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Committee on Import Licensing

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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES¹

NOTIFICATION UNDER ARTICLE 7.3 OF THE AGREEMENT ON IMPORT LICENSING PROCEDURES (2019)

MEXICO

The following communication, dated 20 September 2019, is being circulated at the request of the delegation of Mexico.

Outline of systems

1. The import licensing system (prior permit and/or automatic notice) in Mexico rests on the premise that imports into the country are exempt from this requirement except for those products which are subject to prior import licensing (prior permit and/or automatic notice) by decision of the Ministry of the Economy (SE). In Mexico, the import licensing procedure (prior permit and/or automatic notice) is based on the Foreign Trade Law and its Implementing Regulations as well as the SE's decision issuing general rules and criteria in respect of foreign trade.

The products subject to Mexico's import licensing system, identified by tariff heading, are published in the ministerial decisions issued by the SE and published in the *Diario Oficial de la Federación* (DOF), the national Official Journal of the Government of Mexico.

The import licensing system, administered by the SE, is subject to the opinions and recommendations of the Foreign Trade Commission (COCEX), which acts as a consultative body to all entities of the Federal Public Administration in matters concerning trade policy formulation and may hold consultations with the interested parties.

In order to ensure that the regulation containing the import licensing requirement properly identifies the regulatory impact, and the social benefits and costs that its implementation would generate, all import licences are subject to the regulatory improvement process in the National Commission on Regulatory Improvement (CONAMER). CONAMER conducts an *ex ante* analysis of the regulation that is to be issued with a view to ensuring the quality thereof, and the process is backed up by a public consultation, which gives it considerable value added.

Import licensing procedures are applied in an impartial, transparent and expeditious manner, and are administered fairly.

¹ See document G/LIC/3, Annex, for the questionnaire.

Purposes and coverage of licensing

2. Non-automatic import licensing (prior permit)² and automatic import notice.³

3. The import licensing system is applied to products from all countries on a most-favoured-nation basis, except where licences are administered in accordance with preferential agreements.

4. The non-automatic licensing (prior permit) regime is used by the Mexican Government to regulate trade in specific products, to protect consumers, public health and the environment, and to regulate trade in products in accordance with the provisions of the international treaties and agreements to which Mexico is a party.

According to Article 21 of the Regulations to the Foreign Trade Law, the automatic import notice should be seen as an automatic licensing requirement to which the SE may subject imports of goods for the purposes of maintaining a register of foreign trade operations, provided there is no alternative administrative procedure that would enable such operations to be monitored and controlled in a more flexible manner.

5. The Government of Mexico's import licensing system rests on the following legal basis:

- i. The Foreign Trade Law (Title IV, Chapter II, Section I, Article 20 and Section II, Articles 21 and 22).
- ii. The Implementing Regulations to the Foreign Trade Law (Title III, Chapter II).
- iii. Decision of the Ministry of the Economy (SE) on general rules and criteria in respect of foreign trade, containing provisions applicable in Mexico to prior permits and automatic notices. The tariff headings subject to licensing are published in the DOF in conformity with the Foreign Trade Law, thereby ensuring the system's transparency.

In the light of the above, prior import permits and automatic import notices, as part of the Mexican Government's legal system governing foreign trade, can be required by law.

Since the Federal Executive is under obligation to ensure that the different economic entities involved in foreign trade conduct their activities in a climate of legal certainty and to clearly define the status of the different rules establishing the various foreign trade instruments and programmes, the SE issues ministerial decisions regulating the licensing regime applicable in Mexico.

Procedures

6. Information regarding the import licensing system (prior permit and/or automatic notice), time-periods for application, administrative procedures and the formalities for filing applications applicable to each procedure, are published by the SE in the DOF.

- I. To ensure that the information is made available for consultation nationwide by any interested party, both in printed and electronic form, it is posted on the DOF website (<http://dof.gob.mx/index.php>).

This allows the governments of other countries and their trade representatives (chambers of commerce) to access publications on the import licensing system in Mexico immediately.

² A list of the products subject to non-automatic import licensing is provided in Annex I of this document.

³ A list of the products subject to automatic import licensing is provided in Annex II of this document.

- II. Not applicable.
- III. Import licences (prior permits and/or automatic notices) approved by the SE are allocated to all natural or legal persons that need to carry out foreign trade operations. It should be noted that the SE approves all import licences for natural or legal persons that fulfil the administrative requirements for engaging in foreign trade operations.

The elements used to ensure that approved import licences are effectively used for the importation of the products indicated in the SE's resolution are:

- import or export customs procedures;
- description of the goods;
- condition of the goods (new or used);
- tariff heading;
- quantity to be imported or exported;
- unit of measurement;
- value of the invoice in dollars;
- country or countries of provenance or destination.

The authorized quantities for each of the import licences that have not been utilized under the authorization that was granted cannot be cumulated for future licence applications.

Publicly available information on importers to which an import licence has been granted by the Mexican Government can be consulted by the general public or by other governments and export promotion bodies in the exporting countries through the transparency portal (<https://www.snice.gob.mx/cs/avi/snice/transparenciacuposportada.html>).

- IV. The due date is established as of the time of publication in the DOF of a ministerial decision providing for the allocation of an import licence. It is important to note that licence applications may be filed immediately upon entry into force of the corresponding provision.
- V. Generally speaking, the time it takes to grant licences varies according to the type of licence, and ranges from 1 to 15 working days.
- VI. Recipients of import licences may use them immediately upon issuance by the SE.
- VII. All import licences administered by the SE are granted by a single administrative body, in this case the SE itself, so that the applicant only has to deal with a single focal point to obtain the licence in question.
- VIII. Applications are examined in the chronological order in which they are submitted. They are analysed, and approved in accordance with the criteria established in the regulations applicable to each product for which an import licence is required. It is important to note that there is no maximum limit on the amount to be allocated per applicant.
- IX. Not applicable.
- X. Not applicable.
- XI. Not applicable.

7. The Government has not set any time-limit for the submission of applications for a licence. It is up to the persons in question to submit their applications at such time as their schedule of foreign trade operations requires them to do so.

According to the time-frame set forth in the decision on regulations for each licence, the interested parties receive their approved licences once they have met the corresponding requirements, regardless of whether or not the goods have arrived at the port without a licence.

It is up to the interested parties to familiarize themselves with the tariff and non-tariff regulations applicable to the goods they are importing or exporting before they carry out their foreign trade operations.

The import licence that has been approved for a certain good may be extended at the request of the interested party, provided that the criteria on which the original approval was based are still valid, that part of the quantity originally approved is still outstanding, and that the licence has not expired. The request for extension must be submitted to the Single Window for foreign trade, and the time-limit for replying is 13 working days.

8. Applications for import licences must meet all of the criteria and requirements for submission. If an import licence application is not duly substantiated or is incomplete, it will be refused. The interested party may resubmit the application once the causes of the refusal have been rectified. It is accepted once all of the inconsistencies – of which the applicant is informed in advance in a resolution issued by the SE via the Single Window – have been remedied.

Under Articles 85 and 86 of the Federal Law on Administrative Procedures, applicants may submit an appeal for review to the SE within a period of 15 days from the day following the entry into effect of the notification of the resolution in question. The document of appeal must be submitted to the SE, and the appeal will be heard by the supervisory authority.

In their document of appeal, the applicants must provide the following information:

- the administrative body to which it is addressed;
- the name of the appellant and of the injured third party where applicable, and an address for notifications;
- the measure being appealed and the date on which the appellant was notified or learned of the measure;
- the grievances;
- where applicable, a copy of the challenged decision or measure and of the corresponding notification. In the case of measures for which there has been no decision within the time-limit and which are therefore deemed to have been refused, either the written request for initiation of the procedure or the document on which there was no decision must be attached; and
- the evidence they are supplying that has an immediate and direct bearing on the challenged decision or measure, by attaching the documents available, including those certifying their standing if they are acting on behalf of another party or of legal persons.

Eligibility of importers to apply for licence

9. Any natural or legal person established in Mexico may apply for an import licence (prior permit and/or automatic notice) provided they meet the relevant requirements.

Documentational and other requirements for application for licence

10. Applicants for import licences (prior permit and/or automatic notice) must include the following information in their application:

- general data concerning the applicant (for natural persons, the Single Population Registration Code (CURP) and complete name, and for legal persons, the business name and federal taxpayers' registration), telephone, email, and domicile of the applicant;
- information concerning the product (new or used), the regime (definitive or temporary import or export), general data on the goods to be imported or exported (e.g. tariff heading, quantity, value in dollars, country of provenance);
- data concerning the legal representative or the person authorized to submit the application, domicile, date, place, name and signature of the applicant;
- the form includes a section in which any prior procedure may be mentioned if appropriate, as well as an annex in which the applicant may enter a list of headings, descriptions, values, quantities and codes.

The following documents must be attached:

- for legal persons: articles of association and amendments thereto, and the relevant powers of attorney;
- natural persons: original and simple and legible copy of valid official identification, proof of domicile;

- for both of the above: legible copy of the federal taxpayers' registration (RFC) and RFC code, and specific documents for each one of the products subject to the regulations.

11. Once the import licence has been approved, the SE automatically sends all of the information regarding the approved import licence to Customs, and the applicant may use the licence immediately, without being required to submit further information.

12. Import licensing procedures are free: there is no administrative charge or licensing fee.

13. There are no deposit or advance payment requirements associated with a licence approval.

Conditions of licensing

14. All import licences (prior permit and/or automatic notice) approved by the SE through a resolution carry a period of validity, which takes full effect as from the time of their approval. The validity of import licences may be extended provided that the criteria on which the approval of the original import licence was based are still valid, that part of the quantity originally approved is still outstanding, and that the import licence has not expired.

The maximum period of validity for non-automatic import licences (prior permits) is one year.

Automatic import notices have a maximum period of validity of four months from the date on which the SE issued the corresponding authorization code.

15. The interested parties may utilize an import licence in full or in part without any penalty for the non-utilization of the licence or a portion of the licence.

16. The SE approves import licences for applicants that fulfil the stipulated requirements and criteria. Consequently, they are personal and non-transferable between importers, since they can be requested by any natural or legal person without restriction.

17. The issue of import licences is not subject to any quantitative condition or restriction.

Other procedural requirements

18. The importation of goods subject to an import licence (prior permit and/or automatic notice) is not subject to any administrative procedures other than the import licensing procedures described above.

19. There is no relationship between the import licensing system and the foreign exchange system.

ANNEX I: NON-AUTOMATIC IMPORT LICENSING

General description of the restriction	Codes of tariff lines affected, based on HS 2012	Detailed product description
Prior import permit issued by the SE	Products under the following codes: 4012.20.01 4012.20.99 6309.00.01 7102.10.01 7102.21.01 7102.31.01	Used pneumatic tyres; worn clothing and other worn articles; diamonds, unsorted; diamonds, industrial, unworked; diamonds, non-industrial, unworked.
Prior import permit for used vehicles issued by the SE	Used products under the following codes: 8701.20 87.02 87.03 87.04 8705.40 87.06	Road tractors for semi-trailers; motor vehicles for the transport of ten or more persons; motor vehicles principally designed for the transport of persons; motor vehicles for the transport of goods; concrete-mixer lorries; chassis for motor vehicles.
Prior import permit for hydrocarbons and petroleum products issued by the SE	Products under the following codes: 2709.00 2710.12 2710.19 2711.19	Gasoline, diesel oils, other hydrocarbons and petroleum products.

ANNEX II: AUTOMATIC IMPORT LICENSING

General description of the restriction	Codes of tariff lines affected, based on HS 2012	Detailed product description
Automatic import notice issued by the SE	Various products under the following chapters: 72 73	Products of the steel sector
Automatic import notice issued by the SE	Products under the following code: 9504.30	Electrical, electronic and/or mechanical gaming machines that perform random draws with numbers or symbols
Automatic import notice issued by the SE	Various products under the following codes: 64.01 64.02 64.03 64.04 64.05	Products of the footwear sector
Automatic import notice issued by the SE	Various products under the following chapters: 51 52 54 55 60 61 62 63	Products of the textiles and clothing sectors