

IMPORT LICENSING SYSTEM OF INDONESIA

Questions from the UNITED STATES and the EUROPEAN COMMUNITIES
to INDONESIA

The following communication, dated 30 January 2009, is being circulated at the request of the delegations of the United States and the European Communities.

Indonesia recently introduced new administrative procedures regulating imports of a broad range of products including electronics, household appliances, textiles, apparel, footwear, toys, and food and beverage products. The procedures are contained in the Regulation of the Trade Minister of the Republic of Indonesia, Number 44/M-DAG/PER/10/2008, dated 31 October 2008 ("Decree 44"), as modified by Regulation of the Trade Minister of the Republic of Indonesia, Number 56/M-DAG/PER/12/2008, dated 24 December 2008 ("Decree 56"). The decree appears to create new non-automatic import licensing requirements according to the definitions contained in the WTO Agreement on Import Licensing Procedures. As of mid-December, as many as two hundred or so applications for import licenses for the covered products have been rejected so far, according to Indonesian news articles. We seek additional information from Indonesia about these new requirements and submit the following questions:

1. Have the import licensing procedures foreseen under Regulation of the Trade Minister of the Republic of Indonesia, Number 44/M-DAG/PER/10/2008, dated 31 October 2008 ("Decree 44"), as modified by Regulation of the Trade Minister of the Republic of Indonesia, Number 56/M-DAG/PER/12/2008, dated 24 December 2008 ("Decree 56"), been notified to the WTO Committee on Import Licensing Procedures? If not, when will Indonesia do so?
2. We believe that the requirements of Decree 44 and 56 establish non-automatic import licensing procedures as defined in Article 1 and Article 3 of the WTO Agreement on Import Licensing Procedures. If Indonesia disagrees, please explain.
3. Please clarify the objective of the Decree. (We've heard various explanations. Is it to combat "illegal trade", "track imports", and/or promote "health and safety"?)
 - (a) With regard to alleged smuggling into Indonesia, can Indonesia provide figures, data, studies, or other analysis demonstrating the extent of this problem, particularly with respect to the products covered by the Decree?
4. How and according to what criteria have the products covered by the Decree been selected? Can Indonesia share information on the process – studies, analyses, and consultations – that have underpinned the selection of products?

5. Please explain the criteria used by Indonesia for granting and/or allocating licenses or registering/designating importers. Of the applications received so far, how many have been declined? Why?

- (a) Under what circumstances would a license application be denied other than failure to submit the necessary documents, as required in Article 2 of Decree 56?
- (b) Will the relevant authorities be consulting with domestic industries or business associations in deciding whether or not to grant import license applications? Article 2.4 of the original decree, Decree 44, appeared to reference such consultations.

6. What studies and analysis have been made to ascertain that the measures in the Decree (import licensing, pre-shipment inspection, port entry limitations, etc.) are the most appropriate and least trade restrictive in terms of achieving the stated objective? Can Indonesia share this information?

7. When will these import measures enter into force?

8. Article 11 of Decree 56/2008 provides that the provisions are not applicable to the “temporary import of certain products.” Are goods in transit therefore exempt from the provisions of the decree?

9. Regarding the requirements outlined in Article 2.3 of Decree 56, are importers required to submit documents for each individual shipment, or can they complete one submission that is valid for numerous shipments?

10. Article 5 of Decree 56 restricts importation of certain importable products to only five sea ports and all international airports. What is the justification for restricting imports to only five sea ports? Why were these ports selected over others? May importers choose another port if they are willing to forego the facilities at the identified ports? If not, why not?

11. Article 5, paragraph 2 of Decree 56 says that imports of Certain IT-Products for the needs of free trade zones and free ports is governed by the rules and procedures concerning free trade zones and free ports.

- (a) Does this mean that free trade zones and free ports are not subject to any of the requirements of Decree 56, including registration and verification?

12. Some of the tariff lines are textile sector products, including apparel and made-up textile goods, as well as alcoholic beverages.

- (a) How do the new import licensing requirements overlap or interact with other existing import licensing requirements for the same products, particularly 19/M-Dag/PER/5/2005 for textiles and apparel and 230/MPP/Kep/7/1997 for alcoholic beverages?
- (b) What steps are being taken to minimize the burden on traders of duplicative non-automatic licensing procedures? Upon implementation of Decree 56, will goods in HS chapters 61-63 be subject to two sets of registration requirements?

13. Article 6 of Decree 56 requires that every import of these products be subject to a verification or “Import Technical Investigation.”

- (a) What specific issues are being investigated and verified?

- (b) Are there technical regulations that provide the basis for such investigations? If so, please explain. Are there other reasons that form the basis for the investigations, consistent with Indonesia's WTO obligations?
- (c) What is the reason for requiring that every shipment be investigated? Why will it be necessary to investigate products that are identical to products that have already been investigated in previous shipments?
- (d) What will the verification consist of, documentary and/or physical inspections?
- (e) What information and documents must be submitted for verification?
- (f) In what form will physical inspections take place?
- (g) How long is the whole verification process envisaged to take?
- (h) From the information received from appointed Surveyors (Succofindo and PT Surveyor Indonesia) it seems that both the importer and the exporter must submit an application and documentation for verification. If so, why? Why must the same documentation (e.g. Taxpayer Number and Special Importer Identify Number) be submitted to both the Ministry of Trade (in applying for a license) as well as to the surveyor (as part of the verification process)? Why do the appointed surveyors require additional documentation to be submitted (e.g. Trading License (SIUP))?
- (i) Will Indonesian customs authorities, for the purpose of customs clearance, also require the documents submitted to the appointed surveyors for verification under the Decree, as well as carrying out documentary and physical inspections?
- (j) What costs will be associated with verification or investigation, as mentioned in Article 6.3?
- (k) What is the role of the surveyors? What are they? How are they appointed? Does Indonesia already have approved surveyors in foreign ports?

14. Please clarify the meaning of Article 11 of Decree 56, including Articles 11(c) and 11(d), which appear to exempt certain business activities from the new requirements. What business activities will be covered by the decree and which ones will be exempted? Why? How will Indonesian customs determine the ultimate use of the imports?
