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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 (2022)

TONGA

The following communication, dated 19 September 2022, is being circulated at the request of the delegation of Tonga.

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

1 ARMS AND AMMUNITION

Outline of System

1. The Arms and Ammunition Licensing system aims to make better provisions for controlling the possession, manufacture, sale, repair, storage, import and export of arms and ammunition. Private persons (not being licensed dealers) must obtain the relevant Arms License before the arm/ammunition can be withdrawn from Customs.

Importation is considered under Part V, Section 15 of the Arms and Ammunition Act 2020 that requires no person shall import any arm or ammunition or parts of arms and ammunition into the Kingdom unless he holds a licence.

Purposes and coverage of licensing

2. Licensing system covers all arms and ammunition or parts of arm and ammunition. Ammunition such as: bullets, cartridges, shells or anything designed or adapted for or capable for use with any arm, or designed or adapted to contain any noxious liquid, gas or other thing but does not include spears discharged from an arm solely for the purpose of killing fish. Arms such as: any lethal barrelled weapon of any description from which any shot, bullet or other missile, and any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing dangerous to persons, and includes any component part of any such weapon, and any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon, but does not include articles solely to discharge spears for spearing fish.

3. The system applies to all goods regardless of their originating country.

4. The licensing is intended to restrict the quantity of importation. With regards to arms and ammunitions a license to import would only be granted for those arms and ammunition that would be able to get a license to possess here in Tonga.

5. Import Licensing of arms and ammunition is stipulated under the Arms and Ammunition Act 2020 Part V and subjected to conditions provided in Section 15. The Arms and Ammunition Act 2020 and Arms and Ammunition Regulations 2020 provide the rules and procedures relating to arms and ammunition.

Procedures

6.I. Yes, information is published as all the Acts and Regulations are on the Attorney General's Office's website (<https://www.ago.gov.to>) for filing applications for licenses. There is no prescribed quantity, only those that are approved and shown on one's license. The Acts stipulates if there are any exceptions from the licensing requirement and the procedures.

II. The decision of the quotas as it stands for arms and ammunition has been one that was decided on in previous years and has not been changed. If the authorities who are empowered to do so believes there is a need to make this change, then they will do so.

III. Licenses can be allotted for any goods covers by the Acts and Regulations and not limited to domestic producers. Each license has an expiry date which ensures that license holders must import the goods contained in the license within a specified time. The unused allocations are not added to quotas for a succeeding period. The names of importers to whom licenses have been allocated may be given no governments and export promotion bodies of exporting countries based on a justifiable reason.

IV. One can apply at any time as the quotas will be shown when license is granted.

V. In practice if all documents are ready then the whole process will take one month however it will also depend on the availability of the Minister of Police as he, by law, will approve these applications.

- VI. There is no period for when importation is open. Once a license of import is obtained, the licensee will be able to import ammunitions and firearms as stipulated by the license granted.
- VII. Yes, it is considered by a single administrative organ only. However, for foreigners they have to provide a visa permit.
- VIII. Yes, allocation is made on a first come, first serve basis. Yes, there is a minimum amount allocated per applicant and it is determined by the nature of the applications.
- IX. Import Licenses will still be required, and it will not be automatic as it will still have to pass through the various required processes.
- X. There is nothing in place as far as the Acts and Regulations are concerned an import license is always needed.
- XI. No.
- 7.(a) Ideally an import license should be obtained before the goods reaches Tonga. There have been cases where the goods arrive at port however it is not released until a license is obtained but these cases run a high risk of being charged for the importing of these unlicensed goods.
- (b) No.
- (c) There is no limitation period in the year for someone to lodge an application for a licence as well as importation of ammunition and firearms.
- (d) Depending on the nature of the application and the applicants themselves. If the applicant is a foreigner with a business, then the relevant Government Ministries may be involved. Such as they will have to provide business license from Ministry of Trade and Economic Development, visa from Immigration Tonga, etc. However, it is for the applicant to provide those documents if required.

8. As provided under the Arms and Ammunition Act 2020, Part VI, Section 27, subject to the provisions of section 26, the Minister of Police may refuse any applicant for issue or renewal of any licence without assigning any reason for such refusal, and may for reasons of public safety to be duly recorded by him, or when the licensee has been convicted of an offence under this Act, or on breach of a condition of a licence, or on other prescribed grounds, cancel or suspend the licence. No licence shall be issued or renewed to any person under the age of 21 years. The power to grant a licence lies with the Minister of Police's discretion. The reason for refusal is not given and there is no avenue for an appeal. However, if one can make a case for a judicial review.

Eligibility of importers to apply for license

9. All persons, firms and institutions are eligible to apply for licences.
- (a) Yes, for a person but according to Section 6(3) of the Act, firms and institutions are not eligible to apply.
- (b) No.

Documentation and other requirements for application for license

10. Every holder of such licence shall endorse thereon descriptive particulars of all arms and ammunition, or parts of arms and ammunition imported thereunder, and shall return such licence to the Minister of Police or to the nearest police station within three days from the expiration of the terms allowed thereby. Arms and Ammunition Act 2020 - 15(3). Application form is in Section 15(2) under the Arms and Ammunition Regulation 2020. The license can be picked up from the Ministry of Police. The information required are:

- Details of Applicant;
- Purpose of obtaining arm or ammunition;

- Type of arm or ammunition;
- Letter of Application;
- Reference letter;
- Police record; and
- Passport Photo.

11. Import and possession license and custom documents.

12. Fee for new applications is TOP\$25 and for renewal applications is TOP\$5.

13. No

Conditions of licensing

14. All license expires on 31 December of every year and must be renewed every new year. This is done by filling out a general form which has various parts, and one must fill in the relevant parts of the form if it is for renewal. The fee for this is TOP\$7.75.

15. No.

16. No.

17.(a)Yes.

(b) Yes.

Other procedural requirements

18. No.

19. An import license does not have to be presented in order to obtain foreign exchange. Foreign exchange being available to cover licenses issued will depend on the foreign exchange being able to provide for the needed supply of it. There are no formalities needed to be fulfilled in order to obtain foreign exchange other than the usual process that foreign exchange outlets have.

2 EXPLOSIVES

Outline of System

1. The Explosives Licensing system is to make better provision for the regulation, use, possession, transport, manufacture, sale, storage, import and export of explosives.

Purposes and coverage of licensing

2. Import Licensing covers all explosives products under the Explosives Act 2020, Section 2(a)&(b) and its classification in Part II (3) of the Explosives Regulations 2020 Revised Edition.

3. The system applies to all goods regardless of their originating country.

4. The licensing is intended to restrict the quantity of importation.

5. Explosives Import Licencing is stipulated under the Explosives Act 2020 and Explosives Regulation 2020. The licensing is statutorily required. Yes, legislation leaves designation of products to be subjected to licensing at the administrative discretion. It is not possible for the government to abolish the system without legislative approval.

Procedures

6.I. Yes, information is published in the Attorney General's Office's website <https://www.ago.gov.to>.

- II. The quotas for explosives are provided by the Explosives Regulations namely Regulation 23.
 - III. Licenses can be allotted for any goods covered by the Acts and Regulations and not limited to domestic producers. Each license has an expiry date which ensures that license holders must import the goods contained in the license within a specified time. The unused allocations are not added to quotas for a succeeding period. The names of importers to whom licenses have been allocated may be given to governments and export promotion bodies of exporting countries based on a justifiable reason.
 - IV. One can apply at any time as the quotas will be shown when license is granted.
 - V. There is no expressed length of time.
 - VI. At the moment there is no exact date of opening the period of opening with regards to importation. Therefore, at the moment the Acts and Regulations are silent.
 - VII. With regards to the application for license there is no other administrative organ that needs note or approval. However, foreigners may need to demonstrate visa.
 - VIII. It is first come first serve. There is a maximum amount allocated per applicant and this will be determined on the nature of their applications.
 - IX. Import licenses will still be required and it will not be automatic as it will still have to pass through the various required processes.
 - X. There is nothing in place as far as the Acts and Regulations are concerned an import license is always needed.
 - XI. No.
- 7.(a) Ideally an import license should be obtained before the goods reaches Tonga. There have been cases where the goods arrive at port however it is not released until a license is obtained but these cases run a high risk of being charged for the importing of these unlicensed goods.
- (b) No.
 - (c) The limitations would be human resources as the Units that may look after the process are few and also have other work commitments as they may wear more than one hat.
 - (d) Depending on the nature of the application and the applicants themselves. If the applicant is a foreigner with a business, then the relevant Government Ministries may be involved. Such as they will have to provide business license from Ministry of Trade and Economic Development, visa from Immigration Tonga, etc. However, it is for the applicant to provide those documents if required.
8. The power to grant a license lies with the Minister of Police's discretion. The reason for refusal is not given and there is no avenue for an appeal. However, if one can make a case for a judicial review.

Eligibility of importers to apply for license

- 9.(a) No, a person is not eligible to apply but firms and institutions are eligible to apply.
- (b) No.

Documentation and other requirements for application for license

- 10. Refer to Form B and Form C provided under the Explosives Regulations 2020 Revised Edition.
- 11. Import and possession license and custom documents.

12. Yes, according to the explosives Regulations 2020 Revised edition, Second Schedule, page 43. "For every permit to import, export or remove explosives \$0.40."

13. No

Conditions of licensing

14. All license expires on 31 December of every year and must be renewed every new year.

15. No

16. No

17.(a)Yes

(b) Yes

Other procedural requirements

18. No

19. An import license does not have to be presented in order to obtain foreign exchange. Foreign exchange being available to cover licenses issued will depend on the foreign exchange being able to provide for the needed supply of it. There are no formalities needed to be fulfilled in order to obtain foreign exchange other than the usual process that foreign exchange outlets have.

3 METHYLATED SPIRITS

Outline of System

1. The Methylated Spirits Licencing System aims to control the importation, sale and use of methylated spirits.

Importation is considered under Part II, Section 5(1) of the Methylated Spirits Act 2020, which no person shall import methylated spirits into Tonga unless he holds a licence for that purpose.

Purposes and coverage of licensing

2. The Methylated Spirits Licencing system covers products subject to licensing such as any mixture of ethyl alcohol (ethanol) that has been denatured with methyl alcohol (methanol). This licencing system aims at protecting the human, animal or plant life and health and to protect the environment of Tonga.

3. The system applies to all goods regardless of their originating country.

4. The licensing is intended to restrict quantity of importation.

5. Methylated Spirits Licensing is stipulated under the Methylated Spirits Act 2020 Section 5 and subjected to conditions provided in Schedule Form 1. The Methylated Spirits Act 2020 provides the rules and procedures relating to methylated spirits. The licensing is statutorily required. Yes, legislation leaves designation of products to be subjected to licensing at the administrative discretion. It is not possible for the government to abolish the system without legislative approval.

Procedures

6.I. Yes, information is published in the Attorney General Office's website <https://www.ago.gov.to>. The Methylated Spirits Act does not have a prescribed quantity only those that are approved and shown on one's license.

- II. The decision of the quotas as it stands for methylated spirits has been one that was decided on in previous years and has not been changed. If the authorities who are empowered to do so believes there is a need to make this change, then they will do so.
 - III. Licenses can be allotted for any goods covered by the Acts and Regulations and not limited to domestic producers. Each license has an expiry date which ensures that license holders must import the goods contained in the license within a specified time. The unused allocations are not added to quotas for a succeeding period. The names of importers to whom licenses have been allocated may be given to governments and export promotion bodies of exporting countries based on a justifiable reason.
 - IV. One can apply at any time as the quotas will be shown when license is granted.
 - V. There is no expressed length of time.
 - VI. At the moment there is no exact date of opening the period of opening with regards to importation. Therefore, at the moment the Acts and Regulations are silent.
 - VII. With regards to the applications for license there is no other administrative organ that needs note or approval. However, foreigners may need to demonstrate visa.
 - VIII. It is a first come first serve. There is a maximum amount allocated per applicant and this will be determined on the nature of their applications.
 - IX. Import Licenses will still be required, and it will not be automatic as it will still have to pass through the various required processes.
 - X. There is nothing in place as far as the Acts and Regulations are concerned an import license is always needed.
 - XI. No
- 7.(a) The Import Business Licence, such as any other Business Licence, shall be valid in perpetuity so long as it is renewed by the businessperson pursuant to this section. Businesses which inadvertently import goods without an import licence can promptly obtain an import licence upon lodging the required application with the Business Licensing Unit of the Ministry.
- (b) No, upon application, import licences can be issued on payment of the prescribed fee given that all application requirements are completed.
- (c) Applications for import licences can be lodged during any working day. Renewal of a licence, a licensee shall produce his register to the licensing officer for inspection. The limitations would be human resources as the Units that may look after the process are few and also have other work commitments as they may wear more than one hat.
- (d) The import licence application for methylated spirits will only be approved by one licencing authority which is the Minister of Policy. Provided that such licensing officers shall be police officers not below the rank of Sergeant, or in charge of a police station.
8. The power to grant a license lies with the Minister of Police's discretion. The reason for refusal is not given and there is no avenue for an appeal. However, if one can make a case for a judicial review.

Eligibility of importers to apply for license

- 9.(a) Yes.
- (b) These are in a restrictive system.

Documentation and other requirements for application for license

10. Refer to Form 1 and Form 2 provided under the Methylated Spirits Act 2020.

11. Documents required upon actual importation shall make a declaration thereof to the Customs Officer on arrival and before clearing such methylated spirits through Customs shall produce to such Customs Officer a licence issued under section 5.

12. No

13. No

Conditions of licensing

14. All licenses expires on 31 December of every year and must be renewed every new year.

15. No

16. No

17.(a)Yes

(b) Yes

Other procedural requirements

18. No

19. An import license does not have to be presented in order to obtain foreign exchange. Foreign exchange being able to provide for the needed supply of it. There are no formalities needed to be fulfilled in order to obtain foreign exchange other than the usual process that foreign exchange outlets have.

4 OZONE-DEPLETING SUBSTANCES

Outline of System

1. The ozone-depleting substances licencing permit regulates the use of ozone depleting substances and to implement the provisions of the convention for the protection of the ozone layer and the protocol on substances that deplete the ozone layer and for related purposes.

Purposes and coverage of licensing

2. The ozone-depleting substances licensing system covers products such as any other CFCs or HBFCs(controlled substances) which has the following permits are the only exceptions to be imported into the country are: a quarantine and pre-shipment permit in relation to methyl bromide, medical permit in relation to medical products using a controlled substances, human health or safety permit or a base year permit, as mentioned in "Section 7" of the ozone layer protection act 2020. Also, a list of certain products under "Section 6" of the Act but under a condition if such products containing the controlled substances are solely used for packaging, or part of packaging of another imported goods.

3. The application of the licensing system will apply to goods originating from countries that are parties to the Montreal Protocol. However, it is restrictive and prohibited to non-parties to the Montreal Protocol and non-complying parties to the Ozone Layer Protection Act. Article 4 of the Montreal Protocol provides that the control of trade from any state that is not a party to the Protocol shall ban importation from those states. Article 4B of the Montreal Protocol provides for the control of trade with Parties to import goods after the phase-out date for uses that are agreed by the Parties to be essential for domestic use, as well, it ceases the production of that substances and the export of used, recycled and reclaimed quantities. Section 6 of the Ozone Layer Protection Act provides the prohibition of goods or products that are imported from a non-party to the Protocol.

4. No, the licensing system is not intended to restrict a preferred quantity or value of imports but to restrict the importation of gases that are a risk to the safety and security of the people and to the environment i.e., the possible risk of emitting controlled substances in the Kingdom. To reduce ozone depleting substances in the Kingdom complementary to the purposes of the Protocol. These purposes have been realized with the strong cooperation of the Customs and MEIDECC to monitoring and the issuance of permits and/or licences for import activities of these controlled substances into the Kingdom. Certain procedures have been adopted including investigation of these activities, seizing controlled substances without a licence or import permit.

5. The licensing system is cited under the Ozone Layer Protection Act 2010, revised edition 2020 [CAP.21.07]. Yes, the licensing system is statutorily required as it is provided in the Ozone Layer Protection Act for matters of importing controlled substances. The Ozone Layer Protection Act applies a general interpretation to licensing including the provision of information relevant to controlled substances, cancellation of license and license in relation to general provisions to licence. Additionally, it is not possible for the government to abolish the system without legislative approval unless this order does not lack the support of the legislation or the Constitution. Government or the executive branch is bound to play its role within the powers provided for them by the Constitution. Therefore, abolishing the system without legislative approval is not within their approved discretion.

Procedures

- 6.I. No, information regarding the restriction to the quantity or value of imports are not published, but it is found in the Ozone Layer Protection Act Part III that determines the size of quotas in a calendar year. Formalities include filing applications for licenses are done at the Climate Change Department, MEIDECC for approval of importation. It is brought to the attention of possible importers through an information outlet in the Climate Change portal or by the Customs Officers. As mentioned above, the overall amount is not published and there is no amount allocated to goods from each country. The quota size remains the same for each importer and importers are liable if the quota size exceeds the limits provided by the Ozone Layer Protection Act. Non-compliance of the quota size are liable to an offence and penalty under the Act. Quota sizes are allocated by quota periods provided in section 18A of the Ozone Layer Protection Act. Each importer is entitled to the same quota size and quota periods by the Minister responsible for Climate Change. There are exceptions included in the allocation of reserve quota by importers upon application to the Minister responsible for Climate Change and satisfaction that the application is essential for medical or public safety purposes, no practicable alternative use and the HCFC and HFC is not available for required use within a reasonable period as according to section 18H of the Ozone Layer Protection Act.
- II. The determination of quota size is determined on a yearly basis which is then subdivided into quota periods; first, second and subsequent quota periods. Yes, size of quota is predetermined in the Ozone Layer Protection Act section 18, but licenses are also issued on one calendar year before renewal. It is necessary for importers to renew their licenses every year after the cut-off date for the procedures of the Ministry responsible for Climate Change and the Environment as well as accordingly to the requirements of permits and license to use quotas.
- III. In the case of importation, there are permits for certain goods as provided in section 5 and section 6 of the Ozone Layer Protection Act but there are exceptions for imported goods if importers have applied for permits. Certain goods that contain methyl bromide and HCFC are not prohibited according to the Act. The initial procedure before a license is allocated for imports is under the direction of the Minister to direct Ozone Officers to investigate on the importer whether the imported goods will pose any risk to public health and safety before the license is allocated. Additionally, importer must fulfil the requirements of handling-controlled substances before the license is granted by the Minister. Yes, the identity of the importers is made known to stakeholders i.e., relevant members that are responsible to importation of goods but not to the general public.
- IV. The period of time allocated for the submission of applications for licences is before 1 January, the following year in order for the importer to be allocated a quota for the timetable of the quota periods to be sufficient. After every succeeding year, a license must be submitted for the purpose of the next initial succeeding year.

- V. In accordance with the Ozone Layer Protection Act, there is no minimum and maximum lengths of processing applications. It all depends on the submission made by the applicant and the requirement from the Ministry for any further information before approval.
- VI. As mentioned above, it will depend on the eligibility of the importer to the conditions or requirements of the licensing system before the period of importation which is 14 days prior to importation date or it is before 30 January, at the beginning of the calendar year.
- VII. Yes, the consideration for the license application is affected by a single administrative organ and that is the Ministry responsible for Climate Change and the Environment. Yes, the importer must approach Customs and the Ministry regarding the imported goods but the consideration for the license will stay with the designated authority provided in Part 4 (g) (1).
- VIII. Every demand for licences must be fully satisfied in order to allocate a quota limit to the applicants. If it is not satisfied, the Ministry by notice to the applicant should inform the applicant that his or her application was not approved. Considering if the applicant is a first-time applicant, the Ministry will consult with the applicant on the necessary requirements of the application, for instance. However, the basis for the allocation to the application will depend on the quota size of the goods imported for consideration of the licence. Yes, there is a maximum amount allocated to each importer, but it is not determined by import goods. The basis of the quota size is determined by the phase-out period or the transfer of quotas in section 18D and 18E of the Ozone Layer Protection Act. Each quota size allocated for an importer is determined by calculations of the total amount of the importer or applicant. Both. On the event, the goods are needed or essential for medical purposes or public safety purposes, applications will be examined on receipt. However, it can also be examined simultaneously if required.
- IX. Yes, export permits are different from import licenses. However, import licenses are made when the goods arrive in the country. What is required to be issued before the importation of goods are import permits i.e., provides information about the goods that will arrive in the country as well as the amount of controlled substances before it arrives. Section 12 of the Ozone Layer Protection Act provides for the permits made in response to the importation of controlled substances into the country. Licenses are issued on receipt or simultaneously or after investigation that the location of the storage of these goods are safe and will not become a risk to the residents in the area and the public as well.
- X. This is usually by notice to the importing country that these goods will be imported into the country. This notice must be provided 14 days prior to the import period by the exporting country to the importing country. However, procedure-wise, an import permit must be issued to the importing country providing the necessary information regarding the imported goods. As mentioned, vice versa, if the import is not satisfied then the imported goods will not be accepted in the Kingdom by Customs upon notification from the Ministry responsible for Climate Change and Environment.
- XI. Yes, in relation to Article 4 of the Montreal Protocol certain goods are labelled as prohibited which is the same for section 5 and section 6 of the Ozone Layer Protection Act. Exportation of goods are only allowed if the goods are exported for the purpose of destruction but not for the purpose of sale in the domestic market. As it is provided by section 10 of the Ozone Layer Protection Act, there is a prohibition on sale of controlled substances in the Kingdom.
- 7.(a) As mentioned above, licences cannot be obtained within a shorter time-limit or for goods arriving at the port. Licenses are obtained once all the requirements of licensing is satisfied, given two weeks of ensuring that the licence can be granted to the importer.
- (b) No, it cannot be granted immediately on request.
- (c) The application is dependent upon the issuance of the licensing period and that is before the beginning of the calendar year or after the succeeding year before 30 January. This is to ensure that there is ample time for the calculation of the allocated quotas measured for every importer and the reporting of the phase-out period to the Montreal Protocol.

(d) Yes. Refer to the answer in Part 4 (g).

8. A refusal of an application may amount from the following reasons:

- Notice from relevant stakeholders i.e., Customs to refuse licence or from the National Ozone Advisory Committee.
- Unforeseeable Circumstances i.e., circumstances beyond control of natural persons
- Character of the Applicant i.e., negligence to complete the criteria for license.

Applicants do have the right to appeal if he or she feels that their licenses should have been approved to the National Ozone Advisory Committee for consideration.

Applicants by notice or filling out of a form of complaint to the Ministry of Climate Change and Environment that he or she requests that their license be looked at again for approval. Applicant must also state why their licenses should be approved.

Eligibility of importers to apply for license

9.(a) Eligibility comes from qualification of the relevant stakeholders to handle the controlled licences. Section 12A (4) provides for the requirement of stakeholders to undertake and complete good practice training. The system is operated under a restrictive licensing system where importers must undertake this training in order to apply for the license. It is important to note that the importation of controlled substances is prohibited according to the law unless it is satisfied upon permit or licence.

(b) No, the licensing system operates under a restrictive licensing system.

With regards to registration, the Ministry responsible for Climate Change works in close cooperation with countries that are a party to the Montreal Protocol. It is through this connection that, whenever an importer wishes to import products or goods into the Kingdom, the Ministry shall inform the exporting country to provide information about this importer. If the importer is not in the system of the exporting country, goods are seized at port and importer will have to go through legal proceedings for providing false information and importation for national security measures.

This procedure is one of the functions of the Ministry responsible for Climate Change as stated by the Ozone Layer Protection Act. As of now, there has been no registration fee for import purposes. However, it is in the process of development to recommend a fee for this registration procedure. As it is mentioned before, the confidentiality of the authorized importers are kept in the records of the Ministry responsible for Climate Change. It is not published now but there is consideration for future purposes.

Documentation and other requirements for application for license

10. Information that is required in applications includes:

- a. Name of Applicant
- b. Date of Application
- c. Residency
- d. Information About Goods including purposes of importation and others
- e. Eligibility of Applicant including any type of training

A form for licensing is in the process of amendments by the Ministry responsible for Climate. This form will be submitted at a later date apart from this questionnaire. It is the same with documents. These documents will include permit forms, police records of applicants and other specifications which will be included in the license form.

11. Permit Forms are actually required upon actual importation that the imported products can be used by the importer in the Kingdom.

12. As it has been mentioned before, there is yet to be a licensing fee or an administrative charge. The amount has been free of charge.

13. No.

Conditions of licensing

14. According to the Ozone Layer Protection Act, the period for a licence to remain valid is one year. Additionally, it cannot be extended but renewed after every calendar year.

15. Yes, there is a penalty as according to the Offences and Penalties provision of the Ozone Layer Protection Act.

16. No, according to the Ozone Layer Protection Act, no licences that will be issued under the Act shall be transferrable. The only condition towards transferring between importers is the quota size upon approval of the designated importer to transfer his or her reserve quota to another importer.

17.(a) Yes, there is quantitative restriction that is subject to products. As mentioned, aforethought, these quantitative restriction measures the limits of the quota size on the quota periods. This is meant to avoid exceeding the phase-out period of consumption.

(b) No, every product applies to quantitative restriction as according to the objects of the Montreal Protocol.

Other procedural requirements

18. Yes, permit forms. Please refer to Part III of the Ozone Layer Protection Act where it highlights different types of permits i.e., quarantine and pre-shipment permits, medical permits, human health or safety permits, and or base-year permits.

19. No, not at the moment, there is further requirements of the Ozone Layer Protection Act that needs to be amended for this question.

5 PESTICIDES

Outline of System

1. The Pesticide Licensing System aims at regulating the registration, manufacture, import, sale, storage, distribution, use and disposal of pesticides in Tonga.

Importation is considered under Section 13(1)(2) of the Pesticides Act [CAP.12.13] that no person shall manufacture, import, distribute or sell pesticides in Tonga unless he is a holder of a pesticide licence issues by the Registrar under this Act.

Purposes and coverage of licensing

2. Pesticide Licensing system covers all pesticides outlined in the Annex attached to document G/LIC/N/2/TON/8.

3. Applies to all goods regardless of originating countries. The licensing system is not intended to restrict the quantity or value of imports but to restrict the importation of pesticides that are a risk to the safety and security of the environment and people.

4. No, the purpose is mainly to ensure safety of the user and the environment of Tonga.

5. Pesticide Licensing System is stipulated under the Pesticides Act [CAP.12.13], Section 13 & 14.

Procedures

6.I. No, it is brought to the attention of possible importers by enquiring to the Ministry of Agriculture, Food and Forest (MAFF) office. Yes, the overall amount is published in the MAFF Annual Report. The amount allocated to goods from each country and maximum amount allocated to each importer are not published.

- II. N/A.
- III. Licences are allotted for selling and for own use. Quarantine Inspectors will confiscate and HOLD until the Registrar issue Permits for release. Yes, the names of importers to whom licences have been allocated made known to governments and export promotion bodies of exporting countries upon request.
- IV. N/A.
- V. N/A.
- VI. One day.
- VII. Yes.
- VIII. Yes, both first come, first served and past performance.
- IX. No.
- X. Through the Registrar and the Importer.
- XI. Yes.
- 7(a). No.
- (b). Yes.
- (c). No.
- (d). No.
- 8. Yes.

Eligibility of importers to apply for license

- 9(a). Yes.
- (b). Yes.

Documentation and other requirements for application for license

- 10. Name of pesticide and active ingredients.
- 11. Pesticide Permit.
- 12. No.
- 13. No.

Conditions of licensing

- 14. N/A.
- 15. No.
- 16. No.
- 17(a).No.
- (b). No.

Other procedural requirements

18. Pesticide Permit for every consignment.

19. No, because there are no fees required.

6 PLANTS

Outline of System

1. The plant licensing system is used to regulate the importation of plants products into Tonga.

Purposes and coverage of licensing

2. Applies to all plant materials/products mentioned in Part III paragraph 15 of the Plant Quarantine Act [CAP.10.06].

3. Any places outside Tonga.

4. No, the purpose is mainly to ensure safety of the user and the environment of Tonga.

5. The law under which the licensing is maintained is Plant Quarantine Act [CAP.19.06]. The licensing is not statutorily required.

Procedures

6.I. No, it is brought to the attention of possible imports via enquiring to the MAFF office. The overall amount is published in the Ministry of Agriculture, Food and Forest's Annual Report.

II. N/A

III. For selling and for own use. Steps taken to ensure that licenses allocated are actually used for imports is by Quarantine Inspectors will confiscate and HOLD until the Registrar issue permits for release. Yes, names of the importers to whom licenses have been allocated made known to governments and export promotion bodies of exporting countries upon request.

IV. N/A

V. N/A

VI. One day

VII. Yes, it is affected by a single administrative organ.

VIII. Yes both.

IX. No

X. Through the Registrar and the Importer.

XI. Yes.

7.(a) No.

(b) Yes.

(c) No.

(d) No.

8. Yes.

Eligibility of importers to apply for license

9.(a) Yes.

(b) Yes.

Documentation and other requirements for application for license

10. Name, place where the products are imported from and the name of species.

11. Phytosanitary from where the country which the products are imported from.

12. No.

13. No.

Conditions of licensing

14. For a new importer is given a trial for three months and old importers is given a valid of six months and yes, the validity of a license can be extended.

15. No.

16. No.

17.(a)No.

(b) No.

Other procedural requirements

18. No.

19. No, because there are no fees required.

7 THERAPEUTIC GOODS

Outline of System

1. The Therapeutic Goods licensing system establishes a system of regulation of therapeutic goods, to establish a national drugs and medical supplies committee, to regulate the import, quality, availability and use of registered therapeutic goods, including narcotic drugs and psychotropic substances and for ancillary purposes.

Importation is considered under Section 10, 11 & 12 of the Therapeutic Goods Act [CAP.12.16].

Purposes and coverage of licensing

2. Import Business Licensing covers all therapeutic goods listed under the registered list of Part III, Section 5(2) of the Therapeutic Goods Act [CAP.12.16].

3. The system applies to all goods regardless of their originating country.

4. The Import license shall be limited to those therapeutic goods in the class of the registered list under section 5(2) of the Therapeutic Goods Act 2020 revised edition, authorised as able to be held by the applicant.

5. The Therapeutic Goods Act 2020 and the Therapeutic Goods Regulations 2020 provide the rules and procedures for therapeutic goods. Yes, licensing is statutorily required, Part IV, Section 11(3) states an application for an import licence shall be made in writing in the form prescribed in the regulations, identify the therapeutic goods that the applicant wishes to import and the class according to the "Tongan Registered List of Medical Drugs" in which they are included, be delivered to the Central Pharmacy and Medical Store, and be accompanied by the specified application fee. Yes, Part IV, Section 12(3) states that granting of an import license is subjected to the approval of the National Drugs and Medical Supplies Committee (NDMSC). No. The Constitution of Tonga states that the King and the Legislative Assembly shall have power to enact laws. According to Part VII, Section 35, the Minister may with the consent of the cabinet make regulations for purposes such as fees, manner and form of application or exemptions of specific persons from any provision of the Act.

Procedures

- 6.I. The information for products under restriction is published at the International Narcotic Control Board (INCB) website (<https://www.incb.org/incb/en/narcotic-drugs/index.html>) also we have our Essential Drug List which contain the level of drugs that are under restriction. Overall amount, amount allocated for each country and maximum amount allocated to each importer for restricted drugs (Narcotics) is published on INCB website. If there is any exceptions or derogations for licensing requirement it has to be requested and informed to the National Drug and Medical Supplies Committee for the decision to be made.
- II. The size of the quotas is determined on a yearly basis. The license to imports is also done on a yearly basis and an application for an import license are only made by pharmacist, veterinary practitioner, wholesaler or retailer. Therefore, if there is an emergency order for any of the restricted product to be imported an import permit will be issued.
- III. Licenses to import is allotted to all products. The same license to import other drugs is the same license to import restricted products but for restricted products there is an import permit prepared by the drug regulatory unit and it must be signed by the principal pharmacist and endorsed by the CEO for health, to be finally signed by the Minister for Health prior importation. The import permit contains the name of the importer and all details of the drugs to be imported.
- IV. As mentioned above the application for license to import is only for pharmacist, veterinary practitioner, wholesaler or retailer and it is done at the begin of the year. But only Pharmacist is authorised to import restricted products. This is in accordance with Part IV, Section 11(1) of the Act.
- V. Processing application takes up 1-4 weeks since it has to be granted by the National Drugs and Medical Supplies Committee. So, minimum can be within a week and maximum lengths can be up to a month.
- VI. License to import should already be there before importing any product so there shouldn't be any time needed for this.
- VII. License application is approved and granted by the National Drug and Medical Supplies committee. So, the applicant must apply for the import license and must submit for approval by the NDMSC.
- VIII. If the application for license to import is not fully satisfied by the committee, it can be return back to the applicant for re-submission.
- IX. We do not use export permit since we do not export any restricted product.
- X. Same as the above answer, we do not have export permit only import permit.
- XI. No.

- 7.(a) First of all, license to import is a must for all drugs to be imported. And No, license should be there prior importing any medicinal drugs.
- (b) No, it has to follow the process of applying for a license to import.
- (c) No.
- (d) Yes. According to Part IV, Section 12(3) the granting of an import license is subject to the approval of a single administrative organ – National Drugs and Medical Supplies Committee (NDMSC).
8. Yes, if the license holder commits any offence and does not comply with the pharmacy act and therapeutic good act.

Eligibility of importers to apply for license

- 9.(a) No.
- (b) No.

Part IV, Section 11(1) states that only pharmacists, veterinary practitioners, wholesaler or retailer can apply for an import licence of therapeutic goods. The import licence shall be limited to those therapeutic goods in the class of the registered list under section 5 (2) authorised as able to be held by the applicant.

Documentation and other requirements for application for license

10. In application, information such as Name of Applicant, Applicant's qualification, business address and the classes of medicinal drug for which a license is sought. There's no other document just the application form.
11. Import Permit document.
12. No.
13. No.

Conditions of licensing

14. Six months validity. And it cannot be extended.
15. Yes, other from penalty but they cannot import without a license. Penalties may be imposed by the NDMSC which include revoking the license or any other penalty that the Committee decides is appropriate.
16. No, the license is only sent straight to the supplier whom we are going to import the drug from. It cannot be transferred between two importers.
- 17.(a)No.
- (b) No.

Other procedural requirements

18. No.
19. No, because foreign exchange is done by the suppliers overseas.
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