

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

Questions from CHINA to BRAZIL

The following communication, dated 16 October 2008, is being circulated at the request of the delegation of the People's Republic of China.

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

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.
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.

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.

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.

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".

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."

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