

**BRAZIL'S NON-AUTOMATIC IMPORT LICENSING PROCEDURES**

Replies from BRAZIL to questions from CHINA<sup>1</sup>

The following communication, dated 30 April 2009, is being circulated at the request of the delegation of Brazil.

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*China is concerned that the procedures and criteria used by Brazil in connection with the consideration and issuance of non-automatic import licenses are inconsistent with Brazil's obligations under the Agreement on Import Licensing Procedures ("the Agreement") and the General Agreement on Tariffs and Trade (GATT) 1994. To address these concerns, and pursuant to Article 3.5(a) of the Agreement, China is transmitting to Brazil questions regarding its non-automatic import licensing procedures.*

1. *Please identify (by tariff classification) the goods that require non-automatic import licenses.*

ANSWER: As informed in Brazil's most recent notifications to the Import Licensing Committee, the list of goods that require non-automatic import licenses (including its identification by tariff classification) can be consulted on the website of MDIC - Ministry of Development, Industry and Trade ([www.mdic.gov.br](http://www.mdic.gov.br)), and also in SISCOMEX, Brazil's electronic system of trade.

2. *Please explain the criteria used to determine which goods require non-automatic import licenses.*

ANSWER: Decisions regarding the requirement of non-automatic import licensing procedures follow criteria compatible with the provisions of WTO Agreements.

3. *In Brazil's most recent notifications to the Committee on Import Licensing, (e.g., G/LIC/N/3/BRA/6), it stated that non-automatic import licenses are required with respect to: - products which may cause damage to human, animal, or plant health; - products capable of causing environmental damage; - products classified as weapons or made for warlike purposes; - products subject to non-tariff quotas as established in the agreements of the Uruguay Round; and - products subject to tariff quotas. Please indicate which of these categories covers toys.*

ANSWER: As indicated in Brazil's most recent notifications to the Import Licensing Committee, the categories listed above are non-exhaustive examples of products that are subject to non-automatic import licensing. Toys are subject to non-automatic import licensing procedures because there are technical regulations that they must comply with. Those technical regulations were notified to the Committee on Technical Barriers to Trade.

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<sup>1</sup> See document G/LIC/Q/BRA/5.

4. *Please indicate the information that must be provided in an application for a non-automatic import license. If additional or different information must be provided with respect to applications relating to toys, please indicate that information as well.*

ANSWER: Information requirements related to applications for non-automatic import licenses are contained in Directive SECEX No. 25/2008, which can be consulted on the website of MDIC. Besides general rules applied to non-automatic import licensing procedures, toys are subject to specific provisions contained in paragraph 4 of Article 11 of the above-mentioned Directive and in item VI of its Annex B. Directive SECEX No. 25/2008 will be soon notified to the Committee, but it is important to note that it does not modify the procedures for toys established by Directive SECEX No. 36/2007 which was notified to the Import Licensing Committee under G/LIC/N/1/BRA/4, G/LIC/N/2/BRA/4 and G/LIC/N/3/BRA/7.

5. *Please explain the procedures followed by Brazil in considering applications for non-automatic import licenses. If additional or different procedures are followed with respect to applications relating to toys, please explain those procedures as well.*

ANSWER: The procedures followed by Brazil with regard to applications for non-automatic import licenses consist in examining if information and documentation requirements established by legislation have been fulfilled by applicants.

6. *We understand that Brazil has a two-track system for analyzing non-automatic import license applications: the “green track” and the “red track”. If so,*

- (a) *Please explain the criteria considered in assigning an application to these tracks.*
- (b) *Please explain differences in the procedures followed with respect to applications that have been assigned to each track.*
- (c) *If additional or different criteria or procedures are used for applications relating to toys, please explain those criteria and/or procedures.*
- (d) *Please explain when, if ever, the two-track system was notified to the Committee on Import Licensing.*

ANSWER: Brazil does not have a two-track system for analyzing non-automatic import license applications.

7. *Please explain whether Brazil uses official or unofficial reference prices in connection with applications for non-automatic import licenses. If so,*

- (a) *Please explain the basis under the Agreement for using reference prices as a criterion for reviewing applications for non-automatic import licenses.*
- (b) *Please explain the procedures for establishing reference prices. In particular, please explain the role that private parties play in the process, and whether there is an opportunity for public comment.*
- (c) *Please explain how reference prices are calculated, and provide sample calculations for the reference prices currently in effect for toys.*
- (d) *Please explain how reference prices are used in processing applications for non-automatic import licenses.*
- (e) *Please explain whether applications are assigned to the “green track” or “red track” based on reference prices.*
- (f) *Please explain how applications with prices that are below the relevant reference price are treated.*

(g) *Please explain when, if ever, the reference price system was notified to the Committee on Import Licensing.*

ANSWER: Brazil does not use official or unofficial reference prices in connection with applications for non-automatic import licenses.

8. *Please provide data for the period May 2006 through September 2008 on the quantity and value of imports of toys for which applications for non-automatic import licenses were received, the quantity of such licenses that were issued, and the average time between the date of receipt of the import license application and the issuance of a license. Please provide this data separately for each supplying country. With respect to the time required for issuance of licenses, please provide separate periods for toys placed on the “red track” versus those placed on the “green track”.*

ANSWER: According to data available so far, the number of non-automatic import licenses for toys that were granted and used between May 2006 and February 2008 was 21.980, of which 16.931 corresponded to Chinese products. The total value of imports related to those licenses was US\$ 396,916,700.00. On average, it takes 15 days to process applications for import licenses to toys. Brazil does not have a “green/red track” system for analysis of applications for non-automatic import licenses.

9. *Please explain how the “green track” and “red Track” system, based on an unpublished reference price, is consistent with Brazil’s obligations under Article 1.3 of the Agreement that import licensing procedures must be “neutral in application” and “administered in a fair and equitable manner”.*

ANSWER: Brazil does not have a “green/red track” system, based on reference prices, related to import licensing procedures.

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