

**NOTIFICATION UNDER ARTICLE 5 OF THE AGREEMENT ON IMPORT
LICENSING PROCEDURES FROM INDONESIA¹**

Replies from INDONESIA to questions from the UNITED STATES²

The following communication, dated 5 May 2004, is being circulated at the request of the Delegation of Indonesia.

Question:

The United States appreciates Indonesia's responses (G/LIC/Q/IDN/2, dated 29 September 2003) to our questions concerning import licensing for textiles (G/LIC/Q/IDN/1). However the United States remains concerned that Decree No. 732/2002, pertaining to import licensing for textiles, is restricting and distorting trade contrary to the Agreement on Import Licensing Procedures. The United States is particularly concerned with Indonesia's decision to grant licences only to textile producers with a local production capacity, and to bar the transfer of imported textiles to other private parties. It appears to the United States that this system is inherently trade-distortive, and requests that Indonesia explain to the Committee how this system is consistent with the Agreement on Import Licensing Procedures. Indonesia has stated that the Decree aims only at providing administrative import procedures, with the purpose of preventing anti-competitive behaviour and smuggling. The Secretariat has provided us with a copy of the Decree and we are reviewing it. The United States requests, however, that Indonesia explain to the Committee how the restrictions contained in the Decree further the goals of preventing anti-competitive behaviour and smuggling.

Reply:

1. As seen in the consideration of Decree No. 732/2002, it aims at only providing administrative import procedures, with the main purpose to combat smuggling activities that cause:

- anti-competitive behaviour
- unfair trade in the domestic market
- an adverse impact on domestic market
- loss of government revenue
- an adverse impact on investment and labour

2. The smuggling activities in Indonesia have indeed been a serious problem since these activities have significantly increased since 2000. Based on the estimation of the Indonesia University Research Institution, smuggled textiles entering into the Indonesian market have resulted in a loss of Rupiah 50 trillion, equivalent to US\$ 5.8 billion, in terms of government revenue, injuring 7,000 textiles companies which absorb more than 3.5 million labour and with the investment value of Rp. 132 trillion, equivalent to US\$ 15.35 billion.

¹ G/LIC/N/2/IDN/1.

² G/LIC/Q/IDN/3.

3. In relation to paragraph 2 above, smuggling activities are tightly related to the nature of Indonesia as a very large country which consists of more than 17,000 big and small islands. Although so many borders are far beyond the ability and control of customs where illegal textiles products entered Indonesian markets by illegal companies, there have also been many legal companies doing illegal imports in the same manner in order to avoid customs duties. This situation has resulted in a substantial increase in imports of illegal textiles products which cannot be curbed by trade remedy instruments such as anti-dumping, countervailing and/or safeguards.

4. Indonesia has a grave concern as the bulk of illegal textiles products in the domestic market has created a multi-adverse effect on various business activities as well as employment and government revenue. Indonesia is of the view that these problems have to be resolved by all means, including import licensing. Indonesia has fully considered the great importance of the role of customs offices and police in cooperation with the Ministry of Trade and Industry (MOIT) in combating all smugglers. In this regard, the MOIT has played its role by using import licensing procedures to prevent the distribution of illegally imported textile products in the domestic market.

5. Why import licensing procedures? Of various administrative procedures, we still believe that licensing procedures are the only effective means to administer all textiles imports and all kinds of imported products as contained in the Decree. By this policy, the Government will very easily identify and combat illegal textiles products.

6. Regarding the question of whether the Decree is trade-restricting according to Article 3.2 of the Agreement on Import Licensing Procedures, Indonesia is of the view that the Decree is not in breach of the said provision since:

- (i) No person, firm or institution will be refused an import licence as far as they fully comply with all requirements as contained in the Decree (Article 2.2(a)(i) of the Agreement). All requirements that they have to comply with are those documents which are normally owned by the companies such as:
 - Industrial Business licence/Industry Registry Number or other similar business permits from other related Ministries;
 - Special Textiles and Textiles Product Importer Identity Number (NPIK-TPT);
 - Producers – Importer Identity Number (API-P) or Approved Importer Identity (API-P);
 - Corporated Registry Number (TDP);
 - Taxpayer Code Number (NPWP);
 - Statement of plan for the need of Raw Materials or Auxiliary Materials and Marketing of Products for one year, signed by the management of the company.
 - (ii) Article 4 of the Decree states that the approval or rejection of the application for a licence shall be issued in no less than ten working days. The period for processing the application as contained in the Decree is much less than provided for in Article 3.5(f) of the Agreement on Import Licensing Procedures which requires 30 working days to be approved. Therefore no burden for companies to apply for a licence.
 - (iii) The Decree does not limit the number of companies, institutions or persons to have import licences as far as they fully comply with all requirements and no limitation as to the volume to be imported by each company. There have been as many as 315 importers which have had import licences and import licences are still open to other companies that would like to be involved in textiles import activities.
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