



28 September 2021

(21-7224)

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Committee on Import Licensing

Original: English

IMPORT LICENSING SYSTEM OF THE PHILIPPINES

QUESTIONS FROM THE UNITED STATES TO THE PHILIPPINES

The following communication, dated 23 September 2021, is being circulated at the request of the delegation of the United States.

The United States thanks the Philippines for its response to the United States' questions regarding the Philippines' Sanitary and Phytosanitary Import Clearance (SPSIC) regime in G/LIC/Q/PHL/5. The United States requests the Philippines respond to the following follow-up questions and additional questions in writing.

United States' Question 2 under G/LIC/Q/PHL/5: What is the role of the Secretary of Agriculture and the bureaus in reviewing and approving the SPSICs?

Philippines' Reply: The review and approval of the SPSICs are mandated by the Secretary of Agriculture to the bureaus, particularly the Bureau of Animal Industry, Bureau of Fisheries and Aquatic Resources, and Bureau of Plant Industry, and the Fertilizer and Pesticide Authority.

US Follow-up Question:

1. Please comment on the following statements of Philippine officials regarding the practices of the Philippine SPSIC regime and influence on relevant Philippine Department of Agriculture (DA) bureaus:

- During a 21 May 2021 press briefing, Philippine Presidential Spokesperson Harry Roque, Jr. stated the Philippines "will not import [rice] during the harvest season. We will wait for the harvest period to end so the farmers' selling price in the market will not be affected."¹
- During the 22 October 2020 Philippine Senate Committee on Agriculture, Food, and Agrarian Reform hearing on proposed Senate Resolution Number 536 "Improve the Rice Importation Procedure," DA Rodolfo V. Vicerra told the Senate Committee, "[DA] need[s] to really manage the issuance of SPSIC, specifically on the timing so that the arrivals of these imports will not combine with our main harvest. So, we will have to come up with an administrative order on [rice imports]."²

¹ Genalyn Kabiling, "Gov't to suspend rice importation during local harvest season," Manila Bulletin, 20 May 2021, <https://mb.com.ph/2021/05/20/govt-to-suspend-rice-importation-during-harvest-season>

² Davinci Maru, "Villar chides DA official over rice importation during harvest season," ABS-CBN, 22 October 2020, <https://news.abs-cbn.com/news/10/22/20/villar-chides-da-official-over-rice-importation-during-harvest-season>. Committee on Agriculture, Food and Agrarian Reform, Senate of the Philippines, Manila, Philippines, 22 October 2020, <https://youtu.be/0v2fXLoK3kw?t=10004>.

- On 16 October 2020, DA Secretary William Dar informed the Philippine Senate Committee on Finance that the DA has "institutionalized management strategy not to really bring feed wheat during the main harvest of corn... and so that management strategy is now put in place."³

United States Question 4 under G/LIC/Q/PHL/5: We understand that SPSICs are issued on a shipment-by-shipment basis. What is the purpose of limiting import clearances to a single shipment?

Philippines' Reply: SPSICs are limited to a single shipment. This is administratively manageable to DA agencies in verifying compliance of shipments with SPS requirements as well as in emergency cases such as outbreaks of transboundary animal diseases in the country of origin.

U.S. Follow-up Question:

2. Would the Philippines consider a single SPSIC issuance for multiple shipments to be as administratively manageable for verifying compliance of shipments with SPS requirements, given that an SPS export certificate is issued for each individual shipment that confirms the imported product meets the Philippines' SPS requirements? This would apply in particular for imports from suppliers that have an established track record of providing product that is free from diseases and pests of concern and present no risks to human, animal, and plant life and health.

United States Question 5 under G/LIC/Q/PHL/5: How does the Philippines determine the validity period and must-ship-out dates for a particular commodity?

Philippines' Reply: DA [Administrative Order] AO 9, s. 2010 prescribes the "must ship out by" date requirement, which also determines the validity of SPSICs. SPSICs are valid so long as the ship-out date of the product/consignment is on the last day or within the following specified period which is reckoned from the date of SPSIC issuance:

- 15 days for live milk fish;
- 30 days for other live, fresh, chilled or frozen fish and fishery/aquatic products [2];
- 20 days for fresh and chilled fruits and vegetables;
- 60 days for eggs, milk and dairy products; animal feeds and feed ingredients; other products of animal origin i.e., embryos and semen; frozen fruits and vegetables;
- 60 days for live animals, meat and meat products, veterinary drug and products, fertilizers, pesticides and other agricultural chemicals;
- 90 days for veterinary biological products;
- 60 days for all other products not specified immediately above.

U.S. Follow-up Question:

3. What is the basis for limiting validity periods for specific commodities as prescribed by DA AO No. 9, Series of 2010?

United States Question 7 under G/LIC/Q/PHL/5:

Will the Philippines notify the Committee on Import Licensing and other appropriate [World Trade Organization] WTO Committees regarding the following DA regulations: Administrative Circular 12, Series of 2017; Department Circular No. 06, Series of 2020; Memorandum Order No. 28, Series of 2019; Memorandum Order No. 30, Series of 2020, Memorandum Circulars 38, 39, and 43, Series of 2020; Republic Act No. 10654; Fisheries Administrative Order 259, Series of 2018; Special Order No. 284, Series of 2020; Special Order No. 1077, Series of 2020; Special Order 705, Series of 2020, and others that have been issued but not notified?

Philippines' Reply: The Philippines will submit the notifications of the aforementioned regulations to the Committee on Import Licensing and other appropriate WTO committees.

³ "Zubiri to DA: Limit Imports, Support Local," Senate of the Philippines, 16 October 2020, http://legacy.senate.gov.ph/press_release/2020/1016_zubiri1.asp. Committee on Finance [Subcommittee "B"], Senate of the Philippines, Manila, Philippines, 16 October 2020, <https://youtu.be/7541ggmm2ZM?t=9906>.

U.S. Follow-up Question:

4. When will DA notify the following regulations to the appropriate WTO Committee(s): Administrative Circular 12, Series of 2017; Department Circular No. 06, Series of 2020; Memorandum Order No. 28, Series of 2019; Memorandum Order No. 30, Series of 2020; Memorandum Circulars 38, 39, and 43, Series of 2020; Republic Act No. 10654; Fisheries Administrative Order No. 259, Series of 2018; Special Order No. 284, Series of 2020; Special Order 1077, Series of 2020; Special Order 705, Series of 2020; Administrative Order No. 21, Series of 2021; and Administrative Order No. 22, Series of 2021.

Additional U.S. Questions:

5. The United States notes that in August 2021, the Philippine Department of Agriculture issued AO No. 21, Series of 2021 "Temporary Extension of the Validity of SPS Import Clearances for Imported Meat from 60 Days to 90 Days." What is the rationale for the temporary extension?

6. Can the Philippines please provide the number of SPSICs applied for and rejected, by month, between 2018 to the latest data available for 2021 for rice, corn, feed wheat, and whole chicken?

7. Because the Philippines did not answer Question 10 from G/LIC/Q/PHL/4 when it replied in July 2021, the United States asks again. G/LIC/N/2/PHL/23 indicates that the administrative purpose of DA AO No. 09, series of 2013 is to protect human, animal or plant life and health; protect the environment. What is the purpose of Section VI Issuance and Utilization and Good Standing Certificate, subsection A and its relation to the administrative purpose?

8. What is the reason for the suspension of SPSIC issuance for roundscad, bonito, mackerel, and moonfish under Special Order No. 705, Series of 2020?

The United States notes that on 27 August 2021, the Philippine Department of Agriculture published the press release titled "To augment local prod'n and supply, DA chief okays CNI for 60K MT of fish."⁴ It states that "To augment current local fish production, maintain sufficient supply, and make it affordable to consumers, particularly in the last quarter of the year (Q4) and in conjunction with the closed fishing season, Agriculture Secretary William Dar has approved the issuance of a Certificate of Necessity to Import (CNI) of 60,000 metric tons (MT)." DA AO No. 22, Series of 2021 "Guidelines in the Implementation of FAO 259 in Relation to the Certificate of Necessity to Import 60,000 MT of Small Pelagic Fish for Wet Markets" states that "all SPSICs shall be issued under the 2021 CNI 60,000 MT before the closed fishing season and automatically expire on 31 December 2021."⁵

9. What are the criteria for determining the amount of fish to be allowed imported and the timeframes for the amount of allowed fish to be imported?

10. Please explain how restricting SPSIC issuances "under the 2021 CNI 60,000 MT before the closed fishing season and automatically expire on 31 December 2021" for importers is different from a quantitative restriction?

11. What are the qualifications and/or requirements for importers of fish products to receive an SPSIC? Please cite relevant regulations that set out these qualifications.

⁴ <https://www.da.gov.ph/to-augment-local-prodn-and-supply-da-chief-okays-cni-for-60k-mt-of-fish/>

⁵ https://www.da.gov.ph/wp-content/uploads/2021/08/ao22_s2021.pdf