



20 May 2014

(14-3039)

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Committee on Import Licensing

Original: Spanish

**REPLIES TO THE QUESTIONS FROM THE UNITED STATES CONCERNING
RESOLUTIONS 102 OF THE FOREIGN TRADE COUNCIL (COMEX)
AND 299-A OF THE MINISTRY OF AGRICULTURE, LIVESTOCK,
AQUACULTURE AND FISHERIES (MAGAP)**

REPLIES FROM ECUADOR

The following notification, dated 13 May 2014, is being circulated at the request of the delegation of Ecuador.

1. The United States asked Ecuador promptly to publish any measures (including Resolutions 102 and 299-A) or changes in measures in accordance with Article 1.4 of the Import Licensing Procedures Agreement so that governments and traders are able to become acquainted with them and provide comments on them prior to their implementation.

- Where are these measures published? Please provide the direct web links to these measures if available.

2. The United States asked Ecuador to notify its measures or any changes to them to the Secretariat in accordance with Articles 1.4 and 5 of the Import Licensing Procedures Agreement.

- When will Ecuador notify its measures to the Secretariat?
- When will Ecuador provide copies of these regulations to the Secretariat?

At the meeting of 4 October 2013, Ecuador stated, *inter alia*, that:

- Resolutions 102 of the COMEX and 299-A of the MAGAP had been published in Official Journals No. 924 (Supplement) of 2 April 2013 and No. 48 of 31 July 2013, respectively; and
- at the beginning of that same week, Ecuador had notified the said Resolutions pursuant to Articles 1.4(a) and 8.2(b) of the Agreement on Import Licensing Procedures and the Secretariat would publish these notifications in due course.

The Secretariat circulated document G/LIC/N/1/ECU/4 of 3 October, which contained the notification of Resolutions 102 of the COMEX and 299-A of the MAGAP.

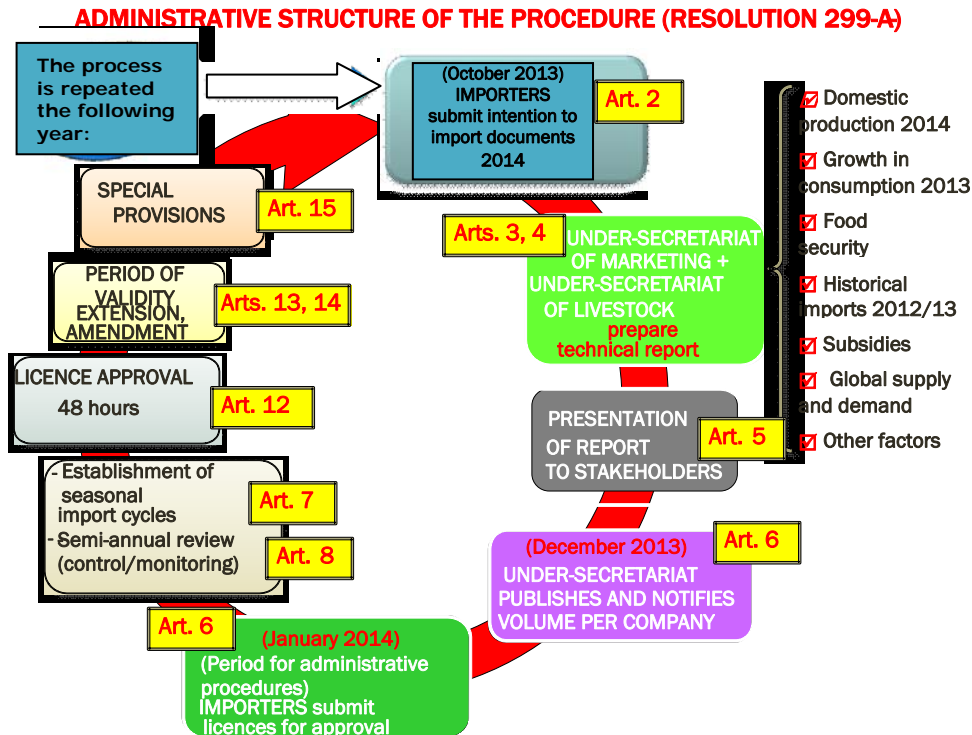
The Secretariat circulated document G/LIC/N/1/ECU/4/Corr.1 of 15 October, which stated that copies of the text of the notified resolutions were available at the Secretariat for consultation by Members.

We have therefore already answered all of the above questions.

3. In light of Articles 3.2 and 5.2(g) of the Import Licensing Procedures Agreement, Canada and the United States request a full and complete response to each of the following questions:

- What are the precise administrative procedures that these Resolutions require? Please describe the procedures in detail. Where are these procedures published?

The required administrative procedure is described in detail in Resolution 299-A. Nevertheless, a full explanatory diagram is provided below:



For reasons of transparency, Ecuador has also published this procedure online at:

<http://comercioexterior.gob.ec/wp-content/uploads/downloads/2013/09/RESOLUCION-299A1.pdf>

- What measure or measures are the non-automatic licensing procedures in Resolutions 102 and 299-A intended to administer via Resolutions 102 and 299-A?

The measures administered under Resolutions 102 and 299-A define and determine annual food balances in terms of production chains with a view to enabling the supply and ongoing availability of sufficient food to achieve food security, a non-trade concern, and thereby fulfil the strategic and key objective of food sovereignty which is enshrined in the Ecuadorian Constitution. This system, which seeks to maintain a balance between domestic production and imports in such a way as to meet food supply requirements on an ongoing basis, does not lead to a reduction in the share of imports in relation to domestic goods and thus maintains a distribution of trade similar to that recorded prior to the implementation of the measure.

- How are the measures being administered by these Resolutions consistent with the GATT 1994?

The administration of these measures is based on the fundamental principles of transparency, predictability, non-discrimination and the reduction of unnecessary administrative burdens for international trade operators.

The administrative procedures are applied appropriately and as simply as possible and are administered in a fair, equitable and objective manner by the authorities responsible, who have ensured that this system is neutral in application, in accordance with the procedures set out in detail in Resolution 299-A.

These measures have prevented distortions to trade in the agricultural products covered by these Resolutions and ensured that their normal conditions of competition remain unaffected.

4. Article 1 of Resolution 299-A appears to subject all importers - without exception - to the non-automatic licensing regime. The Resolution provides for the licensing regime to be based on whether such imports will "complement" national production's ability to satisfy internal domestic demand. Furthermore, Article 3 appears to require MAGAP to undertake a "technical analysis" in determining the volume of products that Ecuador will permit to be imported, and provide that such analysis will be based on (among other factors) an importer's purchase of domestic products, domestic production, domestic demand and consumption. Ecuador states that "The non-automatic import licensing procedure described in MAGAP Resolution 299-A is based on Article 3 of the Agreement on Import Licensing Procedures. The technical factors considered in preparing the technical reports for the administration of non-automatic licenses are defined in Resolution 299-A and are geared to the analysis of food balances for products covered by the regime, on the basis of a transparent, predictable and non-discriminatory review".

- It appears that Resolution 299-A could itself operate to restrict imports. Please explain the use of such an import restriction in light of the GATT 1994, in particular, Article XI.

As Ecuador stated in its reply to question 13 in document G/LIC/Q/ECU/4 of 29 November 2013, Resolution 299-A does not provide for any possibility of import prohibitions or restrictions.

- What is the precise methodology that Ecuador uses for "the analysis of food balances for products covered by the regime"?

The analysis of food balances for products covered by the regime is conducted on the basis of the technical reports, which are prepared using certain common variables, such as production, growth in demand and domestic consumption, and the historical import record of applicants, *inter alia*.

Ecuador also uses the domestic production, sales and consumption statistics reported by national stakeholders to the National Statistics and Census Institute (INEC), as well as those compiled by the National Agriculture, Livestock, Aquaculture and Fisheries Information Service (SINAGAP) from monitoring national agricultural product markets.

- Are the analyses and underlying methodology subject to public comment? Where are they published?

The technical reports are made available to the production chain stakeholders through advisory councils, consultation boards and other consultative mechanisms in order to maintain absolute transparency in the administration of the regime, provide timely information for decision-making by the stakeholders and obtain recommendations from them, including from importers, as is clearly stated in Article 5 of Resolution 299-A.

- Please cite the GATT 1994 Article or Articles which allow for "the analysis of food balances for products covered by the regime" for purposes of non-automatic licensing of imports.

Article 1.2 of the Agreement on Import Licensing Procedures, which requires the administrative procedures used to implement import licensing regimes to take into account the economic development purposes and financial and trade needs of developing country Members; and the non-trade concerns identified in the preambles to the Marrakesh Agreement Establishing the World Trade Organization and to the Agreement on Agriculture in respect of food security.

With regard to automatic import licensing procedures, it is important to note that the Ecuadorian regime is in full compliance with the provisions of Article 3 of the Agreement on Import Licensing Procedures, in particular Article 3.3 thereof.

- Please describe in detail how import licenses are allocated, how many institutions must approve each license before it is issued, and how long it takes for a license to be issued in light of Ecuador's "technical analysis".

The diagram in the reply to question 3 provides a detailed description of the administrative procedure and the parties involved.

- As a result of the new resolutions, including the technical analysis and the domestic stakeholders' decision-making process, what percentage of total requests for import licenses does Ecuador expect to issue in a year in comparison to previous years and Ecuador's past practice.

Ecuador envisages handling requests for import licences in due time.

5. In its response to Question 14, Ecuador states that "... there are times when factors external to national production which have an influence on quality of products, such as enormous amounts of domestic support for production and export subsidies, make it necessary to count imports outside national harvest periods for these producers, in the case of products whose output is highly seasonal on account of seasonal cycles; and this situation is also reflected in a food security concern ...".

Please clarify what Ecuador means by this statement.

Ecuador answered this question at the regular meeting of the Committee on Agriculture on 29 January 2014.

6. Please explain whether and how imports from the Andean Community are considered in the "technical analysis" under Article 3 of Resolution 299-A.

Ecuador confirms the reply that it provided to question 17 on this matter in document G/LIC/Q/ECU/4 of 29 November 2013.
