

**QUESTIONS<sup>1</sup> FROM THE SEPARATE CUSTOMS TERRITORY OF TAIWAN,  
PENGHU, KINMEN AND MATSU TO CHINA  
CONCERNING IMPORT LICENSING PROCEDURES<sup>2</sup>**

The following communication, dated 22 September 2004, is being circulated at the request of the Delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu would like to address some questions to China regarding its notification G/LIC/N/3/CHN/2, "Replies to Questionnaire on Import Licensing Procedures". We noted that the above-mentioned notification was discussed in the May 2004 session of the Committee on Import Licensing. The notification, in our view, still raises a number of concerns and requires some clarification.

**Questions Concerning Section I. Tariff Rate Quota**

1. In paragraph 6.II of section I, China states, "The size of the quota is determined according to the commitments in the Tariff Schedule CLII of China. Such decision is made once a year." Moreover, in paragraph 6.I of the same section states that the quotas are allocated to end-users, and that "It is not possible to publish the amount allocated to goods from each country before the allocation, as end-users' intention of importation source is not predictable."

Would it be possible for China to provide such information as the list of quota importers and the quantity of quota allocated after the allocation? Otherwise, we wonder how Members can judge whether China has implemented its commitments in Tariff Schedule CLII?

2. In paragraph 6.V of section I, China states that, "The competent authorities shall process the application for the Certificate of Tariff Rate Quota for Import of Agricultural Products in two months, one month for authorized agencies and the other for the SDRC and MOFCOM." It would be appreciated if China could provide further clarification of various aspects of these procedures, as follows:

- (a) By what procedure and in what sequence do the competent authorities process the application?
- (b) Is the application handled on a "single window" basis by the competent authorities? Or may more than one authority accept the application?

<sup>1</sup> See Understanding on Procedures for the Review of Notifications (G/LIC/4).

<sup>2</sup> Concerning the notification from China circulated in document G/LIC/N/3/CHN/2.

- (c) How are the applications delivered to SDRC and MOFCOM for further processing after the competent authorities have processed them?
- (d) By what procedure and in what general sequence do the SDRC and MOFCOM process the applications?
- (e) Which agency is ultimately responsible for issuing the Certificates of Tariff Rate Quota for Import of Agricultural Products? Is it the SDRC, MOFCOM, or the "competent authorities"?

3. In paragraph 14 of section I, China states, "The Certificate of Tariff Rate Quota for Import of Agricultural Products will be valid from issuance to 31 December of the year. In the case of agricultural products subject to TRQ dispatching from the port of departure prior to 31 December of a given year and arriving at the port of destination in next year, end users shall apply for extension of the relevant Certificate to the Authorized Agencies which initially granted the Certificate." Moreover, in paragraph 15 of the same section, China states, "If an end-user that does not completely utilize a TRQ or uses a portion of a TRQ fails to return the unused quota by 15 [September], in the allocation next year, the quantity will be proportionally deducted according to the proportion of unused quota."

Our questions are as follows:

- (a) After an extension of the term of validity of the "relevant Certificate" for agricultural products that are dispatched from the port of departure prior to 31 December of a given year and arrive at the port of destination in the following year, is the quantity proportionally deducted from the given year's quota or from the following year's quota?
- (b) Since end-users who apply for an extension of the "relevant Certificate" receive the products in the following year, are they penalized through the proportional deduction of unused quota in the following year?

#### **Questions Concerning Section II. Import Quota**

4. In paragraph 6.II of section II, China states, "The quantity of the quota is determined according to the commitments in the Tariff Schedule CLII of China. Such decision is made once a year." Furthermore, in paragraph 6.III of the same section, China states, "The quantity of quota allocated to each entity and list of entities who have been granted quotas is treated as confidential business information and thus is not published."

In a similar way to the point raised in Question 1 on "Tariff Rate Quota", if the quantity of quota allocated to each entity and the list of entities that have been granted quotas are treated as confidential business information, how can Members know whether China has implemented its commitments in Tariff Schedule CLII?

5. In paragraph 6.III, 6.VII, 6.VIII, 6.IX, and paragraph 14 of section II, it would appear that MOFCOM is responsible solely for applications for automatic import licensing and that those wishing to apply for a Certificate of Import Quota of Machinery and Electronic Products must file such an application with the State Administration for Import and Export Trade of Mechanical and Electronic Products of China (SAIETMEP). China also states that importation of machinery and electronic products requires the "Certificate of Import Quota of Machinery and Electronic Products," which is not issued automatically, and then that importers must apply to MOFCOM for the "Licence of Import Quota", which is issued automatically.

We would appreciate clarification of the following:

- (a) How are the separate responsibilities of MOFCOM and SAIETMEP distinguished?
- (b) What is the procedure for applying for a "License of Import Quota"?

**Questions Concerning Section IV. Automatic Import Licence Administration**

6. In paragraph 7.IV of section IV, China states that "the Ministry of Commerce is solely responsible for the applications for automatic import licence." Later, in paragraph 9 of the same section, China states that those wishing to apply for a licence to import machinery and electronic products subject to automatic import licensing can submit their applications to SAIETMEP.

Our questions are again as follows:

- (a) How are the separate responsibilities of MOFCOM and SAIETMEP distinguished?
  - (b) What is the procedure for applying for an "automatic import licence"?
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