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Committee on Market Access

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**REPLIES BY MEXICO TO THE QUESTIONS ASKED BY THE EUROPEAN UNION
IN DOCUMENT G/MA/W/126 REGARDING MEXICO'S
QUANTITATIVE RESTRICTION NOTIFICATION (QRS)
(DOCUMENT G/MA/QR/N/MEX/1/REV.1)**

COMMUNICATION FROM MEXICO

The following communication, dated 26 April 2018, is being circulated at the request of the delegation of Mexico.

• Reference is made to the following measures:

- **No. 7, a non-automatic licence for the importation of used vehicles.**
- **No. 32, a non-automatic licence for the importation of fertilizers.**
- **No. 37, a non-automatic licence for the importation of forestry sub-products**
- **No. 43 and subsequent, non-automatic licences for the importation of medical equipment.**

Mexico justifies the above-mentioned measures as being necessary to protect human, animal or plant life or health (Article XX(b) of the GATT).

Could Mexico submit additional clarifications on the procedures necessary to import the concerned products?

Non-automatic licences are processed through the Digital Window, irrespective of the body issuing them.

- No. 7, a non-automatic licence for the importation of used vehicles.

The requirements generally depend on the type of vehicle. The importing party registers the application for prior consent to definitive import through the Mexican Digital Window for Foreign Trade, or alternatively submits the requisite form, duly completed, to the customer services counter of the appropriate Ministry of the Economy branch office. The processing time for such an application is 15 working days in the case of personal attendance, or 13 days for an Internet submission. Prior import licences for used vehicles are valid for one year and may be extended for a period equal to that initially authorized, subject to there being no change in the original criteria.

<http://www.siiex.gob.mx/portalSiiex/Transparencia/Permisos/archivos/Fichaspermisos/FICHA%20INFORMATIVA%20VEHICULOS%20USADOS.pdf>

- No. 32, a non-automatic licence for the importation of fertilizers.

Importers of such goods must apply to the Interministerial Commission for the Control of the Processing and Use of Pesticides, Fertilizers and Toxic Substances (CICOPLAFEST) in order to obtain the corresponding authorizations pursuant to the provisions of Articles 24 to 33 of the

Regulations on Registers, Import and Export Authorizations and Export Certificates for Pesticides, Plant Nutrients and Toxic or Hazardous Substances and Materials, published in the Official Journal of the Federation of 28 December 2004. Such authorizations are to be presented together with the corresponding customs declaration.

<http://www.siiex.gob.mx/portalSiiex/SICETECA/Acuerdos/Regulaciones/CICLOPLAFEST/Original%2012042013.pdf>

- No. 37, Point-of-entry inspection for forestry products and by-products.

Considering the frequency and volume of importation of wildlife specimens, products and by-products, it has been determined that the entry and exit inspection points for such items shall be the inspectorates of the SEMARNAT (Ministry of the Environment and Natural Resources) Federal Environmental Protection Agency located at land, maritime, airport and inland customs offices.

Inspections shall be carried out by staff of the Federal Environmental Protection Agency assigned to each inspectorate located at national territory entry and exit points, in accordance with the provisions set out in the relevant SEMARNAT Handbook of Procedures. Permits, certificates and authorizations issued by the competent SEMARNAT Administrative Units, under the terms of the Decision determining the classification and coding of goods whose import is subject to regulation by SEMARNAT (Official Journal of 19/12/2012), shall specify the measures and requirements to be complied with by the interested parties, in accordance with the provisions of the applicable legislation, at the time of import of the goods, and their issuance shall be in accordance with the provisions of the SEMARNAT Federal Register of Formalities and Services.

http://www.dof.gob.mx/nota_detalle.php?codigo=5282813&fecha=19/12/2012

- No. 43, Authorization for products for the diagnosis, treatment, prevention or rehabilitation of illnesses in humans, or for laboratory testing

The Federal Commission for Protection against Health Risks (COFEPRIS), through the Sanitary Authorization Commission, as well as the competent health authorities in the federative entities, shall issue prior sanitary import authorizations, which in accordance with the General Law on Health are in the nature of prior sanitary import permits, for products for the diagnosis, treatment, prevention or rehabilitation of illnesses in humans, or for laboratory testing, to be handled under the outright importation, temporary importation or in-bond storage procedure, only in cases where such products: (a) are being imported under the Decree on the promotion of the Manufacturing, Maquila and Export Services Industry (IMMEX); (b) constitute a donation; (c) are being imported for the importer's personal use and exceed the free allowance stipulated in the customs legislation; (d) are being imported for use in scientific research or for laboratory or experimental use; or (e) constitute temporary imports to be used in international exhibitions, conventions, presentations or congresses, provided that they are in no case intended for distribution and/or marketing.

Importers of goods that are listed in the Decision establishing the classification and coding of goods and products whose import, export, inward clearance or exit are subject to sanitary regulation by the Ministry of Health (Official Journal of 16/10/2012) shall present, together with the customs declaration, the prior sanitary import authorizations.

Prior to importation, importers shall present to COFEPRIS, or, as the case may be, to the competent sanitary authorities in the federative entities, the sanitary import notices indicating the tariff heading and its description, together with the trademark and trade name of the products, for stamping and immediate return to those concerned.

http://www.dof.gob.mx/nota_detalle.php?codigo=5273184&fecha=16/10/2012

Could Mexico explain on how those procedures could guarantee the protection of human, plant or animal life or health (Article XX(b) of the GATT)?

The importation of products of this type could represent a risk to human, plant or animal life. In this regard, the above-described procedures, without being discriminatory in nature, serve to

ensure that such operations do not entail any threat to the health or life of humans, animals or plants by guaranteeing compliance with the applicable technical provisions, without restricting trade and in a manner that is fully consistent with WTO commitments. For example, the procedures applicable to the importation of fertilizers, plant nutrients or plant nutrition inputs, during the course of which an inspection is carried out, ensure compliance with the technical and other requirements laid down in the applicable legislation, in the interests of ensuring that the health and life of humans, animals and plants is not put at risk.

With reference to Measure No. 13, a non-automatic licence for the exportation of drug precursors and chemical substances, could Mexico explain the procedures for the exportation of the concerned products?

In order to improve Mexico's export control system it is necessary to adopt, as a reference, the standards established by the Australia Group, which constitute another of the instruments within the array of international export control systems that have demonstrated their effectiveness as a valuable tool for the implementation and strengthening of the principles on which Mexico established its export controls relating to the transfer of facilities and equipment for the manufacture of dual use chemical substances and associated technology and IT systems, and also dual use biological equipment and associated technology and IT systems.

An interested party downloads, from the page <http://www.siicex.gob.mx/portalSiicex>, the form "Declaration of use and end user" (*Manifestación de uso y usuario final*) and the application form for a prior export permit together with the corresponding requirements in electronic form. The next step is to submit the electronic forms to the customer services counter of the Ministry of the Economy branch or sub-branch office. The counter official receives the forms and checks them to ensure that all of the requisite information has been provided: details of the applicant and legal representative, as well as of the end user in the country of destination. Finally, a check is made of the details concerning usage and final destination (countries in question, product descriptions, export control number, tariff heading).

The Ministry of the Economy decides on each application within a period not exceeding 15 working days from the date of its submission. The period of validity of such a prior export permit is one year. It may be extended for a period equal to that initially authorized, subject to there being no change in the authorization criteria.

<http://www.siicex.gob.mx/portalSiicex/CONTROL%20DE%20EXPORTACIONES/PROCEDIMIENTOS/Procedimiento%20para%20la%20obtencion%20de%20permiso%20previo.pdf>

http://www.dof.gob.mx/nota_detalle.php?codigo=5273961&fecha=22/10/2012

With reference to the Measure No. 47 (a sanitary permit for the importation of tobaccos) and to Measure No. 48 (a sanitary authorization for the exportation of medical devices), could Mexico clarify whether these measures have been notified to the WTO under the SPS Agreement?

Measures 47 and 48 have not been notified to the WTO under the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) since they are not subject to transparency obligations under that Agreement.

With reference to the Measure No. 51, a non-automatic licence for the importation of fuel and petroleum products, could Mexico justify this measure under WTO rules? Could Mexico submit additional clarification on the procedures needed for the importation of the affected products?

The Hydrocarbons Law¹ provides that, as from 1 January 2015, the Ministry of Energy is responsible for regulating and overseeing, as well as for granting, modifying and revoking permits for, the import of hydrocarbons and petroleum products under the Foreign Trade Law and with the support of the Ministry of the Economy.

¹ Official Journal of 11/08/2014:
http://www.dof.gob.mx/nota_detalle.php?codigo=5355989&fecha=11/08/2014.

The Ministry of Energy decides on prior export permit applications within 13 days for applications submitted through the Digital Window, and within 15 days for those submitted to its central office, both periods commencing the day after submission. Should the period expire with no notification from the Ministry, the authorization is deemed to have been granted.

Interested parties will find the forms to be submitted and corresponding requirements on the Ministry of the Economy website.

The measure is in line with the rights and obligations to which Mexico has committed itself within the multilateral legal framework of the WTO, particularly the Agreement on Import Licensing Procedures.

<https://www.gob.mx/tramites/ficha/permiso-de-importacion-de-hidrocarburos-y-petroliferos/SENER1519>.
