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Committee on Import Licensing

Original: English

IMPORT LICENSING SYSTEM OF INDONESIA

QUESTIONS FROM THE EUROPEAN UNION AND THE UNITED STATES TO INDONESIA

The following communication, dated 20 September 2013, is being circulated at the request of the delegation of the United States.

In G/LIC/Q/IDN/25, dated April 11, 2013, the European Union (EU) and the United States submitted questions to Indonesia regarding Indonesia's notification of two regulations (Regulations 82 and 108 of 2012 – see G/LIC/N/2/IDN/13). These regulations involve Indonesia's import licensing requirements for every imported cell phone, handheld computer, and tablet computer. We have yet to receive responses to our questions and we request that Indonesia provide written responses to these questions as soon as possible.

We understand, too, that Indonesia issued additional regulations related to Ministry of Trade Regulation 82 of 2012 and Ministry of Industry 108 of 2012, which adds to our concerns.

- In May, the Ministry of Communication and Information issued Postel 5 which changed the product certification and testing requirements, and retroactively applied the change to March 2013. The certificate is one of the documents needed to obtain the import permit.
- While we acknowledge that Indonesia has notified this change to the TBT Committee, the Import Licensing Procedures Agreement requires that changes in import licensing procedures be notified to the Import Licensing Committee in accordance with the relevant articles of the Agreement, and that a copy of the regulation, preferably in English, be provided to the Secretariat. When will Indonesia submit the requisite notification and documents to the Import Licensing Committee?
- Are import licenses obtained prior to this change in certification still valid? If so, can companies import on the basis of the existing licenses?
- We understand that the Ministry of Trade issued Regulation 38, which became effective on August 1, 2013, and which amended Regulation 82 of 2012. In addition to responses to the questions we asked in G/LIC/Q/IDN/25, we request Indonesia's responses to the following questions about Regulation 38:
 - What is the legal status of Regulation 38? Is the Regulation in force? If so, is August 1 the date that the Regulation came into force? Has the Regulation been published?
 - When will Indonesia notify the Import Licensing Committee about Regulation 38 and provide a copy of the new Regulation to the Secretariat (preferably in English) as the Import Licensing Procedures Agreement requires?
- We understand that Regulation 38 has made some additions to the import approval (PI) application requirements for cellphones, handheld computers, and tablet computers.

- What are the procedures for an importer to receive designation as a Registered Importer of these products? Where are those procedures published? Please explain why these procedures are necessary to achieve Registered Importer status and how are they consistent with the Import Licensing Procedures Agreement.
 - We understand that Regulation 38 requires applicants to demonstrate at least 3 years of experience as an importer and own at least 25 after –sales-service-centers in Indonesia. Please confirm whether this is the case. If so, please identify the specific provisions that establish this requirement. In addition, please explain the purpose of this requirement, in light of Indonesia's WTO obligations.
 - Are domestic producers of cellphones, handheld computers, and tablet computers required to meet the conditions set forth in Regulation 38?
 - We understand that Regulation 38 conditions the issuance of an import license on the registered importer's (IT) commitment to develop "an industry" within three years of that importer's registration as an importer of cellphones, handheld computers and tablet computers. How does Indonesia define "an industry"? What is the justification for such a requirement? How is this requirement consistent with Article 1.2 of the Import Licensing Procedures Agreement?
 - We understand that Regulation 38 expands the reasons for revoking the approval of an importer as a registered importer. Two of the reasons apparently include failure to establish "an industry" and "any breach in customs." How does Indonesia define "any breach in customs"?
 - There is a new provision (Article 24A), we understand, that provides for an exception to the regulation. Under what circumstance would the government grant an exception? What procedure does the government follow to grant an exception; and where are this exception and all import licensing procedures affecting cell phones, handheld computers and tablet computers published?
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