

BRAZIL'S IMPORT LICENSING REQUIREMENTS FOR TOYS

Replies from BRAZIL to Questions from CANADA

The following communication, dated 5 January 2009, is being circulated at the request of the delegation of Brazil.

Canada's Question for Brazil on the Import Licensing Questionnaire, G/LIC/N/3/BRA/6

In the Procedures section, in paragraph 8, Brazil notes that refusal of a license may be challenged by the importer. Can Brazil explain the process for such a challenge?

If a request for an import license is refused by the competent Brazilian authorities, the importer may challenge that decision by recourse to either administrative or judicial procedures (or both).

Administrative procedures are contemplated in Article 15 of the Ministerial Act SECEX No 36, of 22 November 2007. It sets out that an importer may present a challenge of the refusal of an import license directly to the competent authority, in accordance with the legal procedures established by the applicable legislation. Such procedures are found in Chapter XV of Law 9.784, of 29 January 1999 (see http://www.planalto.gov.br/ccivil_03/Leis/L9784.htm - text in Portuguese).

Judicial recourse may be pursued independently, and is a right guaranteed by Article 5.XXXV of the Brazilian Constitution. In this case, the challenge would be brought to a court and would follow the general judicial procedures established by Brazilian law.
