not applicable.

DEPARTMENT OF TREASURY

Bureau of Alcohol, Tobacco and Firearms

9. Distilled Spirits for Industrial Use (Including Alcohol for Fuel Use)

Outline of System

1. The Internal Revenue Code requires that producers, distributors and users of distilled spirits for industrial purposes have permits. Industrial alcohol is exempt from taxation if used as authorized by Law. The permit system is a means to control these authorized uses.

Purposes and Coverage of Licensing

2. A permit, as such, for the importation of alcohol for industrial use is not required. Alcohol or distilled spirits as defined in 26 U.S.C. 5002 (a)(8) includes alcohol which may have denaturants present. Such alcohol cannot be received into this country except by a distilled spirits plant, permitted and bonded under the Internal Revenue Code unless it is tax-paid upon importation.

3. All countries.

4. See reply to question 1.

- No.
- Not applicable.

5. 26 U.S.C. 5171, 5181, 27 CFR Part 19.

- Yes.
- No.
- No.

Procedures

6. Not applicable.

7. (a) Permits under the Internal Revenue Code are usually issued within four to six weeks from time of application. Under certain circumstances, a permit can be obtained within a shorter time frame.

(b) Not normally, however, under certain circumstances a licence can be granted immediately on request.

(c) No.

(d) Yes.

8. None.

- The reasons for any refusal are given to the applicant in writing.

- In the event of refusal to issue a licence, administrative appeal may be made through the Director, ATF to the U.S. District Court.

Eligibility of Importers to Apply for Licence

9. (a) Yes.

(b) Not applicable.

- Not applicable.

Documentational and Other Requirements for Application for Licence

10. (a) Industrial Alcohol - Application for Operating Permit under 26 U.S.C. 5171 (d) - ATF F 5110.25

(b) Fuel Alcohol - Application and Permit for Alcohol Fuel Producer under - 26 U.S.C. 5181; Form 5110.74

- Such supporting documentation as required.

11. Ordinary commercial papers.

12. No.

- Not applicable.

13. No.

- Not applicable.

Conditions of Licensing

14. Continuing, unless revoked or surrendered.

- Not applicable.
- Not applicable.

15. Permits are subject to revocation if not used within two years.

16. No.

17. (a) Not applicable.

(b) No.

Other Procedural Requirements

18. No.

19. Not applicable.

DEPARTMENT OF TREASURY

Bureau of Alcohol, Tobacco and Firearms

10. Firearms and Ammunition

Outline of System

1. Under the Gun Control Act of 1968, the United States maintains a system of licences and permits controlling the manufacturing, importing and dealing in firearms and ammunition. The Bureau of Alcohol, Tobacco and Firearms (ATF) administers the import controls along with the import controls established by the Arms Export Control Act of 1976. In 1989, a decision to ban the import of certain assault rifles resulted from a determination that these rifles were not suitable for sporting purposes. The determination was made under existing US law and does not reflect any change in licensing procedures for firearms.

Purposes and Coverage of Licensing

2. See reply to question 1. Firearm means (a) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (b) the frame or receiver of any such weapon; (c) any muffler or silencer; or (d) any destructive device. Antique firearms are exempt.

3. All countries except those proscribed by the Department of State from which imports are denied entry into the United States. Currently proscribed countries include: Cuba, North Korea, Outer Mongolia, Vietnam and those countries or areas that comprised the former Soviet Union, including Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyztan, Moldavia, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

4. No. Generally, the purpose of the licensing system is to prevent the possession of firearms by persons falling within statutorily determined prohibited categories. A specific purpose of the import requirements, in addition to the above, is to ensure that machine guns, destructive devices, surplus military firearms, and other like firearms are not imported except for the use of governmental agencies.

- No.
- Not applicable.

5. 18 U.S.C., Chapter 44
26 U.S.C., Chapter 53
27 CFR Parts 178 and 179:

- Yes.
- No.
- No.

Procedures

7. (a) Licence is issued within 45 days after application. Permit application is approved within 10 days.

Permit can be approved immediately if licence has been issued.

(b) Permit can be issued immediately on request.

(c) No.

(d) Yes.

- No.
- Not applicable.

8. None.

- The reasons for any refusal are given to the applicant in writing.

- In the event of refusal to issue a licence, administrative appeal may be made to Director, ATF, further to United States District Court if desired.

Eligibility of Importers to Apply for Licence

9. (a) Yes.

(b) Not applicable.

- Not applicable.

Documentational and Other Requirements for Application for Licence

10. Applications: (Forms 7 and 6).

- Applications and Permit for Importation of Firearms, Ammunition and Implements of War (ATF Form 6, Part I).

- Release and Receipt of Imported Firearms, Ammunition and Implements of War (ATF Form 6A).

11. None.

12. Yes. US$150.00 for importers of firearms or ammunition other than destructive devices or ammunition US$3,000.00 for importers of destructive devices or ammunition. These licences are renewed every three years.

13. No.

Conditions of Licensing

14. Licence: one year from date of issue.
Import Permit: one year from date of issue.

The validity of a licence can be extended by renewal application for licence and new application for import permit.

15. No.

16. No.

17. (a) Not applicable.

(b) No.

Other Procedural Requirements

18. No.

19. Not applicable.

DEPARTMENT OF TREASURY

Bureau of Alcohol, Tobacco and Firearms

11. Firearms, Ammunition and Implements of War

Outline of System

1. The United States maintains a system of registrations and permits to control the importation of arms, ammunition and implements of war. The law and regulations of these imports are administered by ATF in conjunction with the Gun Control Act of 1968. The Department of State maintains a similar system of controls relative to exports.

Purposes and Coverage of Licensing

2. Persons engaged in the business of importing articles on the United States Munitions Import List must be registered. Actual importation is authorized by use of Form 6. Articles on the import list are articles that have significant military applicability.

3. All countries. Goods from certain countries (primarily centrally-planned economies) as determined by State Department are denied entry into the United States.

4. Primary purpose is to suppress international trafficking in arms.

- No.
- Not applicable.

5. Arms Export Control Act of 1976
22 U.S.C. 2778 27 CFR Part 47
Executive Order 11432 (33 F.R. 15701).

- Yes.
- Yes.
- No.

Procedures

7. (a) Approximately ten working days in advance.

- Yes.

(b) Yes.

(c) No.

(d) Yes.

- No.
- Not applicable.

8. None.

- Yes.
- In the event of refusal to issue a licence, administrative appeals may be made through Director, ATF to United States District Court.

Eligibility of Importers to Apply for Licence

9. (a) Yes.

(b) Not applicable.

- Not applicable.

Documentational and Other Requirements for Application for Licence

10. ATF Form 4587 and Form 6.

- None.

11. ATF Forms 6 and 6A.

12. Fee for registration but not for permit.

Amount of fee:

One year:	US$250
Two years:	US$500
Three years:	US$700
Four years:	US$850
Five years:	US$1,000

13. No.

Conditions of Licensing

14. Registration: one to five years.
Permit: one year from date of issue.

15. No.

16. No.

17. (a) Not applicable.

(b) No.

Other Procedural Requirements

18. No.

19. Not applicable.

DEPARTMENT OF TREASURY

Bureau of Alcohol, Tobacco and Firearms

12. Explosives

Outline of System

1. Manufacturers, dealers and importers of explosive materials are required by Law to be licensed to engage in their respective businesses. The primary purpose of this licensing system is to keep explosives out of the hands of persons prohibited by the Law from receiving, or possessing explosives and to ensure the safe and secure storage of explosives.

Purposes and Coverage of Licensing

2. Explosive materials are explosives, blasting agents and detonators. Permits are required of users who wish to buy in inter-State or foreign commerce. Licences are required as stated in reply to question 1.

3. All countries.

4. No. Purposes are to protect against the misuse and unsafe insecure storage of explosive materials. See also reply to question 1.

- No.
- Not applicable.
- No.

5. 18 USC Chapter 40 - 27 CFR Part 55.

- Yes.
- No.
- No.

Procedures

7. (a) An application must be approved or denied within 45 days after receipt. Usual turn-around time from receipt of application to issuance of licence is 30 days.

(b) No, not usually. However, it could be done under extreme circumstances.

(c) No.

(d) Yes.

- No.
- Not applicable.

8. None.

- Yes, the reasons for any refusal are given to the applicant in writing.
- In the event of refusal to issue a licence, administrative appeals may be made through Director, ATF. Then, right of appeal to United States Court of Appeals.

Eligibility of Importers to Apply for Licence

9. (a) Yes.

(b) Not applicable.

- Not applicable.

Documentational and Other Requirements for Application for Licence

10. Application ATF Forms 6 and 6A.

- None.

11. Proof to the United States Customs of licensed or permitted status furnished by importer or his agent. Explosives must be classified and marked per United States Department of Transportation standards.

12. Yes.

US$50.00 per year for licence for one year
US$25.00 for renewal for three years
US$20.00 permit fee per year
US$10.00 permit renewal for three years.

13. No.

Conditions of Licensing

14. One year from date of issue.

15. No.

16. No.

17. (a) Not applicable.

(b) No.

Other Procedural Requirements

18. No.

19. Not applicable.

NUCLEAR REGULATORY COMMISSION

13. Nuclear Facilities and Materials

Outline of System

1. The Nuclear Regulatory Commission (NRC) regulations governing the import of nuclear materials are published in 10 CFR 110 pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended[1]. These regulations apply to all persons in the United States except that the U.S. Department of Energy is not subject to the NRC's import licensing requirements. The Department of Defense is not subject to NRC's import licensing requirements in large part.

[1]A copy of the Federal Register Vol. 60, No. 140, dated 21 July 1995, containing the Nuclear Regulatory Commission Regulations governing the Import and Export of Radioactive Waste is available for consultation in the Secretariat (Market Access Division).

The list of nuclear equipment and material subject to NRC import licensing authority covers production and utilization facilities, special nuclear material, source material, and by-product material as defined in 10 CFR 110.2.

Although these items are subject to the NRC import licensing authority, most requirements for issuance of specific licences for their import have been eliminated through the general licensing provisions contained in 10 CFR 110.27. Under the general licensing provisions, any person may import by-product, source, or special nuclear material, other than 100 kilogrammes or more of irradiated fuel, if the consignee is authorized to possess the material, without the requirement for a specific import licence. The general licence in 10 CFR 110.27 requires the importer of special nuclear material to provide to the NRC advance notification of imports, where required according to 10 CFR 110.27.

Specific import licences are required for the import of production or utilization facilities, over 100 kilogrammes of irradiated fuel (spent special nuclear material), and radioactive waste except for radioactive waste being returned to the U.S. Government or a U.S. military facility which is authorized to possess the material.

Purposes and Coverage of Licensing

2. The list of items under NRC import licensing authority is found in the 10 CFR 110.9a.

3. The licensing requirements apply to goods originating in and coming from all countries.

4. The licensing is not intended to restrict quantity or value of imports. The primary purposes for licensing of imports are related to health and safety matters, controls over possession, use, distribution, and transport, and to considerations related to the defence and security of the United States.

Alternative methods of accomplishing the purposes of import licensing are considered and NRC's import licensing regulations take these into account, as appropriate. In addition, most specific import licence requirements for by-product, source and special nuclear materials, have been eliminated through the general licensing provisions contained in 10 CFR 110.27.

5. As mentioned in reply 1, the NRC regulations in 10 CFR 110 are issued pursuant to the Atomic Energy Act of 1954, as amended. The Nuclear Non-Proliferation Act of 1978 does not directly affect import licensing requirements. The legislation defines the products and facilities subject to licensing controls with minimum discretion in definitions left to administrative determination.

Procedures

6. Products are not restricted as to quantity or value of imports.

7. (a) There is no fixed period for submission of a licence application in advance of importation, other than the instances prescribed in 10 CFR 110 required for public notice of receipt of the application (see 10 CFR 110.70 and 110.82). The Commission does have the prerogative for granting specific exemptions from the regulations in 10 CFR 110 under certain conditions (10 CFR 110.10) and this prerogative has been exercised on occasions to grant licences within a short period of time.

(b) A specific licence would rarely be granted immediately upon request. The applicant should anticipate a review period of three to six weeks from date of application.

(c) There are no limitations as to the period of the year during which the licence application or importation may be made. NOTE: Import licences do have expiration dates.

(d) For materials and production and utilization facilities, subject to the NRC licensing authority, the NRC is the only agency with which the importer must correspond, except that imports of mixed waste (waste that consists of hazardous waste and radioactive waste), are also subject to the requirements of the Environmental Protection Agency applicable to the hazardous component of the waste. For certain imports, the NRC refers applications to other federal agencies for review (usually the Departments of State and Energy), although the final licensing responsibility remains with the NRC.

8. No import licence has been refused to date. It is unlikely one would be refused for reasons other than failure to meet the statutory criteria. Reasons for refusal to issue would be made known to an applicant and there would be rights of appeal. The avenues open to the applicant are given in Sub-parts H, J, and K of 10 CFR 110.

Eligibility of Importers to Apply for Licence

9. All persons are eligible to apply for an import licence - non-restrictive.

Documentational and Other Requirements for Application for Licence

10. Information required in a licence application is set out in 10 CFR 110.30 and 110.31. There is no prescribed form. The usual submission is in letter form. The importer may support his application with other documents of his choosing. NRC may request additional information, if necessary to conduct the licensing review required by the applicable statutes.

11. The NRC does not require any documents for importation, other than the licence itself, although the NRC will not authorize the import of radioactive waste unless it is clear that an appropriate facility in the United States will accept the waste for management or disposal. Also, the customary forms required by other government agencies for import will be necessary (Customs Service and the Department of Commerce documents, for example). In addition, certain reporting requirements are necessary when the transfer of nuclear material is involved, but these are not related to the licence authorization.

12. Fees are charged for processing licence applications.

13. There is no deposit or advance payment required for a licence.

Conditions of Licensing

14. An import licence is usually valid for a period of one year from the date of issuance but can be longer if the applicant so requests and the NRC agrees.

15. There is no penalty for failure to use a licence.

16. A licence may be transferred or assigned to another person only with the approval of the Commission.

17. Conditions are often placed on the licence with respect to transportation requirements, security provisions and notification requirements.

Other Procedural Requirements

18. Because many of the materials which can be imported under both specific or general NRC import licences are considered hazardous and may be of strategic significance, additional arrangements may be necessary in conjunction with their transportation. These arrangements may involve such things as physical protection, special handling procedures for health and safety purposes, or advance notice of pending receipt and are not part of the licence itself. These are general requirements placed on persons in the United States who transfer or receive specific types of materials, whether the shipment is domestic or from abroad.

19. The formalities for obtaining foreign currencies or its availability are not specified.