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Committee on Import Licensing

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IMPORT LICENSING SYSTEM OF ARGENTINA

REPLIES TO QUESTIONS FROM THE EUROPEAN UNION TO ARGENTINA REGARDING ITS ANNUAL NOTIFICATION (G/LIC/N/3/ARG/11)

The following communication, dated 15 April 2014, is being circulated at the request of the delegation of Argentina.

Reference is made to Argentina's Import Licensing notification (G/LIC/N/3/ARG/11) of 24 September 2013.

Before entering into detailed questions, the EU would like to make some general observations.

The DJCP (the sworn declaration of product composition) has been in place in Argentina for a long time. Argentina first describes the DJCP as an automatic import licensing system in its notification submitted in February 2002 and circulated to Members as document G/LIC/N/3/ARG/2/Add.1 of 6 March 2002. Later, according to the notification submitted in 2006, Argentina stated that the "*DJCP is an import certificate that is approved in all cases on a first come first served basis and that the delays are minimum 2 days max 10 days*". These aspects have also been confirmed in the notifications submitted for the years 2008 to 2010.

The situation started changing as from the notification G/LIC/N/3/ARG/10, circulated on 29 January 2013, covering the 2012 year. Then, it changed even more on the basis of the notification at stake (G/LIC/N/3/ARG/11) circulated on 24 September 2013.

According to its last notification (G/LIC/N/3/ARG/11), Argentina continues to qualify the DJCP as an automatic licensing system despite the fact that the system has considerably changed in the course of the years.

According to notification G/LIC/N/3/ARG/11, Argentina has adopted Resolution No. 248/13, which sets new rules in the use of the DJCP for the importation of goods. However, in its notification, Argentina does not mention any regulatory measure that was adopted to implement that Resolution, namely Resolution No. 99/2013 adopted in June 2013.

According to the information published on the web page of the Ministry of the Economy (http://www.oficinascomerciales.es/icex/cda/controller/pageOfecomes/0,5310,5280449_5282957_5284971_4698070_AR.00.html), Resolution No. 99/2013 establishes a new DJCP administrative control procedure in the area of importation of garments, apparel and footwear. Before the entry into force of the Resolution No. 99/2013, the importers were required to present a DJCP directly to the Customs Authorities together with the rest of the documentation. Under the new measures, importers must file the DJCP in electronic form through an integrated Foreign Trade System (SISCO). The declaration will then be registered and subject to the review by several governmental entities associated to the system. Such entities can introduce "observations" in the system with respect to the declaration, establishing the status of the declaration as "observed". Until such time those observations are removed, the importation cannot take place.

The information available on the link mentioned by the European Union is not information that comes from the Ministry of the Economy and Public Finance of Argentina.

It should also be emphasized that the DJCP (the Sworn Declaration of Product Composition) if submitted through the Integrated Foreign Trade System (SISCO); in accordance with Resolution 248/2013 and its implementing regulations, Resolution 99/2013, and the Foreign Trade Secretariat is the only body involved in the approval of such requests. If any "observations" are made, this can only be done by the Foreign Trade Secretariat, and only concerning errors in the submission form.

Modifying these errors leads to the submission of a new form, which will be automatically approved and as a result the importation can take place.

In view of the above, and referring to Argentine notification G/LIC/N/3/ARG/11, we would like Argentina to reply to the following questions:

1. Why does Argentina, in its notification, only refer to Resolution No 243/2013 and omit to mention Resolution No. 99/2013 that seems to be an accompanying implementing measure?

First of all, it should be made clear that the Resolution establishing the new DJCP rules is No. 248/2013, not 243/2013.

Resolution 99/2013 only sets out the implementing regulations for Resolution 248/2013, without altering or modifying its content.

2. What is the administrative purpose of the DJCP in its current form? According to the notification (paragraph 4): "the system does not restrict either the quantity or the value of imports. The purpose of the licensing is explained in the relevant regulations". Could Argentina submit all the relevant regulations that set out all of the obligations to be complied with by importers in order for the latter to meet the requirements of the DJCP import licensing system?

The purpose of the DJCP and of its inclusion in the SISCO is to be found in the preambles of the corresponding resolutions, as follows:

Resolution 850/1996

"Whereas importers not only introduce goods into the customs territory but also engage in their marketing, and in that capacity are also subject to the provisions of the Fair Trade Law and its regulations."

"Whereas control and verification measures need to be implemented to ensure that consumers receive accurate and clear information and are not misled."

Resolution 1318/1998

"Whereas, having regard to the specific characteristics and differences in the composition of textile products and footwear, a form needs to be prepared for each of these categories."

"Whereas the purpose of the proposed measure is to develop a larger database for statistical purposes and consequently more effective monitoring of the products to be imported."

Resolution 248/2013

"Whereas, since simplifying foreign trade procedures is a primary objective, it is considered appropriate to provide that this declaration should be processed through the Integrated Foreign Trade System (SISCO) approved by Resolution No. 52 of 11 March 2011 of the former SECRETARIAT FOR INDUSTRY AND TRADE OF THE MINISTRY OF INDUSTRY, and that each of the goods should be identified by a Product Identification Code (CIP)."

Resolution 99/2013

"Whereas in view of the foregoing ... (in Resolution 248/2013) ..., the corresponding implementing regulations need to be issued."

The requirements to be met by importers for the submission of the information are set out in Annexes I and II of Resolution 99/2013.

3. Could Argentina explain why the DJCP is considered as an automatic import licensing system if currently the importation of goods is subject to an approval, as stated in point 7(a) of the notification?

The DJCP is an automatic licensing system which is approved in all cases within the time-frames set out in the Agreement on Import Licensing Procedures. Observations are only made on applications when the form contains mistakes.

4. According to the notification (paragraph 2), the DJCP covers the products listed in Resolution No. 850/1996. According to Article 5.2(a) of the Import Licensing Procedures Agreement, the notification shall include a list of products subject to licensing procedures. Could Argentina submit a detailed and the most updated list of products subject to import licensing?

In its Annex II, Resolution 99/2013 lists the products subject to the DJCP as follows:

- Composition percentage fibres or materials and substances (NCM chapters 57 and 61 to 63): description constituent material percentage;
- Class or kind of constituent materials (NCM chap. 64): upper/sole or bottom/lining/inner sole.

5. Could Argentina clarify how much in advance of physical importation must an application for a licence be made? Can licenses be obtained within a shorter time-limit? Could Argentina explicitly reply whether a licence can be granted immediately upon request? (Reference is made to questions under points 7(a) and 7(b) of the questionnaire - document G/LIC/3)?

DJCP applications may be submitted on any working day prior to the import shipment date.

Cases where licences can be obtained within a shorter time-limit concern goods considered to be critical inputs for domestic industry or where the value or quantity is minimal.

DJCP

- Minimum time-limit: two working days;
- Maximum time-limit: ten working days.

6. Could Argentina clarify whether nowadays the procedure for the DJCP could take longer than ten days and on what legal basis? If so, what is the relevant legal provision? Can Argentina demonstrate that the DJCP procedure meets the time-limits set out in the Agreement on Import Licensing Procedures (maximum of ten working days for the automatic import licensing)?

The DJCP procedure does not take longer than ten working days.

7. According to the notification, DJCPs are valid for 360 calendar days from the date of issue and they may not be extended. Could Argentina clarify under which circumstances they may not be extended? Could Argentina clarify under which provisions of the rules Import Licensing Procedures Agreement would such refusal be justified?

DJCPs are valid for 360 calendar days from the date of issue and the only possibility is that of issuing or delivering a new DJCP, which can be processed as far in advance as the importer wishes.

The Agreement on Import Licensing Procedures does not establish a time-period for validity in the case of automatic procedures, nor does it provide for the possibility of extensions for these automatic procedures.

8. Could Argentina clarify which provisions in its legislation dispense with the obligation to repeat the declaration procedure before each and every importation over the duration of such a "licence" (it is indeed valid for 360 days)?

Importers must submit the corresponding form for each importation of products subject to the DJCP.

9. The resolution does not specify which are the circumstances leading to the status of "received" or "observed" nor does it set out any definite timelines for such a decision by competent authorities. Could Argentina submit a detailed description of the different status of "received" or "observed", i.e. the consequences of granting of either status for importers and the exhaustive list of criteria that need to be met by an importer to get a "received" status?

The DJCP can have the following status:

- Received: approved;
- Observed: the form contains some error that must be corrected through the submission of a new form.

The information that must be submitted in the DJCP form is indicated in Annexes I and II of Resolution 99/2013.

10. Following the entry into force of Resolutions No. 243/2013 and No. 99/2013, while the DCJP for imported goods must be submitted through the customs electronic system SISCO, the locally produced goods are not obliged to do an electronic application before products can be put on the market. Could Argentina demonstrate the neutrality of the application of the import licensing system in accordance with Article 1.3 of the Import Licensing Procedures Agreement?

First of all, it should be made clear that the Resolution establishing the new DJCP provisions is No. 248/2013 and not 243/2013.

The DJCP was established by Resolution 850/1996 in order to comply with the National Fair Trade Law, No. 22.802, so that importers fulfil the same requirements as domestic producers.
