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Committee on Import Licensing

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**FOLLOW UP QUESTIONS FROM THE EUROPEAN UNION TO TURKEY
REGARDING ITS NOTIFICATION UNDER ARTICLE 7.3 OF
THE AGREEMENT ON IMPORT LICENSING PROCEDURES**

The following communication, dated 17 February 2015, is being circulated at the request of the delegation of the European Union.

The EU thanks the Turkish authorities for their replies (G/LIC/Q/TUR/8) and would like to further clarify some aspects regarding the Turkey's import licensing notification (G/LIC/N/3/TUR/13). In particular:

1 SURVEILLANCE LICENCE REGIME

1. Could the Turkish authorities clarify why the measure does not figure in their annual notification?
2. Could the Turkish authorities indicate which is the legal basis (the communiqués) governing the surveillance license regime for all the products subject to this regime?

The Turkish authorities have indicated as a reason for the existence of the surveillance regime the need for data collection in the framework of evaluation of domestic producers' claim on injury that "*might lead Turkey to initiate an investigation of safeguard or anti-dumping*". While the surveillance in the framework of a safeguard is a "normal" practice, its scope (in terms of products covered) and duration should be limited. The surveillance has to cover also all the imports of a targeted product and not only these which are under a certain price. With regard to anti-dumping investigations, these have to be based on the information provided by the domestic producers; the authorities should not reverse the charge of proof by collecting the necessary information from the foreign operators. The currently applicable Turkish surveillance regime covers hundreds categories of products, in the majority of the cases it applies only below a certain price and it is also applicable for years now.

3. All these elements bring the question if the surveillance regime as applied by Turkey could be considered as a "simple surveillance" prior to safeguard investigation. Could the Turkish authorities clarify this aspect?
4. Could Turkey bring more precisions on the elements mentioned above?

In their reply related to the surveillance mechanism the Turkish authorities explain that in order to ensure that the surveillance regime could be operated with the least effect on trade, not all of import transactions of a product category but only some which may cause injury via dumping or circumvention are subject to surveillance.

5. Could the authorities clarify the meaning of this statement and explain how are selected the import transactions subject to surveillance in order to avoid arbitrariness?
6. Could the authorities provide concrete examples of a product indicated as part of the surveillance regime scope for which some imports are exempted from the application of the regime?

In the reply to the question related to the source of information from where governments and traders can find all the information related to the application of this licensing measure (the procedures for the submission of applications, eligibility of applicants, administrative body to be approached, basis for granting the license, period for processing applications etc.) the Turkish authorities said that the surveillance communiqués are published in the Official Gazette and that information can be obtained from the Ministry of Economy.

In EU's view, the surveillance communiqués do not contain sufficient information on the procedure for submission of application, on eligibility, on the basis for granting the license, on the period for processing. The possibility to obtain information from the Ministry of Economy does not seem to correspond to the requirement of Article 3 paragraph 3 of the Agreement on import licensing procedures. This Article obliges the WTO Member applying a non-automatic import licensing to publish "*sufficient information for other Members and traders to know the basis for granting and/or allocating licences*".

7. Could the Turkish authorities explain the compliance of the surveillance regime with the provisions of Article 3?

2 OLD, SECOND HAND, RENOVATED GOODS

According to the Turkish reply, the importation of old, used, renovated, faulty and obsolete goods is subject to the authorization of the Ministry of Economy. On this basis, it seems not possible to consider this as an automatic license system and therefore, it should be presented in the annual notification.

8. Could the Turkish authorities clarify why the measure does not figure in their annual notification?

The Turkish authorities do not indicate in their reply the source of information from where governments and traders can find all the information related to the application of this licensing measure (the procedure, eligibility, administrative body, basis for granting the license, period for processing applications etc.). Article 3, paragraph 3 of the Agreement on import licensing procedures obliges the WTO Member applying a non-automatic import licensing to publish "*sufficient information for other Members and traders to know the basis for granting and/or allocating licences*".

9. Could the Turkish authorities submit detailed information on where importers and traders can find the relevant information related to the application of this licensing measure?

In their reply the Turkish authorities evoked Article XX (general exceptions- protection of human, animal or plant life or health) of GATT as a base for their regime of import of old, second hand, renovated goods.

With regard to the motor vehicles import, the implementing customs circular n°2012/35 (adopted in 2012) seems to make the import regime for motor vehicles (HS codes 8701, 8702, 8703, 8704, 8705 and 8711) more restrictive than before: these products have to be produced in the last 4 months of the preceding year and imported in the first 4 months of the current year in order to be considered as "new".

10. Could the Turkish authorities clarify which is the rationale for evoking Article XX of the GATT for putting in place such a restrictive scheme for the imports of motor vehicles? Could the Turkish authorities clarify how this restriction could be justified by the general exceptions of Article XX of GATT?

11. Could the Turkish authorities clarify which measures have been adopted with relation to the domestic production of vehicles to respond to the same concern of health, safety and technical standards evoked in the Turkish reply?

3 NON-FUEL PETROLEUM PRODUCTS

12. Could the Turkish authorities clarify why the measure does not figure in their annual notification?

The Turkish reply focuses on the *Communiqué on means and methods of supply of petroleum products except liquid fuels from domestic and foreign sources*, adopted in 2012. The EU questions were based on the *Communiqué on the procedures and principles of supplying non-fuel petroleum products from domestic and foreign resources* adopted in 2013. This Communiqué and its provisions do not seem to be covered by the Turkish reply. Against this background:

13. Could the authorities provide more information in order to allow the EU to distinguish the two communiqués and to understand their respective scope and objectives?

14. Could the authorities provide answers to the EU questions related to the Communiqué on the procedures and principles of supplying non-fuel petroleum products?

Then, even with regard to the *Communiqué on means and methods of supply of petroleum products except liquid fuels from domestic and foreign sources* the Turkish reply does not identify the source of information from where governments and traders can find all the information related to the application of this licensing measure (the procedure, eligibility, administrative body, basis for granting the license, period for processing etc.). In their reply the Turkish authorities indicated only the link on which the documents required for permit applications can be found. The licence applied to non-fuel petroleum products seems to be a non-automatic one. Therefore, the obligation to publish "*sufficient information for other Members and traders to know the basis for granting and/or allocating licences*" foreseen in Article 3 paragraph 3 of the Agreement on import licensing procedures applies.

15. Could the Turkish authorities explain the compliance of the non-fuel petroleum products import regime with the provisions of Article 3 of the Agreement on import licensing procedures? In particular, could the Turkish authorities submit detailed information on where importers and traders can find the relevant information related to the application of this licensing measure?
