

BRAZIL'S NON-AUTOMATIC IMPORT LICENSING PROCEDURES

Replies by BRAZIL to CHINA

The following communication, dated 26 April 2010, is being circulated at the request of the delegation of Brazil.

Replies to questions posed by China in document G/LIC/Q/BRA/5/Add.1

1. Please explain in detail the criteria used to determine which goods require non-automatic import licenses.

ANSWER: As a rule, the Brazilian importation regime does not require licensing. However, for some products, automatic import licensing and non-automatic import licensing are foreseen by means of the Integrated System of Foreign Trade (SISCOMEX). The products subject to non-automatic licensing are listed in the Administrative Treatment of SISCOMEX. In principle, they are products which may cause damage to human, plant or animal health; products capable of causing environmental damage; products classified as weapons or made for warlike purpose; products subject to non-tariff quotas as established in the agreements of the Uruguay Round; products subject to tariff quotas; and products subject to trade defense measures established in accordance with the WTO agreements.

Each Governmental body in charge of licensing in Brazil adopts specific criteria – also based on specific legislation - to determine which goods require licensing. Depending on the product, the following Governmental bodies may be in charge of the licensing:

ANCINE- National Cinema Agency;
ANEEL – National Electric Energy Agency;
ANP – National Petroleum Agency;
ANVISA – National Health Surveillance Agency;
CNEN – Brazilian Nuclear Energy Commission;
DECEX – Department of Foreign Trade Operations;
DFPC – Brazilian Army;
DNPM – National Department of Mineral Production;
DPF – Department of Federal Police;
EBCT – Brazilian Mail and Telegraph Company;
IBAMA – Brazilian Institute of Environment and Natural Renewable Resources;
INMETRO-National Institute of Metrology, Standardization and Industrial Quality
MAPA – Ministry of Agriculture, Livestock and Supply;
MCT – Ministry of Science and Technology.

2. For each criteria used by Brazil to determine the goods that require non-automatic import licenses, please list the provision(s) of the WTO Agreements with which Brazil considers the criteria to be compatible with an explanation of such compatibility.

ANSWER: Brazil's non-automatic licensing system complies with the provisions of Articles 1 and 3 of the Agreement on Import Licensing Procedures.

3. In document G/LIC/Q/BRA/11, Brazil states that "toys are subject to non-automatic import licensing procedures because there are technical regulations that they must comply with." Article 3.2 of the Agreement on Import Licensing Procedures provides that 'Non-automatic licensing shall correspond in scope and duration to the measure they are used to implement, and shall be no more administratively burdensome than absolutely necessary to administer the measure.'

- Please provide information on the specific measure that the non-automatic licensing scheme with respect to toys is used to implement.

ANSWER: The objective of the non-automatic licensing of toys is to ensure demonstration that they comply with safety requirements for the protection of their users (children). The product safety is attested by certificates of conformity issued by reliable organizations (accredited bodies), which indicate that the required testing has been performed by an accredited laboratory.

- Please explain how the non-automatic licensing regime for toys is 'no more administratively burdensome than absolutely necessary' to administer this measure.

ANSWER: The certification requirement attesting the product (toys) safety lies at the core of the licensing regime, and the certification shall be confirmed before the product enters the national territory. In that regard, the non-automatic licensing is an efficient scheme to check the existence of the certificate of conformity and that the products are safe.

- Please list the information that must be provided in an application for a non-automatic import license. Please also list any additional or different information required with respect to toys.

ANSWER: The information to be provided in an application for a non-automatic import license is established in the Ministerial Act MF/MICT No 291 of 12 December 1996, which has been notified to the Committee. The item VI of Annex B of the Ministerial Act SECEX No 25 of 27 November 2008 – also notified to the Committee – presents specific provisions for toys: i) indication, in the field 'complementary information' of the licensing form, of the number of the certification contract, signed by the importer and the certification body accredited by INMETRO; ii) submission of the Certificate of Conformity regarding the shipment of toys being imported, confirming the certification and realization of the tests in accordance with INMETRO legislation.

- Please explain in detail the procedures followed by Brazil in considering applications for non-automatic import licenses. Please also explain any additional or different procedures with respect to toys.

ANSWER: The Ministerial Act SECEX No 25 of 27 November 2008 contains general rules applied to non-automatic import licensing procedures and specific provisions for toys (in the paragraph 4 of its Article 11, and in the item VI of its Annex B). The item VI of Annex B of the Ministerial Act SECEX No 25 reads: "The approval of import license applications for shipment of toys depends on compliance with the following requirements, in addition with those related in the Title 1 of this Ministerial Act: a) to indicate, in the field 'complementary information' of the licensing

form, the number of the certification contract, signed by the importer and the certification body accredited by INMETRO; and b) to submit the Certificate of Conformity regarding the shipment of toys being imported, confirming the certification and realization of the tests in accordance with INMETRO legislation; b.1) the Certificate of Conformity is valid to one only import license application". This Certificate of Conformity shall be issued by an accredited body in accordance with the conformity assessment procedure established in the Technical Regulation for Toys Safety (Ministerial Act Inmetro No 321 of 29 October 2009, notified to the Committee on Technical Barriers to Trade (G/TBT/N/BRA/339Add.1)).

- If there are any additional / different information requirements or procedures for toys, please explain how this 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: The requirement of compulsory certification of toys, which aims at ensuring the product safety for their users, equally applies to both Brazilian producers and foreign producers wishing to export to Brazil. In that regard, the licensing requirement - attesting that the product has been certified in accordance with the conformity assessment procedure that meets those safety needs - is consistent with Brazil's obligations and is neutral in application with regard to foreign producers wishing to export to Brazil."
