

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

Replies from BRAZIL to questions by the UNITED STATES

The following communication, dated 21 October 2008, is being circulated at the request of the delegation of the Brazil.

Replies by Brazil to the questions from the United States circulated under document G/LIC/Q/BRA/4:

**1. Our exporters have informed us that Brazil maintains a non-automatic import license system for imports of toys. It appears that this license requirement was implemented towards the end of 2005, shortly before Brazil's safeguard mechanism for toys was set to expire. Has Brazil notified this non-automatic import license requirement concerning toys to the WTO Committee?**

As mentioned in previous Brazilian notifications to the Committee of Import Licensing, the list of products subject to non-automatic import licensing can be found on the webpage of the Ministry of Development, Industry and Foreign Trade. This information can also be found in the notifications pursuant to Articles 5, 1.4(a) and 8.2(b) that Brazil has just submitted to the Committee. The specific situation of toys, as a product subject to import licensing procedures, is mentioned in those lists.

**What provisions of Brazil's law establish and implement this requirement?**

Current requirements related to the import licensing for toys are established in Directive SECEX No. 36/2007. Besides general rules applied to non-automatic import licensing procedures, Directive SECEX no. 36/2007 contains specific provisions for toys in paragraph 4 of its Article 10, and in item VI of its Annex B.

**2. In its recent questionnaire response, submitted October 2007, Brazil indicated that non-automatic import licenses are required for 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... and products subject to tariff quotas." Do all toys fall under one of these categories? If so, which?**

In the answers to the questionnaire cited by the US, Brazil states that the products subject to non-automatic import licensing are "in their majority" products which may cause damage to health or the environment, products classified as weapons or products subject to quotas. Therefore, the elements mentioned in the question are part of a non-exhaustive list.

**If not, what is the reason for the import license requirement?**

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.

**3. The United States has been advised by our exporters that Brazil relies upon an unofficial reference price system to determine whether to issue an import license for toys. While these reference prices are apparently widely known in the industry, it does not appear that they have ever been published by the Government of Brazil. Brazil's most recent notification to the Committee does not include customs valuation as an authorized purpose for the application of import licensing requirements. Does Brazil use such a system to allocate import licenses?**

Brazil does not use reference prices as a criterion to allocate import licenses.

**What specific criteria does Brazil use for approving or denying import license applications for shipments of toys?**

The criteria for approving or denying import license applications for shipment of toys are established in item VI of Annex B of Directive SECEX No. 36. It reads: "The approval of import license applications for the shipment of toys depends on the compliance with the following requirements, in addition with those contained in Title 1 of this Directive: (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 performing of the tests in accordance with INMETRO; (b)(1) the Certificate of Conformity is valid to only a single import license application".

**Are import license applications for toys not approved by Brazil in cases where the invoice value of the import falls below a reference price?**

The invoice value of the import is not a parameter for the allocation of import licenses.

**4. We note that in its most recent Questionnaire on Import Licensing Procedures (G/LIC/N/3/BRA/6), Brazil stated that the processing time for applications is in accordance with Articles 2 and 3 of the Agreement. However, our exporters continue to experience long processing delays, with several cases regularly experiencing delays in excess of 90 days. Please provide the maximum length of time for processing of an application for a license for the importation of toys.**

The maximum length of time is 60 days, in accordance with Article 3.5(f) of the Agreement on Import Licensing Procedures, unless the information provided is incomplete.

**What is the amount of time it normally takes to process an application for a license to import toys?**

On average, it takes 15 days to process applications for import licenses to toys

**5. Also of concern are the reports that we have received from our exporters, who state that in cases where the application has been pending a decision for more than 90 days, Brazil has simply cancelled the application and has not provided a determination. Under what circumstances would Brazil cancel an application without providing a determination?**

In accordance with paragraph 3 of Article 14 of the Directive SECEX 36/2007, applications are cancelled when a problem is detected and the operator does not correct it within 90 days.

**When an application is cancelled, does Brazil provide the importer with an explanation for why it was cancelled?**

Whenever a problem with the application is detected, Brazilian authorities indicate what obligation the operator has failed to comply with, and point out the specific rule related to that obligation. As mentioned above, if the operator does not correct the problem within 90 days, the application is cancelled.

**6. We ask that Brazil please notify the Committee of the full scope of its import licensing regime as outlined in Articles 5, 7 and 8 of the WTO Agreement on Import Licensing Procedures, including all import approvals administered by Ministries that meet the definition of an import license in Article 1. The limited notifications provided by Brazil to date to lack necessary information regarding certain products of interest, including toys.**

Brazil would like to reiterate that information regarding both the products subject to import licensing requirements and the authorities responsible for granting import licenses, including their contact details, are provided on the webpage of the Ministry of Development, Industry and Foreign Trade, which has been regularly notified to the Committee. Brazil has just updated such information and notified it to the Committee.

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