IMPORT LICENSING SYSTEM OF ARGENTINA

REPLIES TO QUESTIONS FROM THE UNITED STATES

The following communication, dated 5 November 2020, is being circulated at the request of the delegation of Argentina.

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**Question**

In 2020, Argentina made three (3) notifications to the Committee, and one corrigendum:

G/LIC/N/2/ARG/28/Add.5, circulated 5 March 2020

G/LIC/N/2/ARG/28/Add/6, circulated 14 April 2020

G/LIC/N/2/ARG/28/Add.7, circulated 29 July 2020

G/LIC/N/2/ARG/28/Add.7/Corr.1, circulated 18 August 2020

These are updates to Resolution 523/2017, *improved efficiency and transparency in Argentina's import licensing system*, notified in G/LIC/N/2/ARG/28 on September 2017.

During 2020, we have heard from importers about non‑transparent approval processes and requirements, as well as delays in processing times related to the import licensing system.

In the interest of an open exchange under this Committee, we seek additional clarification from Argentina about the changes to the import licensing system introduced in 2020. We urge Argentina to implement its system in a transparent, fair, and equitable manner, and to avoid practices that could have avoidable trade‑restrictive or distortive effects that may discourage investment or other economic activity important for Argentina's long‑term objectives.

1. Is Resolution 532/2017 still the primary measure governing automatic and non‑automatic import licensing in Argentina? Which other measures are relevant to understand the import licensing system?

**Reply**

Yes, both automatic import licensing and non‑automatic import licensing are governed by former Secretariat for Trade Resolution No. 523/2017 and the following amendments and supplements thereto:

* 1. Former Secretariat for Trade Resolutions Nos. 898/2017, 5‑E/2018, 170/2018, 507/2018 and 526/2018.
  2. Secretariat for Industry, the Knowledge Economy and Foreign Trade Management Resolutions Nos. 1/2020, 13/2020 and 133/2020.
  3. Undersecretariat for Trade Policy and Management Provisions Nos. 3/2020, 5/2020, 9/2020, 10/2020 and 29/2020 (this last Provision, published in the Official Journal of the Argentine Republic on 21 October 2020, is in the process of being notified to the WTO).

2. The notifications this year indicate changes in scope for products requiring non‑automatic import licensing. What products currently require non‑automatic import licensing? How is the scope of products different from that in place in 2019?

**Reply**

In 2020, certain changes have indeed been made regarding the range of products requiring non‑automatic import licensing. As part of these changes, some products have been added, while others have been excluded. In December 2019, 1,381 tariff headings were subject to non‑automatic licensing; this figure now stands at 1,440, a difference of 59 additional tariff headings, which amounts to less than 15% of all goods.

As indicated above, the notified regulations concern changes to the range of products covered by non‑automatic licensing, and these changes take the form of both additions and exclusions. For instance, in light of the Covid‑19 situation, Provision No. 5/2020 has suspended non‑automatic import licensing for certain medical products such as alcohol‑based gels, medical clothing and face masks, resulting in the exclusion of 16 tariff headings. Provision No. 9/2020 excludes a total of 21 tariff headings from the non‑automatic licensing universe, while Provision No. 29/2020 excluded a total of 116 tariff headings.

Furthermore, we wish to clarify that one of the notifications mentioned by the United States delegation, G/LIC/N/2/ARG/28/Add.7/Corr.1, refers to an error concerning the date of the official publication of the notified regulations and not changes to the range of products covered by the licensing system.

Attached to this questionnaire is a separate Excel file containing a list of the tariff headings currently subject to non‑automatic import licensing. It should be noted that an updated version of this list may be consulted at any time in Annexes II to XIV to Resolution No. 523/2020 at:

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/275000-279999/276625/texact.htm>

3. The recent notifications indicate the possibility of very broad information requests, on short notice, to applicants for non‑automatic import licensing.

For example, at page 2 of G/LIC/N/2/ARG/28/Add.5, it states:

*For goods subject to non‑automatic import licensing, the implementing authority may require the importer, at any point in the procedure, to provide any information and/or additional documents listed in Annex XV to the Resolution. It may also request the intervention of competent technical bodies, use background information from its own sources or those of third parties, and require, should it be deemed necessary, clarifications.*

(a) Has Argentina rejected any applications in 2020 for failure to provide such additional information, for an applicant that provided all information necessary according to published application instructions?

**Reply**

The additional information that may be requested is part of the necessary information required for non‑automatic import licensing. We should clarify that this request for information is not part of a new requirement established in the regulations notified by Argentina in 2020 that are the subject of this questionnaire; rather it forms part of a requirement that has been in effect since 2017 pursuant to Article 5 of Resolution No. 523/2017. Furthermore, the additional information that may be requested is described in Annex XV to that Resolution.

Regarding the time given to submit the information, the Argentine government believes that a period of 10 working days, plus an additional five working days where the information submitted is partial or incomplete, is sufficient to meet this requirement, also taking into account that it is submitted via a digital platform. The reasons for not approving a licence therefore stem from the applicant's failure to meet the requirements set forth in the relevant regulations.

It should also be noted that the concept of "rejection" does not exist within the context of the import licensing system, as the applicant is able, at any time during the process, to submit, correct or modify the information requested under Resolution No. 523/2017 by the implementing authority. Once the time frames established in that regulatory text have expired, the applicant must reapply for the licence, and may do so as many times as they wish, there being no limit in this respect.

The reply to question 6(c) shows how many licence applications have not been approved since 2018, including the number for 2020 so far.

(b) How does Argentina ensure that such information requests do not result in a trade restriction and/or trade distortive effects?

**Reply**

Argentina sees no reason to believe that requesting information within the framework of the import licensing system can cause trade distortive effects, since this is not the purpose of such requests. The purpose of requesting information is fully consistent with Article 3 of the Import Licensing Agreement, and is clearly established in the recitals of Resolution No. 523/2017. Requesting information helps to ensure that the system remains straightforward and transparent. Furthermore, as indicated in the reply to the previous question, the information requested and the time frames stipulated within the framework of the system are considered reasonable enough to enable the operator to submit the information properly in a timely manner.

(c) What is the basis on which the implementing authority makes such information requests? How do such requests relate to the measure being implemented through the licensing procedure?

**Reply**

As indicated above, the implementing authority has been able to request additional information ever since 2017 under Resolution No. 523 of that same year, and this is important for the purpose of obtaining additional information that allows for the improved surveillance of import operations and the more efficient monitoring of the applicant's compliance with the requirements established in the relevant regulations.

(d) How does Argentina inform applicants of information requests?

**Reply**

The information is transmitted via the SIMI (Comprehensive Import Monitoring System) virtual platform (<https://www.afip.gob.ar/simi/>).

(e) If the information requested is not available from the applicant, how does that affect the application?

**Reply**

Pursuant to Article 5 of Resolution No. 523/2017, the applicant has 10 working days to provide the information required by the implementing authority. Once this deadline has expired, the procedure is automatically cancelled. If the information provided by the applicant is incomplete or fails to meet the implementing authority's requirements, they will be given an additional five working days to modify, correct or complete the requested information. If this deadline expires and no response from the applicant has been received, the procedure will be cancelled and a new licence application may be submitted.

(f) What procedures does Argentina have in place to protect confidential information for applicants?

**Reply**

Article 8(c) of Law No. 27.275 (Law on Access to Public Information) expressly provides that the State shall be exempt from the requirement to provide information concerning "Industrial, commercial, financial, scientific, technical or technological secrets, where revealing such secrets could harm the level of competitiveness or damage the interests of the entity subject to the requirement".

Furthermore, the Comprehensive Import Monitoring System (SIMI) is designed in such a way as to ensure that each applicant can only access their own declarations.

4. Under what circumstances may an application for a license be refused other than failure to meet the ordinary criteria? What is the procedure for appeals of rejection of a non‑automatic license?

1. Do applicants have a right of appeal in the event of refusal to issue a license?
2. If so, to what bodies and under what procedures?

**Replies (a) and (b)**

All applicants have the right to an administrative review under the terms of the regulations in force within the framework of the Law on Administrative Procedures (Law No. 19.549) and the amending and supplementary provisions thereto (and the right to apply for a new licence), as well as before the ordinary courts. Furthermore, these administrative and judicial instances are not mutually exclusive for operators.

5. What percentage of imports to Argentina are now covered by automatic import licensing and by non‑automatic licensing? What were those percentages on December 31, 2019? Please provide this information by volume and value.

**Reply**

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| --- | --- | --- |
| **Year 2020 (Jan‑Sept)** | | |
| **Licence type** | **Value (f.o.b.)** | **Volume (kg)** |
| Automatic | 71.7% | 87.3% |
| Non‑automatic | 28.3% | 12.7% |
| **Total** | **100%** | **100%** |

|  |  |  |
| --- | --- | --- |
| **Year 2019** | | |
| **Licence type** | **Value (f.o.b.)** | **Volume (kg)** |
| Automatic | 83.2% | 95.0% |
| Non‑automatic | 16.8% | 5.0% |
| **Total** | **100%** | **100%** |

6. Please provide statistical information for both automatic and non‑automatic licenses, on:

* 1. Number of applications,
  2. Percentage accepted,
  3. Percentage rejected, and
  4. Processing time (averages, minimum, and maximum) for applications?

Please provide this information on an annual basis for 2018 and 2019, and for 2020 January through September.

**Replies (a), (b), (c) and (d)**

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| --- | --- | --- | --- | --- | --- | --- |
| **2020 (Jan‑Sept)** | **Number of licences** | | | **(d)** | | |
| **(a)** | **(b)** | **(c)** | **Min.** | **Max.** | **Avg.** |
| AL | 355,026 | 99.9% | 0% | <1 d. | 2 d. | 1 d. |
| NAL | 199,303 | 84.1% | 0.2% | 1 d. | 60 d. | 6 d. |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **2019** | **Number of licences** | | | **(d)** | | |
| **(a)** | **(b)** | **(c)** | **Min.** | **Max.** | **Avg.** |
| AL | 459,882 | 100.0% | 0% | < 1 d. | 2 d. | 1 d. |
| NAL | 193,760 | 99.3% | 0.6% | 1 d. | 60 d. | 3 d. |

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| --- | --- | --- | --- | --- | --- | --- |
| **2018** | **Number of licences** | | | **(d)** | | |
| **(a)** | **(b)** | **(c)** | **Min.** | **Max.** | **Avg.** |
| AL | 500,261 | 100.0% | 0% | <1 d. | 2 d. | 1 d. |
| NAL | 214,437 | 99.0% | 0.9% | 1 d. | 60 d. | 5 d. |

7. Is Argentina considering additional changes to its import licensing system? If so, will Argentina consult with stakeholders before implementing such changes? What changes, if any, are under consideration?

**Reply**

The Argentine Republic's import licensing system is continuously monitored by the authorities, and changes may only be made where considered strictly necessary for the sole purpose of continually improving its efficiency, as well as to cover the product range strictly necessary to ensure compliance and conformity with the underlying measures that are applicable.

It should also be noted that the system's implementing authorities always take into account the considerations and concerns expressed by stakeholders, in order to foster the ongoing improvement, transparency and efficiency of the system's management.

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