

**NOTIFICATION UNDER ARTICLES OF THE AGREEMENT ON
IMPORT LICENSING PROCEDURES FROM INDONESIA¹**

Replies from INDONESIA to Questions from the UNITED STATES²

The following communication, dated 23 March 2009, has been received from the delegation of Indonesia.

1. *In G/LIC/Q/IDN/6, in reply to questions from Australia, Indonesia indicated that regulations establishing import licensing procedures for sugar are contained in Decree No. 643/MPP/Kep/9/2002, dated 23 September 2003.*

- *Has Indonesia notified this regulation to the Committee, as required by Article 5 of the Agreement? If not, why not? When does Indonesia plan to do so?*
- *Is this regulation still the primary basis of Indonesia's import licensing regime for sugar? Are there other regulations, amendments, or decrees that establish administrative procedures as a precondition for the importation of sugar into Indonesia? If so, please identify them and notify them to the Committee.*

Answer:

- Indonesia has not notified this decree. The Decree No. 643/MPP/Kep/9/2002 has been revoked and replaced by the Decree of the Ministry of Industry and Trade No. 527/MPP/Kep/9/2004, which is the primary basis for the import sugar regime.
- Indonesia will notify Decree of the Ministry of Industry and Trade No. 527/MPP/Kep/9/2004 together with its amendments of the regulation to the Committee.

2. *We would appreciate further clarification regarding Indonesia's import licensing procedures for sugar and their application, including:*

- *The information that must be provided in an application for an import license.*
- *The criteria used in analyzing license applications and the specific procedures followed by Indonesia in granting and/or allocating sugar import licences and why these criteria were selected.*

¹ See Understanding on procedures for the Review of Notifications (G/LIC/4).

² G/LIC/Q/IDN/9/Add.1

- *In cases where the import license application is not approved, how the importer can appeal the decision?*
- *For the last quarter of 2008, how many import license applications for refined sugar, including plantation white sugar, were received. How many were denied, and why? How many have been approved?*

Answer:

- The information that must be provided in the application for an import licence is: quantity of sugar to be imported; specification and grade of sugar concerned; port of exportation; and recommendation from the Ministry of Industry.
 - The basic criteria used in analysing import licence applications includes the types of sugar locally produced in terms of specification and grade; availability in terms of supply and demand, suitability for different processes and end users.
 - The criteria provides the basis to determine surpluses within the domestic industry and where such surpluses are found to exist, import licences may not be granted for the same specification and grade of domestic sugar production. In general, no application is rejected by the Ministry of Trade provided that all requirements are met including the recommendation from the Ministry of Industry. As a consequence, if an application is rejected the importer should appeal to the Ministry of Industry
 - For the last quarter of 2008 the Ministry of Trade received 41 applications and all approved.
3. *In a bilateral communication, Indonesia referred the United States to two documents the Decree of the Minister of Industry and Trade No. 527/MPP/Kep/9/2004 concerning provisions on the Import of Sugar as well as the Fifth Amendment of that Decree as contained in Regulation of the Minister of Trade No. 19/M-DAG/PER/2008 dated 29 May 2008. Has Indonesia notified these decrees to the Committee? If not, why not? When does Indonesia plan to do so?*

Answer

- Indonesia has not notified this decree. The decree number 643/MPP/Kep/9/2002 has been revoked and replaced by the Decree of the Ministry of Industry and Trade No. 527/MPP/Kep/9/2004, which is the primary basis for the import sugar regime.
 - Indonesia will notify Decree of the Ministry of Industry and Trade No. 527/MPP/Kep/9/2004 together with its amendments the regulation to the Committee.
4. *The United States is concerned that implementation of these decrees has led the government of Indonesia to ban the importation of sugar during certain periods and to restrict the quantity of sugar imported overall through the denial of import license applications. Article 7, paragraph 2 of Regulation of the Minister of Trade No. 19/M-DAG/PER/2008 appears to state that plantation white sugar is permitted only during certain periods of the year and then only under certain circumstances, i.e. based on an assessment of domestic price and production levels. Article 7, paragraph 6 states that the “amount of sugar to be imported to meet domestic requirement shall be determined based on the result of coordination meeting between the related agencies/institutions and associations...”.*

- *What coordination meetings are referred to in Article 7? Who chairs and who attends these meetings? Do Indonesian refiners or other sugar consumers or their representatives participate in these coordination meetings?*
- *Please confirm per the provisions of Article 7, sub-articles 4, 5, and 6, that this coordination process determines:*
 - (a) *the projected quantity of domestic sugar production;*
 - (b) *the current domestic market price of sugar; and*
 - (c) *the domestic price level that should be attained before imports of sugar are allowed to occur, and the quantity of sugar imports that should be allowed based on (a) and (b).*
- *If so, what is the current quantity of sugar that Indonesia intends to allow to be imported based on the implementation of this regulation and over what period? Where is this information, including the dates when importation may occur, published?*
- *What other factors may be considered in the coordination meetings to determine if domestic production and supply are “sufficient to meet requirement.” What is the requirement referred to in the regulation?*
- *What is the justification for limiting the time frame during which imports of sugar may occur, as spelled out in Article 7.2 and Article 7.3 of Regulation No. 19/M-DAG/PER/2008? Please give the approximate dates of the “people sugar cane grinding season” referenced in Article 7, sub-article 2(a) and sub-article 3, e.g., in 2008 and 2009.*
- *What is the justification for the price threshold established in Article 7.2 of Regulation No. 19/M-DAG/PER/2008? How is the price “at farmers’ level” calculated or otherwise determined?*

Answer:

- Co-ordination *meetings* referred to in Article 7 are convened by the Indonesian Sugar Council (Dewan Gula Indonesia) chaired by the Minister of Agriculture. Stakeholders in the Industry including Indonesia refiners, consumers and their representatives are Members of the Council.
 - This co-ordination process allows for *inter alia* exchange of views on projected quantities of domestic supply, current domestic prices and projected price threshold. The Council may submit recommendation to the Minister of Trade to be taken into account in the final decision.
 - The quantity of sugar Indonesia intends to import in 2009 is 2,050 million tons. There is no publication on this information but it is shared with the stakeholders.
 - Other factors that are taken into account are specifications and grades of sugar that are produced locally and imported, and the use and demand for the types of sugar concerned.
 - Imports of refined sugar is not limited to the time-frame. However, imports of white sugar are not allowed one month before, during, and two months after the milling season. This time-frame allows the Government to establish projected output of white sugar produced domestically.
 - The price threshold established is intended to provide a livelihood for farmers. It is based on the cost incurred by the farmers for cultivating, harvesting and the basic processing of sugar.
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