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Committee on Import Licensing

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IMPORT LICENSING SYSTEM OF VIET NAM

REPLIES FROM VIET NAM TO QUESTIONS FROM THE UNITED STATES (G/LIC/Q/VNM/5 AND G/LIC/Q/VNM/6)

The following communication, dated 26 September 2017, is being circulated at the request of the delegation of Viet Nam.

This communication responds to the documents dated 27 February 2014 and 13 April 2015, submitting "Questions from the United States to Viet Nam" regarding Viet Nam's Import Licensing Procedures.

1. Is the suspension of import licensing procedures referred to in paragraph 3.42 of Viet Nam's TPR report still in place? If so, how much longer will the suspension be in place? If not, when was the suspension lifted?

The suspension of automatic import licensing procedures for some commodities under the Circular 27/2012/TT-BCT is still valid. Till now, there are no alternative legal documents. Viet Nam will notify the WTO when the government has a plan for lifting this suspension.

2. What are the current import licensing requirements for all the products listed in Viet Nam's first notification under Article 7.3 (G/LIC/N/3/VNM/1; 12 May 2011) that are not listed in Viet Nam's second notification under Article 7.3 (G/LIC/N/3/VNM/2; 26 September 2014)?

Automatic import licensing requirements for all products listed in the first notification of Viet Nam pursuant to Article 7.3 (G/LIC/N/3/VNM/1 dated 12 May 2011) which were not listed in the second notification of Viet Nam pursuant to Article 7.3 (G/LIC/N/3/VNM/2 dated 26 September 2014) are no longer in effect in accordance with the Circular No. 27/2012 /TT-BCT.

3. What products are currently subject to import licensing procedures in Viet Nam (whether suspended or not)? Please describe the role of Decree No. 187/2013/ND-CP of 20 November 2013, and Appendix II in particular, in the context of Viet Nam's import licensing regime. What are the legal measures that have been issued implementing Decree No. 187 that provide: (a) the list of goods which normally may be imported; (b) the list of goods subject to conditional import; and, (c) if different, the list of goods covered by automatic import permits.

The Decree No.187/2013/ND-CP is issued to replace the Decree No.12/2006/ND-CP, regulating:

- The right to import and export; import and export procedures; commodities prohibited from export or import; and responsibilities, management authority of, as well as coordination mechanism between competent authorities in the fields of import and export of goods.
- Specialized management principles for goods subject to specialized management by each relevant Ministry; and regulations on export and import goods subject to quarantine, food safety inspection, quality controls and other border-gate regulations.

- The list of goods prohibited from export and import; and list of goods exported or imported under license and subject to specialized management.

Accordingly, in principle, except for goods on the list of goods prohibited from export or suspended from export and the list of goods prohibited from import or temporary suspended from import promulgated in this Decree and other legal documents, enterprises are allowed to export and import goods regardless of their registered business sectors.

For the list of goods subject to automatic import licensing, Viet Nam currently only applies automatic import licensing for some steel products (as stipulated in the Circular No. 12/2015/TT) and motorcycles with a cylinder capacity of 175 cm³ or more (as stipulated in the Circular No. 04/VBHN-BCT dated 23 January 2014).

4. When will Viet Nam provide a complete Article 7.3 notification covering 2014?

Viet Nam is in the process of preparing the contents of the Notification on Import Licensing 2014. Viet Nam will try to send this Notification to the WTO soon.

5. When will Viet Nam notify the "DECREE ON WINE PRODUCTION AND WINE TRADING," No. 94/2012/ND-CP, Hanoi, 12 November 2012, to the Import Licensing Committee in accordance with Articles 1.4, 5, and 8.2 of the WTO Agreement on Import Licensing Procedures?

Currently, Viet Nam is in the process of drafting a new decree to replace the Decree No. 94/2012/ND-CP with a view to creating more favourable conditions for alcohol traders. Viet Nam notified this draft to the WTO in the document G/TBT/N/VNM/19/Add.2 dated 26 August 2016. In addition, this draft has been posted on the official website of Ministry of Industry and Trade for public comments.

6. Please describe how Viet Nam's licensing regime fulfils the requirements of Article 3 of the Import Licensing Procedures Agreement.

The Decree No. 94/2012/ND-CP does not provide any regulation on the import licensing of alcohol products. Eligible enterprises for alcohol trading are allowed to import such products without any quantitative restrictions.

7. Please describe how the three types of licenses -- how they are processed, distributed, and administered -- fulfil the requirements of Article 1.2 of the Import Licensing Procedures Agreement. Please also explain how the requirements imposed on importers accord with the national treatment provisions of the GATT 1994.

Three types of licenses relating to alcohol products are granted and managed on the basis of transparency and non-discrimination in order to create a sound business environment and protect consumers' health. These three types of licenses are not import licenses.

8. For what purpose are import licenses required? For what purpose are licenses required as well at the wholesale and retail level? Which GATT 1994 article allows Viet Nam to establish a quota in the first place?

9. What is the underlying reason for limiting the quantity of wine distribution, wine wholesaling and wine retailing based on population? How is "population" defined?

10. Why are the import-licensing rules for small-scale production of "wine" different from any other kind of production for sale?

11. Why is each trader issued only one kind of license for wine trading?

Answers for question 8, 9, 10 and 11 together:

Alcohol is a special product. If abused, it may affect people's health, social security and traffic safety. Based on the above facts and recommendations of the World Health Organization (WHO), the Government of Viet Nam regulates that alcohol business is conditional business and alcohol consumption is not encouraged in Viet Nam. Therefore, Viet Nam sets out conditions to alcohol

producers and traders in line with public policy objectives and recommendations of the WHO. Viet Nam does not regulate any quantitative restrictions on importation of alcohol, however, alcohol producers and traders must meet certain necessary criteria. These rules are applied to both domestic and foreign enterprises without any discrimination.

However, Viet Nam always wishes to continue improving its management policies in order to both meet public policy objectives and create favourable conditions for legitimate production and business activities. Therefore, the Government of Viet Nam has decided to develop a new decree to replace the Decree No. 94/2012/ND-CP. In the process of drafting this new decree, Viet Nam will continue to consult with interested stakeholders.

12. How will Viet Nam structure its licensing procedures to ensure that new entrants will be allowed access to the market?

The provisions on the alcohol production and trading in the Decree No. 94/2012/ND-CP dated 12 November 2012 are applied on equal treatment basis between domestic and foreign enterprises without any exception. The management objectives are set out to meet special requirements of alcohol products, and at the same time create favourable conditions for new and potential traders to be developed in the alcohol market and ensure a stability of the exiting alcohol market.

13. Where are the fees for each wine license, as prescribed by the Ministry of Finance, published?

The organizations and individuals engaged in the alcohol trading activities must submit application to be granted the alcohol trading licenses. Traders must pay fee for evaluation of such application according to the guidance of Ministry of Finance in the Circular No. 77/2012/TT-BTC dated 16 May 2012, which is currently replaced by the Circular No. 168/2016/TT-BTC regulating the rates, the regime of collection, remittance, management and use of charges for business appraisal of goods and services subject to business restriction. These rates are in line with the cost of services rendered.
