GENERAL AGREEMENT ON
TARIFFS AND TRADE

CONTRACTING PARTIES
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NOTIFICATIONS OF IMPORT RESTRICTIONS OF NEWLY-INDEPENDENT COUNTRIES

Addendum

CONGO (BRAZZAVILLE)

In response to the invitation in GATT/AIR/534, the Congo Republic has submitted the texts of decrees governing exportation and importation of goods. This notification is made without prejudice to the question of consistency of such regulations with the obligations of the General Agreement.

The Congo Republic authorities note that, as a country of transit trade, the Congo Republic follows an "open-door" policy which also contributes to the implementation of the country's large programme of economic development.

There are no quantitative restrictions on exports.

As regards imports, the basic régime is contained in Order 1082/MICAEF/DAEC of 15 March 1965, which describes in general terms the procedures applicable to imports from the franc area (Title II), from other countries generally (Title I) and from countries of the EEC, other than France (Title IV). There are no economic or commercial relations with Portugal.

The Congo Republic authorities note that only a very few products are subject to a restrictive policy with regard to import licensing. Imports from the franc area are not, in general, subject to licensing and most imports from outside the franc area are understood to be licensed within annual global quotas established by broad product groups. Seasonal restrictions are, however, in force for potatoes (from June to October) and rice (from March to July) in view of the fact that local production is believed to be sufficient to satisfy the needs of the entire population during those months. Cement is also subject to special regulation, and the same is expected soon to be true of salt, pursuant to special aid arrangements with two countries.
ORDER NO. 1082/MICAEP/DAEC ESTABLISHING THE IMPORT SYSTEM
OF THE REPUBLIC OF THE CONGO
(15 March 1965)

TITLE I
Imports from Countries Outside the Franc Area

Article 1 - The importation into the Republic of the Congo under any customs system whatsoever of products, goods, foodstuffs and objects of any kind from countries outside the franc area is permitted only upon production of an import authorization in accordance with the conditions laid down in this Decree.

Article 2 - Waivers of a general character may be authorized. They shall be published in the Official Gazette in the form of a notice to importers.

Article 3 - The import authorization mentioned in Article 1 shall be issued by the Department of Economic Affairs (Foreign Trade Service at Brazzaville and the Office of Foreign Trade at Pointe-Noire) and shall be countersigned by the Foreign Exchange Office.

Article 4 - Import authorizations shall be delivered in the form and subject to the conditions laid down in the following Chapters.

CHAPTER I
Making and Submission of Applications

Article 5 - Applications for import authorizations shall be made by importers in six copies on forms corresponding to the model annexed to this Decree.

The importer shall be responsible for supplying the form.

Article 6 - Applications for import authorizations shall be submitted before any order for goods has been made. Applications shall be accompanied by a pro forma invoice in two copies which shall state:

- the names of the parties
- the country of origin
- the nature of the goods and quantity
- the value of the goods
- the time-limit for delivery
- f.o.b. or c.i.f. conditions
- methods and conditions of payment.
Article 7 - The pro forma invoice shall be made out on the basis of the price f.o.b., port of loading, that is to say:

- price of goods ex-works
- cost of packing and handling
- cost of transport from the factory to the port of loading.

Maritime transport expenses (freight) and insurance shall be paid by the bank acting as paying agent of the licence upon production of the documents proving the expenditure and entered by the Foreign Exchange Office under the headings "Sea Transport" and "Insurance".

If these expenses are entered in the pro forma invoice, this is solely as an indicative measure.

Article 8 - Applications for import authorizations shall be domiciled at an approved intermediary bank.

Article 9 - Applications for authorization stating the place of domicile shall be deposited with or addressed to the Department of Economic Affairs (Foreign Trade Service at Brazzaville or Foreign Trade Office at Pointe-Noire) which shall verify them, give them a number, affix its visa and forward the documents to the Foreign Exchange Office for allotment of the foreign currency.

The Foreign Exchange Office within the limits of the credits delegated to it and in accordance with the rules governing foreign exchange shall keep the foreign currencies at the disposal of holders of licences previously granted by the Department of Economic Affairs (Foreign Trade Service at Brazzaville or the Foreign Trade Office at Pointe-Noire).

In case of any dispute or any irregularity, the Foreign Exchange Office may return the licence with any necessary remarks to the issuing service.

Article 10 - The Foreign Exchange Office after affixing its visa shall keep a copy of the licence and a copy of the pro forma invoice. It shall forward a second copy of the licence to the bank acting as paying agent and send the remaining four copies and the second copy of the pro forma invoice to the issuing service.

The latter, upon receipt of the licence, shall inform the importers that their licences are ready, shall deliver to them the copy marked "Importer", transmit to the customs clearance office the copy marked "Customs" and keep the last sheet and the second copy of the pro forma invoice in its files.

Article 11 - Importers shall draw up their applications with great care and not omit any information required. The absence of any information required, lack of precision or any rough erasures in making out an application shall entail its rejection pure and simple.
CHAPTER II

Validity of Licences

Article 12 - The duration of the validity of an import licence shall be fixed at one year from the date of delivery. Any application for a prolongation shall be refused.

Nevertheless, licences for the importation of certain capital goods, the manufacture of which needs some time, may be prolonged by way of exception, for a period of six months provided that the importer can justify his request.

CHAPTER III

Applicability of Import Licences with Regard to Customs Service - Tolerance

Article 13 - The copy of the licence held by the Customs Service shall in every case be checked against the details given in the declaration with a view to verifying its applicability. With the exception of the tolerances mentioned below, the information stated on an import licence and the information stated on the corresponding declaration of entry shall agree in every respect, in particular as regards the nature of the goods, their place of origin, their place of consignment, quantity and value.

The goods shall be prohibited if the licence submitted does not conform to the regulations or is inapplicable.

The quantity imported shall be kept within the limits of the authorized net weight, as indicated in the licence, subject to a tolerance of 10 per cent.

The value authorized on the licence shall not be exceeded, subject to a tolerance of F.fr.1,000 or the equivalent thereof in foreign currencies, provided that the said tolerance shall not exceed 5 per cent of the sum stated in the licence at the time of its assignment.

In case of any dispute concerning the place of origin or of consignment of the goods, the import licence shall no longer be applicable, since the methods of payment depend strictly upon the place of origin or consignment first mentioned.

If, account being taken, when necessary, of the tolerances which the Customs Service is authorized to permit, an import licence is declared inapplicable owing to any variation in one of the above elements, the operation shall not be continued under the said licence until the document has been rectified by the authority which issued it.
CHAPTER IV

Assignment of Import Licences

Article 14 - If a licence is deemed to be applicable the Customs Service shall proceed to issue it.

In so doing the following information shall be entered on the back of the control copy and of the copy marked "importer":

- the name and the seal of the Customs Office;
- the number and the date of the customs declaration;
- the quantity and value of the goods constituting the object of the declaration;
- the signature of the customs official.

Article 15 - The value chargeable shall consist of the amount in foreign currency of the cost price to the foreign exporter, increased if necessary by the accessory expenses, included in the f.o.b. price if the said expenses are paid in foreign currencies.

The cost of transport by sea if payable in foreign currency shall be paid separately from the cost of the goods.

Article 16 - The sums charged shall state the quantities and values actually imported.

The relevant accounts shall be drawn up fully and with care, and legibly. The total figures for the partial charges shall be entered frequently so as to obviate exceeding the quantities or values, in particular before transfer of the papers to another office or their return to the issuing office.

CHAPTER V

Discharge and Control of Licences

Article 17 - The discharge of import licences shall be carried out by the Customs Service in accordance with the following provisions:

(a) Complete discharge. If all the goods entered on a licence have been imported and declared to the Customs before the expiry of the period of validity, either on one occasion or on several occasions, the control copy of the licence shall carry the mention "Totality", together with the signature of the Customs official and the seal of the Customs Office.
(b) No discharge or partial discharge. If the goods entered on a licence have not been imported or if only a part thereof has been imported before the expiry of the period of validity, the control copy of the said licence shall contain under the same conditions as above, either the mention "Validity expired" or the mention "Licence granted for ... (total of the partial grants); validity for the remainder has expired".

(c) The return of licences by the Customs Clearance Office. Every month every Customs Office shall collect and send to the Department of Economic Affairs (Foreign Trade Service at Brazzaville or the Office of Foreign Trade at Pointe-Noire) the control copies of the licences that have been completely checked or expired after partial assignment or no assignment at all.

Article 18 - The control of the discharge of import licences shall be done jointly by the Foreign Trade Service at Brazzaville or the Office of Foreign Trade at Pointe-Noire for the purpose of carrying out the programme of importation and by the Foreign Exchange Office as regards foreign currencies.

It shall be strictly prohibited to carry over any foreign currency from one licence to another as each importation authorization must be checked separately.

CHAPTER VI

Modification of Licences

Article 19 - Import licences may be modified if the importer submits appropriate and due reasons therefor.

The modification of licences shall be subject to a notice of modification issued by the Department of Economic Affairs (Foreign Trade Service at Brazzaville and the Office of Foreign Trade at Pointe-Noire) and countersigned by the Foreign Currency Office.

CHAPTER VII

Transfer of Licences

Article 20 - In every case where the importation is to be effected by an office other than the office originally mentioned in the import licence, the importer may obtain the transfer of the licence to the new office of entry.

In such a case it shall be sufficient for the holder of the licence (or his forwarding agent) to apply in writing to the Chief of the first Customs Office for the transfer of the licence to the new office concerned.
Transfers duly applied for shall be carried out with as little delay as possible and solely through the administrative channel.

CHAPTER VIII

Inalienability of Licences

Article 21 - No instrument containing an importation licence shall under any conditions be the subject of a loan, sale, cession or, generally speaking, of a transaction of any kind on the part of the holder in whose name the document was issued.

Article 22 - With respect to the utilization of a licence, the importer is the sole person who, being the owner of goods or having the right of disposal of goods situated outside the State, decides to import them and to fulfil the Customs formalities in accordance with the licence issued to him. On the one hand this provision is the consequence of the general rule regarding imports under which the importation is subject to the submission to the Customs Office of an individual licence and, on the other hand, of the fact that the licence is registered in the name of the person concerned and is inalienable, which implies that the importation should be made by the person who is in possession of the authority to import.

The formalities may be carried out by an approved agent of the Customs for the account of the importer.

In case of doubt concerning the regularity of the use made of a licence, it is necessary to make sure that the operations effected by means of the licence are commercial operations and not fictitious or simulated operations.

In this respect, it may be considered that a commercial operation is normal if the holder of the licence:

- is in possession of the goods or has the power to dispose of them outside the Customs territory;
- imports the goods and fulfils the Customs formalities;
- effectively pays the price to the vendor;
- insures against the risks to which the purchaser is habitually exposed;
- disposes freely of the goods.
TITLE II

Importations from Countries in the Franc Area

Article 23 - Goods having their origin in countries in the franc area and goods having their origin in third countries entered for consumption in the countries in the franc area may be imported freely subject to the Customs tariff.

Article 24 - Goods having their origin in third countries and consigned from countries in the franc area where they were kept subject to a suspended Customs system may be imported on production of a licence, with or without foreign currencies, as the case may be.

TITLE III

Direct Imports "without Financial Settlement" with Countries Outside the Franc Area

Article 25 - The importation of goods from countries outside the franc area not requiring a financial settlement shall be subject to the production of an import licence issued by the Department of Economic Affairs (Foreign Trade Service at Brazzaville and the Office of Foreign Trade at Pointe-Noire) and countersigned by the Foreign Currency Office.

The instrument issued shall state distinctly that the importation is carried out "without financial settlement" or "without foreign currency", that is to say, that the operation does not give rise to the purchase of foreign currencies.

The value expressed in the licence shall in consequence be the c.i.f. value of the goods.

Article 26 - Payment to the foreign supplier of the price of the goods to be imported may be effected in any of the following ways:

(a) by means of assets not compulsorily transferable, belonging to a resident of French nationality;

(b) by means of assets not compulsorily transferable, belonging to a resident of a foreign nationality;

(c) by means of assets belonging to a non-resident with a view to investment in the franc area;

(d) by means of assets belonging to a non-resident (goods sent by way of a gift);
(e) by means of credit opened in France;

(f) by means of a private settlement per contra; or

(g) by means of a replacement of missing or defective goods.

Goods sent abroad for processing or subject to temporary export may also be the object of an import licence without foreign currencies.

The financing of the importation of goods from countries outside the franc area by means of assets that are compulsorily transferable shall be prohibited.

**TITLE IV**

**Importation of Liberalized Products from Countries of the European Economic Community**

**Article 27** - A so-called "automatic" import licence shall be requisite in the case of the importation of products which have their origin in and are under consignment from countries of the European Economic Community and have been subject to measures of liberalization in accordance with the provisions of Article 6 and Article 2 of Protocol No. 2 of the Convention of Association, signed at Yaoundé on 20 July 1963.

**Article 28** - Applications for automatic import licences shall be made by importers in six copies on forms in conformity with the applications for an import authorization, the model of which is appended to this Decree.

The importer shall be responsible for the supply of the forms.

**Article 29** - An application for an automatic licence shall state exactly the number in the tariff schedule, the quantity and the value of the product to be imported.

**Article 30** - Automatic import licences shall be granted by the Department of Economic Affairs (Foreign Trade Service at Brazzaville and the Office of Foreign Trade at Pointe-Noire) and countersigned by the Foreign Trade Office. The Department of Economic Affairs (Foreign Trade Service at Brazzaville and the Office of Foreign Trade at Pointe-Noire) shall affix to applications for an import licence the following mention: "automatic import licence", to distinguish them from licences granted in accordance with the importation programme.

**Article 31** - Automatic licences delivered for the importation of liberalized products shall be entered in a special account, outside the programme.
TITLE V

General Waivers as Regards Importation

Article 32 - The following imports shall not give rise to any formality of foreign trade and currency control.

The general waivers applicable at present are listed below:

- abandoned goods: goods which have been abandoned in the Customs and become State property;

- household animals accompanying the owner when travelling;

- refilling and revictualling of aircraft: goods imported under the Customs bonded warehouse system and intended exclusively for the refilling and revictualling of aircraft;

- postal packets: parcels sent by post not exceeding 20 kgs. and packages sent through the post not having a commercial character, of a value of less than CFA frs.20,000, addressed to private persons by private persons, excluding multiple packages sent by the same person to the same addressee;

- industrial drawings and plans imported with the machines or apparatus to which they relate. If the drawings and plans are imported separately, the importation shall be subject in principle to the production of an authorization countersigned by the Foreign Currency Office; nevertheless, this formality shall not be required if the requisite documents are produced (contract for the purchase of the machine in question, for example) as evidence that the plans do not give rise to any financial settlement and further that they refer to machines already covered by an import licence;

- frontier trade of every kind, provided that the value thereof is less than CFA frs.10,000;

- technical documents, publicity articles having no commercial value;

- samples, whether or not they have a commercial value and whether or not they accompany commercial travellers, provided that they do not give rise to any financial settlement in a foreign currency;

- travellers' personal effects, personal clothing, etc., whether or not admitted free of Customs duty;
- customary containers imported full, provided that the value of the containers is included in the value indicated in the licence relating to the contents,

- seized goods delivered free of charge to philanthropic societies or hospital institutions or else destroyed or placed on sale by the Customs administration;

- used furniture and used agricultural material imported as a result of a change of residence or received by way of inheritance (including articles which, although constituting part of the furniture, do not benefit by freedom from Customs duties);

- diplomatic privileges: articles intended for persons covered by diplomatic immunity and supplies sent to foreign consulates and admitted free of duty under the conditions laid down in the Customs Regulations;

- travelling provisions and objects imported by travellers in their baggage;

- re-importation of goods that have been temporarily exported and have not undergone abroad any transformation or additional processing resulting in an increase of value;

- marriage trousseaux (including wedding gifts) and foreign pupils' school outfits;

- vehicles imported temporarily under the conditions laid down in the Customs Regulations;

- UNESCO vouchers: goods imported under UNESCO vouchers in accordance with the conditions laid down in the Customs Regulations;

- gifts to the Congolese Government, to the Party and its parallel organizations.

Article 33 - All provisions contrary to this Decree are hereby repealed.

Article 34 - Any contravention of this Decree shall be punished in accordance with the provisions laid down in the General Foreign Currency Regulations and Law 24-64 of 20 July 1964, mentioned above.

Article 35 - The Director of Economic Affairs, the Director of Customs, and the Director of the Foreign Currency Office shall be responsible, each in so far as he is concerned, for the enforcement of this Decree, which shall be registered, published in the Official Gazette of the Republic of Congo and communicated everywhere necessary.