

WORLD TRADE ORGANIZATION

WT/DS446/1
G/L/997
G/AG/GEN/102
G/LIC/D/43
G/TRIMS/D/33
G/SG/D45/1
G/TBT/D/42
29 August 2012

(12-4650)

Original: Spanish

ARGENTINA - MEASURES AFFECTING THE IMPORTATION OF GOODS

Request for Consultations by Mexico

The following communication, dated 24 August 2012, from the delegation of Mexico to the delegation of Argentina and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

The Government of Mexico hereby requests consultations with the Government of the Republic of Argentina ("Argentina"), pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, Article XXII of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), Article 19 of the *Agreement on Agriculture*, Article 6 of the *Agreement on Import Licensing Procedures* (ILP Agreement), Article 8 of the *Agreement on Trade-Related Investment Measures* (TRIMs Agreement), Article 14 of the *Agreement on Safeguards*, and Article 14 of the *Agreement on Technical Barriers to Trade* (TBT Agreement), with respect to certain measures imposed by Argentina on the importation of goods into that country.

Argentina subjects the importation of goods into Argentina to the presentation for approval (*validación*) of a so-called *Declaración Jurada Anticipada de Importación* (DJAI). The relevant legal instruments are listed in Annex I.

Argentina subjects the importation of certain goods into Argentina to various types of licenses: *Licencias No Automáticas de Importación* in the form of *Certificados de Importación* (CIs) and *Certificados de Libre Circulación* (CLCs). The legal instruments providing for these measures are listed in Annexes II and III, respectively.

Argentina often requires the importers of goods to undertake certain commitments, including, *inter alia*, to limit their imports, to balance them with exports, to make or increase their investments in production facilities in Argentina, to increase the local content of the products they manufacture in Argentina, not to transfer benefits abroad and/or to control their prices.

The issuance of CIs and CLCs and the approval of DJAIs is being systematically delayed or refused by the Argentinean authorities on non-transparent grounds. Often the Argentinean authorities make the issuance of CIs and CLCs and the approval of DJAIs conditional upon the importers undertaking to comply with the trade-restrictive commitments mentioned above.

Argentina also subjects certain products to compliance with a technical regulation relating to the analysis of the content of lead and other heavy metals, with a view to importing such products and authorizing their subsequent marketing and sale. Compliance with this measure can only be certified by certification bodies recognized by Argentina. Mexico considers this measure to be discriminatory and believes that it creates an unnecessary barrier to international trade. The relevant legal instruments are listed in Annex IV.

These measures restrict imports of goods and discriminate between imported and domestic goods. They do not appear to be related to the implementation of any measure justified under the World Trade Organization (WTO) Agreement, but instead aimed at advancing the Argentinean Government's stated policies of re-industrialization, import substitution, proliferation of non-tariff barriers, and elimination of trade balance deficits.

The legal measures through which Argentina imposes these restrictions include, but are not limited to, the legal instruments listed in the Annexes, as well as any amendments, replacements, extensions, implementing measures or related measures.

Argentina's measures appear to be inconsistent with Argentina's obligations under the following provisions of the covered agreements:

- (i) Articles III:4, VIII; X:1, X:2 and X:3; and XI:1 of the GATT 1994;
- (ii) Articles 2 and 6 of the TRIMs Agreement;
- (iii) Articles 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 2.2, 3.2, 3.3, 3.4, 3.5, 5.1, 5.2, 5.3 and 5.4 of the ILP Agreement;
- (iv) Article 4.2 of the Agreement on Agriculture;
- (v) Article 11 of the Safeguards Agreement; and
- (vi) Articles 2.1 and 2.2 of the TBT Agreement.

Argentina's measures appear to nullify or impair the benefits accruing to Mexico directly or indirectly under the covered agreements.

Mexico reserves the right to raise additional measures and claims regarding these matters in the course of the consultations.

Mexico looks forward to receiving in due course a reply from Argentina to this request. Mexico is ready to consider with Argentina mutually convenient dates to hold consultations.

Annex I

Declaración Jurada Anticipada de Importación (DJAI)

- Resolución AFIP 3252/2012
- Resolución AFIP 3255/2012
- Resolución AFIP 3256/2012
- Resolución AFIP 3276/2012
- Resolución SCI 1/2012
- Comunicación del Banco Central "A" 5134 of 1.11.2010
- Comunicación del Banco Central "A" 5274 of 1.30.2012
- Any amendments, replacements, extensions, implementing measures or related measures.

Annex II

Non-automatic licenses (*Licencias No Automáticas de Importación*) in the form of import certificates (*Certificados de Importación*)

- Import certificate for shoes (*productos del sector calzado*) - C.I.C.: Resolución MEyOSP 977/99, Resolución SICM 736/99 and Resolución MEyP 486/2005
- Import certificate for paper (*papel*) - C.I.P.: Resolución MEyOSP 1117/99 and Resolución SICyM 798/99
- Import certificate for household products (*artículos para el hogar*) - C.I.A.H.: Resolución MEyP 444/2004 and Resolución SICPME 177/2004;
- Import certificate for toys (*juguetes*) - C.I.J.: Resolución MEyP 485/2005
- Import certificate for motorcycles (*motocicletas*) - C.I.M.: Resolución MEyP 689/2006
- Import Certificate for bicycle tyres (*cubiertas y cámaras neumáticas de bicicleta*): - C.I.C.C.N.B.: Resolución MEyP 694/2006
- Import certificate for miscellaneous manufactured products (*manufacturas diversas*) - C.I.M.D.: Resolución MEyP 47/2007
- Import certificate for shoe parts (*partes de calzado*) - C.I.P.C.: Resolución MEyP 61/2007
- Import certificate for balls (*pelotas*) C.I.P.: Resolución MEyP 217/2007
- Import certificate for textile products (*productos textiles*) - C.I.P.T.: Resolución MEyP 343/2007
- Import certificate for metal products (*productos metalúrgicos*) - C.I.P.M.: Resolución MEyP 588/2008
- Import certificate for yarns (*hilados y tejidos*) - C.I.H.T.: Resolución MEyP 589/2008
- Import certificate for tyres (*neumáticos*) - C.I.N: Resolución MP 26/2009

- Import certificate for miscellaneous products (*productos varios*) - C.I.P.V.: Resolución MP 61/2009
- Import certificate for screws and similar products (*tornillos y afines*) - C.I.T.A.: Resolución MP 165/2009
- Import certificate for autorparts (*autopartes y afines*) - C.I.A.P.A.: Resolución MP 337/2009
- Import certificate for motor vehicles (*vehículos automóviles*) - C.I.V.A.: Resolución MI 45/2011
- Any amendments, replacements, extensions, implementing measures or related measures.¹

Annex III

Certificados de Libre Importación for food products

- Ley 18284/1969
- Decreto 2092/1991
- Resolución M.S y A.S. 876/97
- Resolución ANMAT 5434/98
- Any amendments, replacements, extensions, implementing measures or related measures.

Annex IV

Certification of lead content in inks and printed matter (*Certificación de Contenido de Plomo en Tintas e Impresos*)

- Resolución SCI 453/2010
- Disposición DNCI 26/2012
- Any amendments, replacements, extensions, implementing measures or related measures.

¹ This includes, for example, Resolución MI 45/2011.