

IMPORT LICENSING SYSTEM OF ARGENTINA

Questions from Canada, China, the European Union, Japan,
Mexico, Peru and the United States to Argentina

The following communication, dated 16 March 2010, is being circulated at the request of the delegations of Canada, China, the European Union, Japan, Mexico, Peru and the United States.

We continue to be greatly concerned about Argentina's import licensing system and how it is being used to restrict trade. We are also troubled by the lack of transparency of the current system and the burdens and delays our exporters report that it is placing on their goods at importation.

We therefore request that Argentina provide detailed responses to the following questions:

1. Some companies report that they have been told that their import license application will not be approved unless the company agrees to trade balancing requirements established by the Secretary of Domestic Trade. These companies also tell us that in order to obtain a license to import goods, they must show an increase in exports of the same dollar value of Argentina-originating goods. Other companies report that *Subsecretaría de Política y Gestión Comercial* requires additional information in order to issue an import certificate for miscellaneous products, such as a process diagram showing the entire production cycle of the goods subject of the application; details of the inputs used (origin and relative share in the final production cost) and a list of the products manufactured by the producing/exporting company.

- (a) Could Argentina please provide an explanation for these measures, along with copies for the Committee of the laws and regulations that authorize and implement these requirements?
- (b) Please indicate, in some detail, how Argentina considers this policy to be consistent with its WTO obligations.

2. We are not satisfied with the justifications provided thus far by Argentina for increasing the number of tariff lines subject to import licensing. In G/LIC/Q/ARG/8 Argentina claims that the expansion of non-automatic license requirements is necessary for certain sensitive products due to changes in the trade flows caused by the world economic and financial crisis. We still question the specific underlying measure Argentina is implementing through this non-automatic import license regime.

- Please explain specifically the measure being implemented through non-automatic import licensing and which WTO provision justifies Argentina's imposition of that measure.

3. In G/LIC/Q/ARG/8, Argentina states that the processing time at its ports of entry for non-automatic import licenses is as stipulated in Article 3.5(f) of the Agreement on Import Licensing Procedures. However, industry and press reports continue to indicate that importers experience lengthy delays of well over 100 days to obtain a license. We believe in the reliability of these reports, and we urge Argentina to take them seriously and help us obtain the information we are requesting.

- (a) Please confirm in writing that the time limits prescribed by the Agreement on Import Licensing Procedures are, in practice, being respected by all Argentine officials.
- (b) Please provide the specific citation to Argentina's regulations or laws that requires that non-automatic import licenses be issued within 30-60 days.

4. In G/LIC/Q/ARG/8, Argentina indicates that applications for non-automatic import licenses were previously examined on a first-come first served basis, but currently they are considered simultaneously.

- (a) What is the reason for this change in procedures? Why must applications now be considered simultaneously, a practice normally reserved for addressing quota allocations?
- (b) When was the new approach of simultaneous examination adopted and in what law or regulation?

5. In G/LIC/Q/ARG/8 Argentina indicates that the main reason for requiring non-automatic import licenses for the products covered by Regulation 61/2009 is that there have been significant changes in trade flows for these products, coupled with the increase in subsidies and tax refunds introduced to avoid bankruptcy and support production in various related economic sectors.

- How do these particular factors justify non-automatic import licenses under WTO rules?

6. Article 5.2(h) of the Agreement indicates that Members should include in their notifications the expected duration of the licensing procedure if this can be estimated with some probability, and if not, the reason why this information cannot be provided. Argentina responds to this question, however, by referencing either Article 2 or Article 3.5(f) of the Agreement, depending on whether the import licenses are automatic or non-automatic. It is our understanding that Article 2.2(a)(iii) and Article 3.5(f) deal with the time period for processing an application, not the expected duration of the procedure.

- Please provide estimates of the expected duration of the import license procedures that Argentina has imposed. If this information cannot be estimated with some probability, please provide reasons why it cannot be provided.

7. In G/LIC/Q/ARG/8, Argentina indicates that, even if import licensing procedures established by Argentinean regulations are referred to as "provisional", the continuation, and extension, of the non-automatic import licensing requirements over time is dictated by market conditions and the need to control compliance with the applicable technical standards and regulations, and environmental, safety and consumer protection regulations, and that non-automatic licenses will be applied as long as the reasons for having to submit certain goods to pre-release verification and monitoring mechanisms still exist.

- (a) What are those reasons when referring to compliance with applicable technical standards and regulations?
- (b) In which circumstances would Argentina consider that it is no longer necessary to control such compliance through non-automatic import licences?

8. Please provide the following statistics:

- (a) Indication of the number of import licenses granted from October 2008- October 2009;
- (b) Information on the distribution of licenses among supplying countries; and
- (c) The number of applications that are currently pending, and the average number of days those applications have been pending.

9. In G/LIC/Q/ARG/8, Argentina explains that non-automatic import licences are a mechanism for the pre-release verification of goods that requires the importer to submit an application to the competent body, which verifies that the product complies with all of the technical standards and other requirements under the national regulations in force (the same ones that apply to domestic products) as well as the accuracy of the importer's data. If the product complies with these requirements, the competent body issues the corresponding licence within the stipulated time-frame. The data that must be provided by the importers are set out in each one of the corresponding resolutions.

- (a) When were those referred technical standards and other requirements adopted? Please provide references to the relevant regulations.
- (b) On which basis did Argentina determine that non-automatic import licence requirements were necessary to verify compliance with those regulations?

10. In G/LIC/Q/ARG/8, Argentina explains that where non-automatic import licences are required for certain tariff items, they are exempted from the automatic licensing requirement if they have been subjected to it. Please explain the reason for the decision to require non-automatic import licences to products for which only automatic import licences were required.

11. In G/LIC/Q/ARG/8, Argentina claims that the justification for requiring non-automatic import licence requirements in the tyre sector lies in the need to establish, for these products, a pre-release verification mechanism to monitor and control imports of such goods, checking that they comply with the environmental, safety and consumer protection regulations governing their placement on the market, and controlling the accuracy of the data declared by the importer. When were those environmental, safety and consumer protection regulations adopted? Please provide copies of the relevant regulations. On which basis did Argentina determine that non-automatic import licence requirements were necessary to verify compliance with these regulations?

12. Resolution 11/2008 of 25 January 2008 (amending measures establishing import certificates) prohibits the introduction of any rectification in the applications for, or in the licences already issued, and requires importers to make a new application.

- Please explain the reason for this prohibition and how this is consistent with Articles 1:7 and 1:8 of the Import Licensing Agreement.

13. Following the replies by Argentina mentioned above, Argentina adopted still another Resolution (Resolution 337/2009 of 21 August 2009) extending import licensing procedures to certain auto parts and related products.

- (a) Has Argentina already notified this measure to the WTO?
 - (b) Please confirm whether the licensing procedures for importation of these products are automatic or non-automatic and the conditions for issuing import licences.
 - (c) Please provide a detailed explanation for the extension of these procedures to these products in particular.
 - (d) Please explain why import certificates (Certificado de Importacion de Autopartes y Afines) are only required for those goods destined for final consumption (Article 2).
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