

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

Replies from Indonesia to questions from Canada and the United States²

The following communication, dated 27 April 2012, is being circulated at the request of the delegation of Indonesia.

I. LIVESTOCK AND LIVESTOCK PRODUCTS

1. Question

We understand that Ministry of Agriculture Regulation No. 50/2011 and Ministry of Trade Regulation No. 24/2011, which implement Law 18/2009 on Animal Husbandry and Animal Health, set out the rules for the importation of livestock and livestock products. Please explain whether these measures impose a non-automatic import licensing regime and what underlying measure or administrative procedure they implement.

Answer

The Import Licensing regime under Law 18/2009 on Animal Husbandry and Animal Health, the Ministry of Agriculture Regulation No. 50/2011 and Ministry of Trade Regulation No. 24/2011, shall be considered an automatic import licensing regime. As under those regulations the license of Importation for Livestock and Livestock Products may be granted to all registered Importer of Animal and Animal Products (IT-Animal). Furthermore (i) The License granted to all applicant as long as the application fulfil the requirements sets in the regulations; (ii) The application may be submitted on any working day prior to the custom clearance; and (iii) The approval process of a complete application for the license did not exceed the 10 days period, required in Article 2 of the Agreement on Import Licensing Procedure.

2. Question

How does Indonesia's import licensing system work in practice, with respect to livestock and livestock products? In particular, please provide the information published according to Article 3.3, so that Members have sufficient information to understand the basis for granting and/or allocating licenses, and all relevant information concerning the items at Article 3.5.

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

² See document G/LIC/Q/IDN/19.

Answer

Law 18/2009 on Animal Husbandry and Animal Health, the Ministry of Agriculture Regulation No. 50/2011 and Ministry of Trade Regulation No. 24/2011, set up the legal requirements needed for an applicant to obtain the License of Importation of animal and animal products. Provided that all requirement fulfilled by applicant, the license will be granted. Therefore, this import licensing system did not fall under article 3 of the Agreement on Import Licensing Procedure.

3. Question

Aside from Ministry of Agriculture Regulation No. 50/2011 and Ministry of Trade Regulation No. 24/2011, are there any other Indonesian regulations in place that affect the import of livestock and livestock products?

Answer

Alongside with Ministry of Agriculture Regulation No. 50/2011 and Ministry of Trade Regulation No. 24/2011, there are also Ministry of Agriculture Regulation No 51/Permentan/OT.140/9/2011 concerning Recommendation of Approval on Import and Export of Seed and/or Seedlings of Livestock; and Ministry of Agriculture Regulation No 52/Permentan/OT.140/9/2011 concerning Recommendation of Approval on Import and Export of Livestock.

4. Question

Does the government of Indonesia issue a set or limited number of import permits or licenses per year (or other time period) for the import of livestock and animal products, or may any number of import permits be issued, for any amount of product, as long as importers meet the criteria set out in Ministry of Agriculture Regulation No. 50/2011 and Ministry of Trade Regulation No. 24/2011?

Answer

For the animal products mentioned in ANNEX II of this regulation, the Licenses are issued 2 times a year and valid for 6 months. There is no limitation set on the regulation to limit the number of import permits or license per year.

Nevertheless, to avoid market distortions and price destabilization, the amount of products imported are subject to national consumption volume.

The national consumption volume of animal products established periodically by coordination meeting of the economic ministries based on national census data (SUSENAS) attained by BPS-Bureau Statistic of Indonesia and Ministry of Agriculture survey on cattle slaughter.

The determination of import allocation of each importer, determined by reckoning mechanism of storage capacity and past performance of the importer.

Indonesia perceived the importance of maintaining the balance between supply and demand in order to avoid market distortion and price destabilization. Accordingly the determination of import volume are based on the demand and supply in Indonesia's market and conducted with transparent mechanism.

5. Question

What licensing procedures, if any, does Indonesia apply to the domestic production of livestock and animal products?

Answer

The domestic production line of Livestock and animal products i.e Slaughter House, Animal Husbandry and Animal Health, Public Health related to animal and animal disease, animal welfare, etc. are directed by Law 18/2009 concerning Animal Husbandry and Animal Health.

6. Question

Are all applicants treated the same, and do they all have equal opportunity to import products under these rules? If not, please explain how the rules are neutral in application and administered in a fair and equitable manner in compliance with Article 1.3 of the ILA.

Answer

By allowing to grant the License to all applicant as long as the application fulfil the requirements sets in the regulations (Law 18/2009 on Animal Husbandry and Animal Health, the Ministry of Agriculture Regulation No. 50/2011), and the Ministry of Trade Regulation No. 24/2011 treats equally all the registered Importer of Animal and Animal Products (IT-Animal), and therefore provide equal opportunity among the importer (IT-Animal).

7. Question

We note that Annex II of Ministry of Agriculture Regulation No. 50/2011 contains a list of livestock products that can be imported. Some commonly traded products are not listed in this Annex (e.g., some chicken products within HS 0207.13 and 0207.14). Are these products ineligible to obtain import permits? If eligible, how are import permits for these products obtained?

Answer

There is no prohibition of the importation of any poultry products under Ministry of Trade Regulation No. 24/2011. However, issuance of the import permit based on recommendation of the ministry of Agriculture subject to requirements in Ministry of Agriculture Regulation No.50/Permentan/OT.140/9/2011; No 51/Permentan/OT.140/9/2011; and No 52/Permentan/OT.140/9/2011.

II. HORTICULTURAL PRODUCTS

1. Question

What is the status of the approved and proposed regulations on horticultural products, including Ministry of Agriculture Regulation No. 3/Permentan/OT.140/1/2012 and any corresponding Ministry of Trade regulation? Please explain on what date each regulation is scheduled to enter into force, and on what date Indonesia plans to notify them to the Committee on Import Licensing and make published copies available.

Answer

The Decree of the Minister of Agriculture of the Republic of Indonesia No. 03/Permentan/OT.140/1/2012 concerning Recommendation of the Importation of Horticultural Products was signed on January 31, 2012, and is going to enter into force on April 31, 2012. This Decree is in the notification process stage and will notify this decree in the near future.

2. Question

Do any import licensing requirements apply to agricultural products not covered by Ministry of Agriculture Regulation No. 3/Permentan/OT.140/1/2012? If so, have these requirements been notified to the Committee? We request that the government of Indonesia promptly notify any proposed measures related to the import of horticultural products by providing copies of the draft regulations for the review and comment of Members prior to implementation.

Answer

Indonesia has not issue any implementation decree of the Agricultural Ministerial Decree No. 3/Permentan/OT.140/1/2012.

3. Question

Please explain whether these measures impose a non-automatic import licensing regime and what underlying measure or administrative procedure they implement.

Answer

The Decree shall be categorized as automatic import licensing.

4. Question

Please explain the process that the Ministry of Agriculture and Ministry of Trade would use in evaluating requests for import recommendations and import licenses. In particular, please provide the information published according to Article 3.3 and all relevant information concerning the items at Article 3.5. To what extent would these decisions be based on domestic market conditions such as domestic production, consumption, demand, and food security? When granting licenses or issuing recommendations, can the Ministry of Agriculture or Ministry of Trade arbitrarily reduce the volume of imports from the amount requested?

Answer

There will be a separate by laws and implementing regulations to address import permits for horticultural products. Ministry of Agriculture Regulation No. 3/Permentan/OT.140/1/2012 is regarding the recommendation for importation. The importation permit shall be granted by the ministry of trade. Indonesia will notify the mechanism of import licensing procedure as soon as the regulation of the ministry of trade had been enacted.

5. Question

What licensing procedures, if any, does Indonesia apply to the domestic production of horticultural products subject to import licensing requirements?

Answer

Indonesia will answer this question as soon the regulation of the import had been enacted by the Ministry of Trade.

6. Question

Are all applicants treated the same, and do they all have equal opportunity to import products under these rules? If not, please explain how the rules are neutral in application and administered in a fair and equitable manner in compliance with Article 1.3 of the ILA.

Answer

Idem.

7. Question

How does the licensing system meet the requirement, in Article 3.2, that non-automatic licensing shall not have trade-restrictive or -distortive effects on imports additional to those caused by the imposition of the restriction?

Answer

Idem.

8. Question

Article 3 of the ILA states that "Non-automatic licensing procedures shall correspond in scope and duration to the measure they are used to implement, and shall be no more administratively burdensome than absolutely necessary to administer the measure." Please explain the scope, duration and administrative burden of the measures in light of this provision.

Answer

Idem.

9. Question

Article 1.6 provides that license application procedures "shall be as simple as possible" and that "[a]pplicants shall have to approach only one administrative body in connection with an application." Why is it strictly indispensable for importers of horticultural products to apply to the Ministry of Agriculture for import recommendations, to the Ministry of Trade for import licenses, and to other agencies - including Indonesia's Food and Drug Agency, BPOM, and the Ministry of Industry – that may be involved?

Answer

Idem.

10. Question

Article 3.5(e) provides that the period for processing non-automatic import license applications may not exceed 30 days, if applications are considered as and when received, and

60 days, if applications are considered simultaneously. Which system does Indonesia use, and what is the maximum processing time for issuing import licenses?

Answer

Idem.

11. Question

Annex II of Regulation 3 lists the products for which import recommendations can be obtained from the Ministry of Agriculture. For horticultural-type products not on this list, are import recommendations and import licenses required? Are these products free of licensing requirements or are they ineligible for importation?

Answer

There will be a separate by laws and implementing regulations to address import permits for horticultural products not included into the Decree.
