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Committee on Import Licensing

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## REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES<sup>1</sup>

### NOTIFICATION UNDER ARTICLE 7.3 OF THE AGREEMENT ON IMPORT LICENSING PROCEDURES (2017)

#### CHINA

The following communication, dated 23 January 2020, is being circulated at the request of the delegation of China.

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The present questionnaire is designed to elicit information on import licensing and similar administrative procedures<sup>2</sup> maintained in and applied to the customs territories to which GATT 1994 applies. If different procedures or methods of licensing or similar administrative procedures are applied to different categories of products, to different countries of supply or to different modes of importation, they should be separately described in respect of each question as relevant.

#### Outline of System

1. China's import licensing system mainly includes import license and automatic import licensing. In addition, certain goods are subject to import tariff-rate quotas.

Besides, China applies import (export) licenses to specific dual-use substances for the purposes of safeguarding national security and public interest and performing the obligations under relevant international Agreements.

#### Purposes and coverage of licensing

2. Import licenses apply to all commodities in 2017 specified in the Catalogue for Commodities Subject to Import Licenses in 2017 (Announcement of the Ministry of Commerce, the State Administration of Customs and the General Administration of Quality Supervision, Inspection and Quarantine [2016] No. 85), including ozone depleting substances and key used mechanical and electronic products.

Automatic import licenses apply to commodities in 2017 specified in the Catalogue for Commodities Subject to Automatic Import Licenses in 2017 (Announcement of the Ministry of Commerce and the State Administration of Customs [2016] No. 84).

2017 import tariff-rate quotas apply to commodities subject to import tariff-rate quotas as determined by the Protocol on Accession of the People's Republic of China into WTO, including such 47 eight-digit tariff line commodities as grain, cotton, sugar, wool, tops, fertilizer, etc. (See table 1).

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<sup>1</sup> See document G/LIC/3, Annex, for the Questionnaire.

<sup>2</sup> Similar procedures are understood to include technical visas, surveillance systems, minimum price arrangements, and other administrative reviews effected as a prior condition for entry of imports.

**Table 1:**

10011100	10011900	10019100	10019900	10051000
10059000	10061011	10061019	10061091	10061099
10062010	10062090	10063010	10063090	10064010
10064090	11010000	11022000	11029011	11029019
11031100	11031300	11031921	11031929	11032010
11042300	17011200	17011300	17011400	17019100
17019910	17019920	17019990	31021000	31052000
31053000	51011100	51011900	51012100	51012900
51013000	51031010	51051000	51052100	51052900
52010000	52030000			

3. The import licensing system in China does not differentiate the places of origin of products or places of sources unless otherwise provided for in the free trade Agreements entered into by China and relevant countries and regions.

4. China has not maintained any restrictions on quantity that do not comply with WTO rules and China's commitments upon its accession into WTO.

Currently, import licenses in China apply to ozone depleting substances and certain used machinery. Ozone depleting substances are subject to restriction based on China's obligation under the *Montreal Protocol on Substances that Deplete the Ozone Layer*, and certain used machinery is subject to import licenses for the purposes of serving social interests, protecting the environment and consumer health and security.

Automatic import licenses apply to some freely-imported commodities, for the purpose of monitoring the import and doing trade statistics. The content and implementing methods thereof comply with the *Agreement on Import Licensing Procedures*. No restriction is imposed on the quantity or value of imports.

Import tariff-rate quotas are agreed following negotiations by China and other WTO Members under the WTO Agreements, which apply to the import of some commodities. It is a preferential tariff arrangement and not a quantitative restriction measure.

5. *The Foreign Trade Law* (promulgated by Decree of the President [1994] No. 22 and amended by Decree of the President [2004] No. 15), the *Administrative Licensing Law* (Decree of the President [2003] No. 7) and the *Regulations on Administration of Import and Export of Commodities* (Decree of the State Council [2001] No. 332) prescribe the basic system and legal principles applicable to import licensing. Pursuant to the above-mentioned laws and regulation, with respect to commodities subject to import license and automatic import licensing, the currently effective rules promulgated by the Ministry of Commerce (the former Ministry of Foreign Trade and Economic Cooperation) and related authorities are *the Measures for the Administration of Commodity Import Licenses* (Decree of the Ministry of Commerce [2004] No. 27), *the Measures for the Administration of Commodity Automatic Import Licenses* (Decree of the Ministry of Commerce and the General Administration of Customs [2004] No. 26), *Measures for the Administration of the Import of Electromechanical Products* (Decree of Ministry of Commerce, General Administration of Customs and General Administration of Quality Supervision, Inspection and Quarantine [2008] No.7), *Measures for the Administration of Import of Certain Used Electromechanical Products* (Decree of Ministry of Commerce, General Administration of Customs and General Administration of Quality Supervision, Inspection and Quarantine [2008] No.5), *Implementation Measures for the Automatic Import Licensing of Electromechanical Products* (Decree of Ministry of Commerce and General Administration of Customs [2008] No.6). In conformity with said rules, the Ministry of Commerce

promulgates every year, in the form of announcements, *the Catalogue for Commodities Subject to Import Licensing* and *the Catalogue for Commodities Subject to Automatic Import Licensing* and the adjustments thereto. In addition, other currently effective rules and administrative measures in relation to import licensing are *the Measures for the Administration of Issuing Authorities of Import and Export Commodity Licenses* (Decree of the Ministry of Commerce [2010] No. 3), *the Regulations on Administration of Import and Export Licenses* (Decree of the Ministry of Commerce [2012] No. 1) and *the Working Rules on Issuance of Import Licenses* (Shang Pei Fa [2007] No. 360).

With respect to the import licensing procedures for commodities subject to tariff-rate quotas, under *the Regulations on Administration of Import and Export of Commodities* (Decree of the State Council [2001] No. 332), the currently effective rules are *the Interim Measures for the Administration of Import Tariff-rate Quotas of Agricultural Products* (Decree of the Ministry of Commerce and the National Development and Reform Commission [2003] No. 4) and *the Interim Measures for the Administration of Import Tariff-rate Quotas of Fertilizers* (Decree of the former Economic and Trade Commission and the General Administration of Customs [2002] No. 27), in conformity with which, the Ministry of Commerce and the National Development and Reform Commission publishes every year in the form of announcements the volume, distribution means and application requirements of import tariff-rate quotas of commodities.

With respects to dual-use substances, the administrative rules promulgated by the State Council include *the Regulations on Control of Nuclear Export* (Decree of the State Council [2006] No. 480), *the Regulations on Control of Exports of Dual-use Nuclear Substances and Related Technologies* (Decree of the State Council [2007] No. 484), *the Regulations on Control of Exports of Missiles and Related Substances and Technologies* (Decree of the State Council [2002] No. 361), *the Regulations on Control of Exports of Dual-use Biological Products and Related Equipment and Technologies* (Decree of the State Council [2002] No. 365), *the Regulations on Administration of Regulated Chemicals* (Decree of the State Council [1995] No.190), *the Regulations on Administration of Chemicals Easily Used to Produce Drugs* (Decree of the State Council [2005] No.445) and *the Measures for the Control of Exports of Relevant Chemicals and Related Equipment and Technologies* (Decree of the former Ministry of Foreign Trade and Economic Cooperation, the former National Economic and Trade Commission and the General Administration of Customs [2002] No. 33). Pursuant to said administrative rules, the currently effective rules are *the Measures for the Administration of Import and Export Licenses for Dual-use Substances and Technologies* (Decree of the Ministry of Commerce and the General Administration of Customs [2005] No. 29), *Provisions on the Management of Import and Export of Precursor Chemicals* (Announcement by the Ministry of Commerce [2006] No.7), in conformity with which, the Ministry of Commerce publishes every year, in the form of announcements, *the Catalogue for the Administration of Import and Export Licenses for Dual-use Substances and Technologies* and the adjustments thereto.

## Procedures

6. China has not maintained any restrictions on quantity that do not comply with WTO rules. In 2017, products subject to import tariff-rate quotas include corn, wheat, rice, sugar, cotton, wool, tops and fertilizer, whose tariff-rate quotas are applicable globally. Besides, in 2017, China imposes country-specific tariff-rate quotas on wool and tops from New Zealand pursuant to *the Free Trade Agreement between New Zealand and China*. China imposes country-specific tariff-rate quotas on wools from Australia pursuant to *the Free Trade Agreement between Australia and China*.

- I. The tariff-rate quota granting authorities, i.e., the Ministry of Commerce and the National Development and Reform Commission, publish such information as the volume, application requirements and allocation principles of global quotas and country-specific quotas of the following year in the form of announcements, which are available on the government websites of the quota granting authorities. Announcements regarding allocation of tariff-rate quotas in 2017 include:
  - 1) *the Application Requirements and Allocation Principles of Grain Import Tariff-rate quotas in 2017* and *the Application Requirements and Allocation Principles of Cotton Import Tariff-rate quotas in 2017*, promulgated in the Announcement No. 23 [2016] by the National Development and Reform Commission;
  - 2) *the Implementing Rules on the Administration of Import Tariff-rate quotas on Wool and Tops in 2017* and *the Detailed Rules on the Application and Allocation of Sugar Import*

*Tariff-rate quotas in 2017* published by the Ministry of Commerce respectively in the Announcement No. 66[2016] and in the Announcement No. 53[2016] , and *the Volume, Allocation Principles and Application Procedures of Fertilizer Import Tariff-rate quotas in 2017* published in the Announcement No. 56[2016] by the Ministry of Commerce;

- 3) *the Announcement on Reallocation of Import Tariff-rate quotas on Agricultural Products in 2017* promulgated in the Announcement No. 11 [2017] by the National Development and Reform Commission and the Ministry of Commerce;
  - 4) *the implementing Rules for Administration on Country-specific Import Tariff Quotas of Wool and Tops from New Zealand and Wools from Australia in 2017* promulgated in the Announcement No. 6 [2017] by the Ministry of Commerce and the General Administration of Customs.
- II. The total size of tariff-rate quotas is determined on a yearly basis. Tariff-rate quotas on grain, cotton, and sugar are granted to end users before January 1 each year and are valid in a whole Gregorian calendar year. As to the goods that have been loaded before 31 December, the quota licenses can be extended to the end of February of the following year. The validity of quota certificates for holders of quotas on grain, cotton and sugar to handle customs clearance is the whole Gregorian calendar year.
- Quotas on wool, wool tops and fertilizers are allocated to those who come first with the contract. The validity of quota certificates granted in 2017 to handle customs clearance is three months.
- III. Quota holders shall return the un-used quota of the year within the prescribed time limit every year so that reallocation can be made. In order to ensure that allocated quotas are actually used for imports, any importer who has not used up its quota and failed to return the un-used quota within the prescribed time limit will be reduced of the tariff-rate quota in the following year.
- IV. With respect to commodities subject to import tariff-rate quotas, except for quotas allocated to those who come first, the period of time allowed for the submission of applications for licenses is 15 days.
- V. As for commodities subject to import tariff-rate quotas, except for quotas allocated to those who come first, the time for processing applications is two months upon expiry of the period for submission of applications.
- VI. As for commodities subject to import tariff-rate quotas, there should be at least one day between the granting of quota certificates and the date of opening of the period of importation.
- VII. With respect to commodities subject to import tariff-rate quotas, applicants can file license applications with the organs authorized by the Ministry of Commerce for sugar, wool, tops and fertilizers or the National Development and Reform Commission for grain and cotton. Such organs will forward them to the Ministry of Commerce or the National Development and Reform Commission, which will then grant import tariff-rate quotas to the applicants through its authorized organ. After obtaining the tariff-rate quotas certificate, import tariff-rate quota holders are not required to apply for import licenses otherwise.
- VIII. In the event import tariff-rate quotas cannot satisfy the total applications of eligible applicants, allocations of import tariff-rate quotas on grain, cotton and sugar will be made based on past performance, production and processing capacity, operation quantity and other related factors; import tariff-rate quotas on wool, tops and fertilizers will be allocated based on first come, first served principle.

Tariff-rate quota allocation department will publish the detailed rules on application for and allocation of import tariff-rate quotas, which provide the requirements for import quota applicants and new importers. New importers shall, like other applicants, submit quota applications of the following year between 15 October and 30 October of each year.

Upon submission of applications for import tariff-rate quotas, the quota administrative authority will make allocations within two months.

- IX. Import tariff-rate quota application procedures (import licensing procedures) are required with respect to commodities subject to import tariff-rate quotas, irrespective of whether export permits are issued by exporting countries or not. Import tariff-rate quota applicants are not required to obtain commodity import licenses after they have obtained tariff-rate quota certifications for customs clearance.
- X. Not applicable.
- XI. There is no such requirement.

7. There is no quantitative limit on importation of commodities subject to automatic import licensing and import licenses.

- (a) With respect to commodities subject to automatic import licensing, the issuing authority shall, to the extent of feasibility, immediately approve license applications with accurate content and in complete forms upon receipt and shall not exceed 10 working days in maximum under special circumstances.

In the case of an eligible application, the issuing authority shall grant the import license within three business days upon receipt of the application and shall not exceed 10 business days at the most under special circumstances (exclusive of the time for prior document of approval required for importing ozone depleting substances and certain used mechanical and electronic products).

- (b) With respect to commodities subject to automatic import licensing, the issuing authority shall, to the extent of feasibility, immediately approve license applications with accurate content and in complete form upon receipt and shall not exceed 10 working days in maximum under special circumstances.
- (c) There is no limitation.
- (d) With respect to commodities subject to automatic import licensing, applicants can just file applications with the Ministry of Commerce or its entrusted institutions.

With respect to commodities subject to import licensing, applicants shall first file applications with the competent authorities depending on the different types of commodities and then collect import licenses from the Ministry of Commerce or its entrusted institutions upon approval. Qualified applicants can obtain import licenses in no more than three working days and in no more than ten working days under special circumstances.

8. In the event the State decides to take interim prohibitive measures against or impose interim import quantity restrictions on commodities subject to automatic import licensing, issuance of automatic import licenses will be ceased from the effective date of interim measures.

In the event an applicant of commodity import licenses does not conform to the provisions of Chapter II or Chapter III of *the Measures for the Administration of Commodity Import Licenses* (Decree of the Ministry of Commerce [2004] No. 27), its application for licenses may be refused.

The reasons for the refusal will be given to the applicant, whom will be informed of its legal rights to resort to an administrative reconsideration or administrative suit.

#### **Eligibility of importers to apply for licence**

9. On commodities subject to import licenses, automatic import licensing and import tariff-rate quotas, save for that commodities under state-trading administration need to be imported by agents of state-trading enterprises, any person or firm who satisfies the legal business qualifications and requirements may apply for a license for the importation of such commodities. There is a published list of state-trading enterprises.

## Documentation and other requirements for application for licence

10. Information and materials required to be provided to apply for import licenses are detailed in Chapter II and Chapter III of *the Measures for the Administration of Commodity Import Licenses* (Decree of the Ministry of Commerce [2004] No. 27).

Information and materials required to be provided to apply for automatic import licenses are detailed in Article 8 of *the Measures for the Administration of Commodity Automatic Import Licenses* (Decree of the Ministry of Commerce and the General Administration of Customs [2004] No. 26).

Information required in an application for import tariff-rate quotas on agricultural products is detailed in *the Application Requirements and Allocation Principles of Grain Import Tariff-rate quotas in 2017* and *the Application Requirements and Allocation Principles of Cotton Import Tariff-rate quotas in 2017* promulgated in the Announcement No. 23 [2016] by the National Development and Reform Commission, and the Detailed Rules on *the Implementing Rules on the Administration of Import Tariff-rate quotas on Wool and Tops in 2017* and *the Application and Allocation of Sugar Import Tariff-rate quotas in 2017* published by the Ministry of Commerce respectively in the Announcement No. 66 [2016] and Announcement No.53 [2016].

Information required in an application for import tariff-rate quotas on fertilizer is detailed in *the Volume, Allocation Principles and Application Procedures of Fertilizer Import Tariff-rate Quotas in 2017* published in the Announcement No. 56 [2016] by the Ministry of Commerce.

11. Documents required to be provided for actual import of commodities subject to import licensing are detailed in *the Measures for the Administration of Commodity Import Licenses* (Decree of the Ministry of Commerce [2004] No. 27) and *the Working Rules on Issuance of Import Licenses* (Shang Pei Fa [2007] No. 360).

Documents required to be provided for actual import of commodities subject to automatic import licensing are detailed *the Measures for the Administration of Commodity Automatic Import Licenses* (Decree of the Ministry of Commerce and the General Administration of Customs [2004] No. 26).

Documents required to be provided for actual import of agricultural products subject to import tariff-rate quotas are detailed in Chapter II of *the Interim Measures for the Administration of Import Tariff-rate Quotas of Agricultural Products* (Decree of the Ministry of Commerce and the National Development and Reform Commission [2003] No. 4).

Documents required to be provided for actual import of fertilizer subject to import tariff-rate quotas are detailed in Article 13 of *the Interim Measures for the Administration of Import Tariff-rate Quotas of Fertilizer* (Decree of the former National Economic and Trade Commission and the General Administration of Customs [2002] No. 27).

12. No.

13. No.

## Conditions of licensing

14. The validity of an import license is one year, effective in the year, which can be extended for once for no more than three months.

The validity of an automatic import license is six months, effective in the calendar year. The license holder needs to go through formalities with the original issuing authority if the validity needs to be extended.

The validity of a certificate for import tariff-rate quota of agricultural products is one year, effective in the year, which can be extended but only to February the next year. The certificate for import tariff-rate quota of agricultural products allocated to those who come first shall be effective for three months upon issuance in 2017 and no later than 31 December 2017, while whose validity can be extended to no later than February of the following year.

The certificate for import tariff-rate quota of fertilizer in 2017 shall be three months upon issuance and no later than 31 December 2017.

15. With respect to commodities subject to import tariff-rate quotas, the quota holders shall return the tariff-rate quotas not used in the year within a specified time limit every year so that reallocation can be made. In order to ensure that all allocated tariff-rate quotas are used for imports, anyone who has not used up the tariff-rate quota allocated in the year and failed to return the remaining quota within the specified time limit will be reduced of the volume of the tariff-rate quota in the following year.

The quota licensing administration will urge the Issuing Authorities for tariff-rate quotas of fertilizer to remind enterprises whose writing-off rate is less than 25% in the first quarter to timely return the quota not used, to warn and caution enterprises whose writing-off rate is less than 25% in the second quarter, and to reduce 50% of the tariff-rate quota volume, cease granting new Certificate for Import Tariff-rate Quotas of Fertilizer or take other measures against enterprises whose writing-off rate is less than 25% in the third quarter.

The non-utilization of an import license or an automatic import license or of a portion thereof will not be subject to penalty.

16. Import licenses, automatic import licenses and tariff-rate quota certificates are non-transferable.

17. There is no other condition.

#### **Other procedural requirements**

18. Inspection and quarantine certifications issued by the quality inspection authority shall be provided for commodities listed in the statutory inspection catalogue before import.

19. China does not maintain limitation on international payment under commodity trading.

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