

**BRAZIL'S IMPORT LICENSING REQUIREMENTS FOR CHEMICAL PRODUCTS AND
GOODS RELATED TO NUCLEAR APPLICATIONS**

Replies from BRAZIL to questions from the UNITED STATES¹

The following communication, dated 5 May 2004, is being circulated at the request of the Delegation of Brazil.

Question:

Soda ash: On 28 February 2003, Brazil published Ministry of Justice Regulation 169 pertaining to import licensing for chemical products. It is the understanding of the United States that under the new regulation, importation of certain chemical products, including disodium carbonate (soda ash), is subject to preliminary authorization by the federal Police Department, as well as mandatory administrative processing by the Overseas Trade Department (SISCOMEX). The United States notes that this new regulation has not been notified to the Committee on Import Licensing, as required by the Agreement on Import Licensing Procedures. In addition, the United States is concerned that the import licensing procedure is trade distortive, and requests that Brazil clarify the total period of time allowed to the Federal Police Department and SISCOMEX for processing applications under the new procedure. The United States also notes that under Article 1, paragraph 6 of the Agreement on Import Licensing Procedures "[a]pplicants shall have to approach only one administrative body in connection with an application", and requests that Brazil explain why it is strictly indispensable to approach more than one administrative body when importing chemicals listed in Regulation 169.

Reply:

On the first question posed by the US, on soda ash, it was argued that the Ministry of Justice Regulation 169 violates Article 1, paragraph 6, of the Agreement on Import Licensing Procedures, inasmuch as it requires that importation is subject to preliminary authorization by the Federal Police Department and by the Overseas Trade Department (SISCOMEX). Article 1, paragraph 6, of the Agreement, as rightly pointed out by the US, requires that applicants shall have to approach only one administrative body in connection with an application.

Brazil would like to clarify that the Overseas Trade Department (SISCOMEX) is not an administrative body in the sense of Article 1, paragraph 6. It is merely a computerised databank in which a wide range of information on import/export transactions are stored. SISCOMEX is hence an instrument, a computer programme, used by the Federal Police Department when granting import licences to products such as soda ash. The only administrative body in charge of granting preliminary

¹ G/LIC/Q/BRA/1.

authorization for the importation of soda ash is thus the Federal Police Department, which uses SISCOMEX in order to accomplish this task.

The need for preliminary authorization by the Federal Police Department derives from the fact that soda ash can be used in order to transform cocaine into "crack". For this reason, there is a severe control in Brazil not only for imports and exports, but also for the production, storage, buying, selling etc. as stated in Law 10.357 of 27 December 2001. Besides the Agreement on Import Licensing Procedures, such measures are also based on Article XX(b) of GATT. Brazil believes this clarifies any doubt on the fact that Ministry of Justice Regulation 169 does not violate Article 1, paragraph 6, of the Agreement on Import Licensing Procedures.

Question:

Lithium carbonate: The United States is concerned over reports from industry that the import licensing requirements intended to regulate goods related to the production of nuclear energy and other nuclear applications, in particular lithium carbonate, established by Law No. 6189 (12/16/74) and Decrees 2464 (8/31/88) and 7781 (6/27/89), are restricting and distorting trade contrary to the Agreement on Import Licensing Procedures. Industry has reported that lithium carbonate, in particular, is a raw material used in aluminium smelting, the production of glass and ceramics, and pharmaceutical products, but has no nuclear application. It is the understanding of the United States that under the terms of these Decrees, Brazil's National Nuclear Energy Commission (CNEN) is responsible for approving the import licences for lithium compounds, and industry has reported that the last time an import licence was granted was in 2001. The United States therefore requests that Brazil explain to the Committee how the restrictions contained in the Decree further the goals of regulating goods of importance to the production of nuclear energy and other nuclear applications, and why lithium carbonate is included in the coverage. The United States is also concerned about the procedures for acquiring an import licence for lithium compounds. Therefore, the United States requests additional information and explanation from Brazil on the operation of this licensing system, and all relevant information concerning the following: (i) the basis for granting licences; (ii) administration of the restrictions; (iii) the import licences granted over a recent period; (iv) the distribution of such licences among supplying countries; (v) where practicable, import statistics (i.e. value and/or volume) with respect to the products subject to import licensing; and (vi) the time-period allowed for processing applications. The United States requests that Brazil submit its notifications, as required under Article 5 of the Agreement on Import Licensing Procedures, for chemical products and goods related to nuclear applications and update its annual notification of replies to the Questionnaire to cover these products.

Reply:

On the second question of the US, concerning the import licensing requirements established by Law 6189 and Decrees 2464 and 7781, Brazil would like to inform the Committee that, in the case of lithium carbonate, the reason behind such requirements is mainly technical, i.e. some components of lithium, once enriched, may indeed have an application in the production of nuclear energy. For this reason, imports of lithium carbonate have been under control by CNEN since the 1970s. The import licensing requirements have not, however, prevented the normal flow of imports. Current suppliers include, for instance, Germany, Italy and the US. In 2003, and up to March 2004, the US has been our biggest supplier.
