

**NOTIFICATION OF REPLIES TO THE QUESTIONNAIRE ON IMPORT
LICENSING PROCEDURES FROM INDONESIA¹**

Replies from INDONESIA to questions from AUSTRALIA²

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

Question:

Indonesia's response in document G/LIC/N/3/IDN/2 to the Questionnaire on Import Licensing Procedures indicates that non-automatic import licensing requirements are applied to a number of products, including textiles, sugar, iron and steel. The stated purposes of such requirements include: safeguarding public health; safeguarding security; ensuring public safety; protecting public morals; protecting the environment; and fulfilling obligations under international agreements. It is, however, unclear how restrictions applied to imports of textiles, sugar, iron or steel could reasonably further such objectives. Given that such restrictions are maintained by means of non-automatic import licensing, it is essential that any licensing procedures also comply with the provisions of Paragraph 2 of Article 3 of the Agreement on Import Licensing Procedures. To clarify fully the issues that Indonesia has placed before us, we need to better understand these restrictions. Accordingly, we request that Indonesia provide further information on these restrictions including, in relation to each product, the purpose, scope and duration of the measures concerned, the administering authority and their legislative basis. We also ask whether these restrictions have been previously notified to the Committee.

Reply:

A. TEXTILES

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

¹ G/LIC/N/3/IDN/2.

² G/LIC/Q/IDN/4.

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 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.

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 stated 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.

B. SUGAR

The sugar policy as contained in the Decree of the Minister of Industry and Trade No. 643/MPP/Kep/9/2002 dated 23 September 2003 aims at:

- protecting poor sugar farmers or sugarcane growers from adverse effects of substantial increases in sugar imports;
- protecting public health from negative impact of direct consumption of raw sugar;
- increasing the income of poor sugar farmers in rural areas.

Based on the above-mentioned reasons, Indonesia fully considers the great importance of sugar as a sensitive product since it is very tightly related to the livelihood of small and poor farmers. For years, Indonesia has had grave concerns on how to increase the very low standard of living of poor sugar farmers in rural areas, especially in the region of Middle and East Java. Most sugar farmers live under the poverty line. All sugar farmers are fully dependent on sugar, which is frequently injured by imported sugar. Domestically produced sugar cannot compete with imported sugar as the latter has a lower price than theirs.

As to the question of how this policy could reasonably further such objectives, the policy has procedures to be followed by importers so as to achieve these objectives, such as:

For raw sugar and refined sugar:

- raw sugar can only be imported by approved sugar importers (hereinafter referred to as Importir Produsen – IP). A licence to import sugar shall contain time of shipment, country and type of sugar and refined sugar;
- raw sugar can be imported only for raw material for further processing by the processing plant owned by the approved importer and cannot be traded or transferred to third parties.

For plantation white sugar:

- plantation white sugar can only be imported by companies that have been recognised as approved sugar importers;
- licences to import this kind of sugar can only be given if the price of such sugar in the level of sugarcane farmers exceeds Rp. 3,100/kg. (US\$ 0.24) and 75 per cent of the raw material used in their processing plants originating from sugarcane farmers and/or results of cooperation with local sugarcane farmers.

All other requirements to apply for a licence are those documents which are normally owned by the companies such as:

- Industrial Business Licence/Industry Registry Number;
- Producer/Limited Importer's Identification Number (API-T) or General Importer's identification number (API-U);
- Corporate Registry Number (TDP);
- Special Sugar Importer's Identification Number (NPIK);
- Taxpayer Code Number (NPWP).

Article 4 of the Decree states that the approval or rejection of the application to have a licence shall be issued in no later 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, there is no burden for companies to apply for a licence.

C. IRON AND STEEL

The policy taken on iron and steel is aimed at maintaining a conducive business environment, creating a fair business competition climate and preventing losses for domestic industry from the abundant supply in international markets.

It is obvious that the role of this sector in the national economy has been in no doubt as the iron and steel industry has multi-flier effects in terms of both employment and government revenue. Millions of labourers are involved in this sector and their livelihood is fully dependent on this sector. However, since the beginning of 2001 the substantial increase in imports of iron and steel products have threatened to cause injury to domestic industries. This situation has led to serious problems for domestic industries. No other trade policy than import licensing could be taken to curb imports and create a balance between imported iron and steel and the domestic supply and Indonesia has no intention of protecting domestic iron and steel industries. This could only be achieved by the Government by providing an instrument for control, i.e. import licensing.

There are some procedures to be followed by a company applying for a steel import licence, such as:

- (i) Each company has to apply for an import licence and be recognised as a producer-importer (IT producer).
- (ii) The company applying for such a licence shall comply with all requirements such as:
 - Industrial Business Licence/Industry Registry Number or other similar business permits from other related Ministries;
 - Producer-Importer Identity Number or approved importer identity number;
 - Corporated Registry Number (TDP),
 - Taxpayer Code (NPWP),
 - Technical consideration from Directorate General for Metal, Machine, Electronic and Multi-Various Industries, MOIT;
 - Realisation of annual imports during the last five years.

The licence given to every importer shall also cover the quantity and time of import, and shall be valid for one year. The decision to approve or to reject the application for a licence shall be made within seven days.
