

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

Follow-up questions from the EUROPEAN UNION
to replies from INDONESIA²

The following communication, dated 9 July 2010, is being circulated at the request of the delegation of the European Union.

1. Indonesia maintains that Decree 56/2008 is not an import licensing scheme but that its purpose "is only to register importers". Indonesia also explains that "as long as the basic information stipulated under article 2 (3) is provided, registration is granted within 7 days" and that "once registered, import licenses are issued automatically".

- (a) If the import licenses are automatically granted on the basis of the quantities mentioned in the "import plan" as referred to in Article 2 (3) f. of Decree 56/2008, we believe that such decree institutes licensing procedures and that is therefore subject to the notification obligation of Article 5 of the WTO Agreement on Import Licensing Procedures. If Indonesia disagrees, please explain?
- (b) If the "import plan" as referred to in Article 2 (3) f. of Decree 56/2008 has no link to the subsequent (and allegedly automatic) issuing of the import licenses, could Indonesia please explain what is the legal basis for such licenses? Could Indonesia list the documents that have to accompany the application for such licenses? Could Indonesia please also describe the conditions under which the issuing of such licenses may be refused?

2. Indonesia admitted that the "requirement for an importer to demonstrate past performance" under Decree 44/2008 "may have been considered to contribute to the impression of a non automatic import licensing procedure". We consider the requirement for an importer to demonstrate future performance via submitting an import plan of 1 (one) as referred to in Article 2 (3) f. of Decree 56/2008 as a factor characterising the import licensing procedure contained therein as non-automatic. If Indonesia disagrees, please explain?

3. Could Indonesia please describe the conditions under which an importer can obtain a "Special Importer Identity Number" whose submission is required pursuant to Article 2 (3)d. of Decree 56/2008?

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

² See document G/LIC/N/2/IDN/11.

4. Indonesia states that Decree 56/2008 "is designed to address illegal trade and safeguard health through the development of an effective tracking system". Would Indonesia qualify Decree 56/2008 as a measure necessary to secure compliance with other Indonesian laws and regulations? If so, could Indonesia please provide the references of such laws and regulations?

5. Indonesia states that "the selection of products is based on items that are the most sensitive to smuggling". Could Indonesia please explain the criteria on the basis of which it has concluded that the selected products are "most sensitive to smuggling"?

6. Could Indonesia please provide the quantitative data on the basis of which it has concluded that the five selected ports "represent the vast majority of imports into Indonesia"?

7. We understand that in addition from being subject to the import licensing requirements contained in Decree 19/2005, textiles and apparel (HS 61-63) are simultaneously subject to the provisions of Decree 65/2008. We also note that "the Government [of Indonesia] will ensure that there are no duplicates of procedures". Could Indonesia please explain how concretely does it plan to avoid duplication?

8. While describing the content of the "Import Technical Investigation", Indonesia states that "verification of the quality of the goods will be conducted if it is necessary, such in the case of food and beverages". Could Indonesia please explain the procedures according to which such verification of the quality of the goods will be carried out? Could Indonesia please also clarify whether the same quality controls are carried out in relation to the sale of like domestic food and beverages?

9. We note that Article 2.22 of the WTO Agreement on Preshipment Inspection states in relevant parts that "[...] user Members shall provide that [...] shipments whose value is less than a minimum value applicable to such shipments as defined by the user Member shall not be inspected, except in exceptional circumstances. This minimum value shall form part of the information furnished to exporters under the provisions of paragraph 6". Could Indonesia please explain how does it fulfil such obligation?
