

CHINA'S TRANSITIONAL REVIEW MECHANISM¹

Questions from the UNITED STATES to CHINA²

The following communication, dated 25 September 2003, has been received from the Permanent Mission of the United States.

Questions related to import licences issued for inspection permits

The United States remains concerned about the licensing procedures provided for in State General Administration of Quality Supervision and Inspection and Quarantine Procedures (AQSIQ) Ordinance 7, *Administrative Measures for the Entry-Exit Inspection and Quarantine for Grains and Feed Stuff* (effective 1 March 2002), as well as AQSIQ Decree 25, *Administrative Measures for Entry Animal and Plant Quarantine* (effective 1 September 2002).

Specifically, pursuant to Ordinance 7, AQSIQ requires that importers obtain an import inspection permit prior to signing an import contract for grain or feed. Port quarantine authorities may return or destroy any cargoes without a prior import inspection permit. This import inspection permit is in addition to other import licences, including a TRQ Import Certificate (in the case of TRQ commodities like wheat) and an Interim Safety Certificate (in the case of certain commodities, as discussed below), and it does not replace inspection at the port. Similar procedures apply under AQSIQ Decree 25, pursuant to which importers are required to obtain a quarantine permit for a wide range of animal and plant products before an import contract can be signed.

Through its implementation of these measures, AQSIQ has taken over effective control of imports of any agricultural product that requires an import inspection permit, including livestock, poultry, grains, oilseeds, planting seeds, horticultural products, even hides and skins. The United States is concerned that AQSIQ is using the procedures provided for by these measures to control the pace and quantity of agricultural imports, including non-TRQ commodities like soybeans and meat and poultry products. The United States is also concerned about reports from traders regarding both the burdensome nature of the procedures and selective enforcement by AQSIQ.

1. What steps is China taking to ensure that the import process under these measures is conducted in a fair and equitable manner, as required by Article 1.3 of the Agreement on Import Licensing Procedures?
2. What steps is China taking to comply with Article 2.2 of the Agreement on Import Licensing Procedures and ensure that its administration of the import process for these commodities is not having trade-restricting effects?

¹ Pursuant to Section 18 of the Protocol of Accession of the People's Republic of China (WT/L/432).

² See Understanding on Procedures for the Review of Notifications (G/LIC/4).

3. The United States is concerned that the procedures connected with obtaining import inspection permits and quarantine permits are trade-restricting and burdensome, despite China's obligations under the Agreement on Import Licensing Procedures.
 - (a) Please explain why import inspection permits are valid for only 90 days from the issue date and why the validity date of such a licence is often a month later than the issuance date.
 - (b) Please explain why AQSIQ requires an inspection of the facilities of an enterprise that processes agricultural commodities, since the State Administration of Industry and Commerce also requires an inspection of those same facilities. Will one inspection satisfy both requirements?
 - (c) Please explain why an importer must re-apply for a new import inspection permit (rather than have the term of the original one extended) if it has not entered into a commercial contact and imported the commodities covered by the import inspection permit by the expiry date.
 - (d) Please explain why an importer must specify the commodity weight, country of origin and port of entry before it has even entered into an import contract. Please also explain why an importer must reapply for a licence if the commodity weight changes by more than 10% or if the country of origin or the port of entry changes.
 4. Import requirements for GMO products announced by the Ministry of Agriculture in a letter released on July 16, 2003, appear to be inconsistent with AQSIQ import requirements. The Ministry of Agriculture now requires that a supplier's application for an Interim Safety Certificate (formerly known as a Safety Certificate) specify the name of the recipient (the importer), which will also appear in the Interim Safety Certificate itself. This requirement implies that a contract exists between the supplier and an importer. At the same time, AQSIQ continues to require that the importer apply for and receive an import inspection permit *before* entering into a contract with the supplier. To obtain an import inspection permit, the importer must include an Interim Safety Certificate from the MOA, which requires an existing contract. Please explain how suppliers and importers can comply with these apparently conflicting requirements.
 5. Please explain why AQSIQ requires inspections of the facilities of enterprises that import processed agricultural goods but does not require inspections of the facilities of domestic processing enterprises. How does China justify this discriminatory treatment in light of its national treatment obligations under Article 1.2 of the Agreement on Import Licensing Procedures and Article III of GATT 1994?
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