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**Working Party on the Accession
of the Kingdom of Saudi Arabia**

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ACCESSION OF THE KINGDOM OF SAUDI ARABIA

Additional Questions and Replies

The Ministry of Commerce of the Kingdom of Saudi Arabia has submitted replies to additional questions raised, with the request that they be circulated to members of the Working Party.

Sanitary and Phytosanitary Measures

Question 1.

At the sixth Working Party meeting in September 1999, Saudi Arabia indicated that its current regime applies the same sanitary and phytosanitary requirements to imports from all countries. The SPS Agreement, in contrast, states that WTO Members should recognize different regional conditions that affect human, animal and plant health.

Will this requirement be reflected in Saudi Arabia's new legal structure on SPS, i.e. to reflect the recognition of regional conditions?

Answer:

Yes, it will be so reflected in Saudi Arabia's new regulations on SPS.

Question 2.

With reference to the sixth Working Party in September 1999, Saudi Arabia indicated at that time that, in addition to legislation to implement the SPS Agreement, it would review other possible areas of inconsistency between its current regime and the requirements of the SPS Agreement. These would include the requirements in Council of Ministers Resolution No. 207 (26.1.1396H) "Agriculture Quarantine Regulations" and No. 208 (26.1.1396H) "The Statutory Instrument of the Veterinary Quarantine".

Will Saudi Arabia's new legislation to implement the requirements of the WTO SPS Agreement revise the provisions of these Resolutions to reflect the requirements of the SPS Agreement?

Answer:

Two regimes on "Phytosanitary Quarantine" and "Veterinary Quarantine" including revised requirements mentioned in the Resolutions No. 207 (Agriculture Quarantine Resolution) and No. 208 (the Statutory Instrument of the Veterinary Quarantine) are actually under study in consultation with

FAO and will be approved very soon. The new regimes, common to the six Gulf States, will take the requirements of the SPS Agreement into consideration.

Question 3.

In light of Saudi Arabia's interest in early implementation of this Agreement, we would suggest that the appropriate governmental authorities begin now submitting notifications to the SPS Committee as a sign of understanding and ability to implement SPS obligations.

Answer:

Comment noted.

Question 4.

While we appreciate the information already provided in this area, we still have questions about the underlying justifications for some of Saudi Arabia's import licensing requirements.

Chemicals

Neither WT/ACC/SAU/44 or WT/ACC/SPEC/SAU/4 fully addresses concerns about existing import licensing for chemicals. All chemicals imported to Saudi Arabia are subject to import licensing. We are told by exporters that these procedures are cumbersome and can be viewed as restrictive.

With reference to the description in WT/ACC/SAU/30, the licensing system for chemicals administered by the Ministry of Commerce appears to mandate administrative and documentation requirements for traders that impede trade.

Answer:

Yes, these are administrative and documentation requirements but these are simple and do not impede trade. These would be further revised.

Question 5.

Could Saudi Arabia explain in detail the justification for these licensing requirements, both in technical and WTO terms.

Answer:

The licensing requirement is for security and safety reasons, to ensure that imported chemicals are not dangerous or of explosive nature and that the importer would have appropriately safe arrangements for storage.

The licensing requirement is justified under Articles XX(b) and XXI of GATT 1994.

Question 6.

Are Saudi Arabia's licensing requirements for all chemicals automatic or non-automatic, or does it vary? Are the specific criteria applied to get a licence listed and available for review by traders?

Answer:

It is non-automatic licensing. The criteria and conditions are listed in the import licensing guide and are available for review by traders.

Question 7.

Before licenses are given by the Ministry of Commerce, the Ministries of Interior and Health have to approve the licence. Are domestic chemical producers required to get the same approvals from the Ministries of Interior or Health?

Answer:

Yes, the same procedure applies to domestic producers.

Question 8.

In WT/ACC/SAU/30, Saudi Arabia states that all chemicals imported by factories must be licensed by the Ministry of Industry and Electricity.

Is this a safety requirement? If so, why are import licenses more effective than a factory safety requirement that could be equally applied to both domestic and foreign goods?

Answer:

As stated in WT/ACC/SAU/30, commercial importers of chemicals require a licence from the Ministry of Commerce, whereas importation of chemicals by factories requires a licence from the Ministry of Industry and Electricity. As stated in paragraph 16 of WT/ACC/SAU/30, licenses are not refused if all the documentation and information is complete.

Question 9.

Under the licensing requirements for pesticides, an importer is required to register with the Ministry of Agriculture before applying for a licence. According to WT/ACC/SAU/30, this registration process takes one to two years.

This requirement would appear to conflict with the provisions of the WTO Agreement on Import Licensing Procedures, which states that licenses should be processed in a timely manner not exceeding 30 days.

Answer:

Agricultural Pesticides Registration is required for both domestic and imported pesticides (finished products and technical active ingredients), before they can be sold, distributed or used. Pesticides have to be evaluated under local conditions in the field and laboratory for a minimum of two years.

After approval, the pesticide registration is valid for five years from the date of issuing except in case it is cancelled upon national or international considerations. For importation, an instant import licence is given upon request and it is valid for six months.

Question 10.

Why does the registration process take two years?

Answer:

The answer to Question 9 refers.

Question 11.

Why must an importer register each time he imports or for each type of pesticide imported; or does registration for this purpose cover all instances of importation of all pesticides.

Answer:

The answer to Question 9 refers.

Question 12.

Are domestic producers of pesticides required to have the same registration and does it take the same amount of time? Please compare the steps to be taken for both domestic and imported products.

Answer:

The answer to question 9 refers.

High Quality Photocopiers

Question 13.

In the draft Working Party Report WT/ACC/SPEC/SAU/4 and in WT/ACC/SAU/30 the Saudi Arabian representative stated that high quality photocopiers require an import licence from the Public Security Department of Forgery because these photocopiers can produce extremely high quality reproductions of documents such as paper currency, official documents, certificates, passports, maps and stamps.

Please provide information on how a high quality photocopier is defined for this purpose?

Answer:

It is a photocopier which captures colours, designs, graphs and photographs.

Question 14.

Can Saudi Arabia confirm that any company wishing to import high-quality photocopiers for legitimate business purposes will be granted an import licence?

Answer:

Yes, it is so confirmed.

Question 15.

Is the required licence issued automatically, e.g., upon receipt of information that makes it clear the import is for legitimate commercial use and not to counterfeit?

Answer:

Yes.

Question 16.

If the Public Security Department has discretion to refuse importation, i.e., if this is a non-automatic licensing requirement, what are the criteria the Department uses to refuse imports?

Answer:

It is the Ministry of Commerce, and not the Public Security Department, which has the discretion to refuse a licence. The criteria for refusal is if the importer cannot satisfy the Ministry that it is importing it for legitimate use.

Agriculture Equipment

Question 17.

In WT/ACC/SAU/30, Saudi Arabia stated that agricultural equipment is subject to import licensing so that a subsidy program can be administered. Actual application for the subsidy is not necessary to impose the requirement for licensing however. In addition, the documents needed to apply for a licence make the licensing system restrictive. Importers must be an authorised dealer or agent and are required to provide a commercial registration, technical specifications for the equipment, a price list and invoice price, a certificate of origin, a report for soil, climate and crop utilisation of the machinery, and a one year guarantee on the product.

These requirements seem excessive. Are the identical requirements applied to similar equipment produced domestically or imported from GCC members?

Answer:

The above noted requirements also apply to similar equipment produced domestically and imported from GCC countries. Domestic producers have to fulfill additional requirements such as:

1. Copy of the Industrial Permit issued by the Ministry of Industry and Electricity together with a description of the factory activities, address and location;
2. Basic designs for agricultural machinery to be manufactured and its technical specifications;
3. Full specification of the final product and to fill a special form for technical specifications of the agricultural machinery;
4. Test report from an approved institution + net and continuous horsepower (performance curves) + power + fuel consumption rate of machinery.
5. Description of Inspection and Quality Control Departments in the factory.

Question 18.

Please provide a list of products, including HS number, that qualify for the agricultural equipment subsidy.

Answer:

List of products and their HS number for the agricultural equipment subsidy is produced below:

HS No.	Product
84079000	Other spark or rotary internal
84135000	Other reciprocating positive
84136000	Other rotary positive displacement
84137000	Other centrifugal pumps
84138110	Other liquid pumps for agriculture
84306900	Other grading and similar machinery
84321000	Ploughs
84322100	Disc harrows
84322900	Other cultivators, weeders
84323000	Seeders, planters and transplanters
84324000	Manure spreaders and fertilizers
84334000	Straw or fodder balers
84335100	Combine harvesters-threshers
84335300	Root or rubber harvesting machines
87011000	Pedestrian controlled tractors
87019000	Other tractors

Question 19.

If the licence and copious documentation is required to ensure that the subsidy is used properly, why hasn't Saudi Arabia liberalized the system for importers that do not seek to utilize the subsidy, and what is the WTO justification for maintaining the system for all agricultural machinery imports?

Answer:

If the machinery is imported for commercial reasons, it has to be inspected to check its suitability for the local agricultural use and for the local conditions. On the other hand, the importer has to provide maintenance and spare parts for the machines and equipment sold in the local markets.

Question 20.

Saudi Arabia has stated that another reason for the import licence for agricultural equipment is to ensure compliance with the specifications approved by the Ministry of Agriculture and Water.

Can Saudi Arabia please confirm that these specifications are published and readily available for potential importers.

Answer:

Yes, the specifications are published as circulars issued by the Ministry of Agriculture and Water to all importers, existing and new ones.

Question 21.

Are domestic equipment producers required to provide the same documentation to the Ministry of Agriculture and Water?

Answer:

Not only that, there are other additional requirements applied to domestic equipment producers as noted above in reply to Question 17.

Question 22.

Please identify the existing and/or planned procedures which will be used to ensure that Saudi authorities routinely identify the existence and evaluate the appropriateness of adopting international standards.

Answer:

SASO carries out library research to identify international standards that can be adopted or used as a main reference for Saudi standards.

SASO is a member in international standards organizations such as ISO, IEC, CAC and OIML.

Question 23.

What criteria determines that compliance with an international (or other) standard should be made mandatory? When can it be used on a voluntary or optional basis?

Answer:

SASO studies all international standards that are related to the subject of a Saudi standard under preparation. The international standards will be used if they fulfill the legitimate objectives for the Kingdom of Saudi Arabia.

The basis for determining whether the compliance with a standard is mandatory or voluntary depends on the subject of the standard, and each is studied by the concerned technical committee.

Question 24.

Are there plans to indicate in future SASO standard catalogues which standards are mandatory and which ones are voluntary/optional?

Answer:

It is the intention of SASO to publish its catalogue showing which standards are mandatory and which are voluntary.

Question 25.

We welcome the efforts made by Saudi authorities to undertake improvements in the ICCP since it was first implemented in 1995. It is our understanding that Saudi officials, in compliance with the WTO obligations, will announce in advance any proposals to add products subject to the mandatory certification requirements and allow an opportunity for public comment on the proposed addition. Please confirm that either as part of such notification, or in supporting documentation, Saudi authorities will provide an explanation and rationale justifying the need to mandate the particular product's certification.

Answer:

Yes, advance notification of enforcement date, and justification for inclusion of relevant product in the ICCP, will be provided to all in accordance with the legitimate objectives prescribed in WTO provisions.

Question 26.

It is also our understanding that over time Saudi Arabia intends to move away from the mandatory certification under ICCP to rely upon voluntary third party certification and thus remove products from the ICCP list. Please describe the process and criteria by which products will be removed from the ICCP.

Answer:

The product list under the ICCP is reviewed periodically with the view to add to it or remove products from it. Removing products from the list depends on adequate availability of the in-country testing capabilities.

Question 27.

Saudi authorities have indicated that the ICCP is used to ensure imported products comply with mandatory SASO standards. For products produced domestically, Saudi authorities have indicated compliance with mandatory SASO standard is ensured at all time a production licence is granted to domestic producers. Does this mean that at the time of application for a licence, the domestic producer has completed product registration and type approval licensing? Please clarify which body is responsible for the aware of which SASO or other standards are mandatory for their particular products? Are imports from GCC members subject to the ICCP inspection and certification requirements?

Answer:

It is a pre-requisite requirement for obtaining a Saudi Industrial Licence to produce domestic products that comply with the relevant Saudi standards. To this end, the local manufacturer must contact SASO for consultation and advise in order to provide them with the applicable Saudi standards. SASO is developing Saudi Conformity Assessment Program (SCAP) which will be implemented upon access to the WTO. Under SCAP, domestic manufacturers applying for SASO's Quality Mark (equivalent to Type Approval Licence under ICCP) must satisfy the requirements of registration during the pre-assessment stage before progressing to Quality Mark. The proposed parties responsible are SASO, Ministry of Commerce and the Ministry of Industry.

ICCP Certification requirements are applied uniformly world-wide, including GCC countries.

Question 28.

Saudi authorities have explained that the Ministry of Commerce is responsible for checking the compliance of imported products with SASO standards and that this is done at the border. For domestic production, the Ministry of Industry, Ministry of Municipalities, Ministry of Agriculture, and the Ministry of Commerce all have responsibilities for enforcement. Please clarify the respective roles of the Ministries in ensuring compliance for domestic production. For example, if the Ministry of Commerce has granted a type approval licence to a domestic producer, is this product subject to random checks while on the market as a means of ensuring ongoing compliance? How does the frequency of such checks, if any, compare to the frequency of border inspections for imports?

Answer:

Currently, the respective responsibilities of relevant Ministries for ensuring compliance of domestic producers with the Saudi standards are as follows:

- Ministry of Industry: Industrial Licence and Inspection Products;
- Ministry of Commerce/SASO: Quality Mark and Inspection of Products;
- Ministry of Commerce (MoC) and Ministry of Municipality: Post market random testing of both imported and domestic products; and
- Ministry of Agriculture: Livestock, fresh vegetables and fruits (for imported and locally produced).

Under SCAP the overall responsibility for ensuring compliance with Saudi standards for domestic producers lies with MoC/SASO and the Ministry of Industry.

Question 29.

It is our understanding that SASO administers a quality mark that is currently available only to domestic producers. Use of the mark is optional. The quality mark indicated compliance with SASO standards. Please confirm our understanding that access to this mark will be made available to supplier of imported product on a non-discriminatory basis as part of Saudi Arabia's adherence to the WTO rules. Is it Saudi Arabia's expectation that use of the mark will continue to be optional? Under the current program, producers must pay SASO for the costs of periodic surprise inspections. These costs are calculated on the value of the commodities sold, rather than the costs of the inspection (services rendered). Please confirm that SASO will change its fee structure to reflect the costs of services rendered to domestic as well as foreign suppliers as part of Saudi Arabia's accession to the WTO.

Answer:

Quality Mark is currently granted to national producers, and it is optional. SASO will make the necessary changes to allow foreign producers to be granted the Quality Mark, and obtaining it will remain optional. The same fee structure for obtaining Quality Mark will be applicable to both domestic and foreign producers.

Question 30.

Does the SASO directive on implementation of the WTO TBT Agreement establish guidelines to be used by all authorities (including those of other Ministries, e.g., Saudi Meteorology and Environmental Protection Administration; Ministry of Health) that have responsibility for

developing and enforcing technical regulations to ensure ongoing compliance with WTO obligations?

Answer:

SASO is the sole standardization body in the Kingdom. SASO Board of Directors consists of all concerned Ministries, Government Agencies and private sectors. There is coordination between SASO and other Saudi authorities on issuing any regulations that may have an effect on international trade of Saudi Arabia with other countries.

Question 31.

Will there be an evaluation of existing mandatory standards to review the need to apply them on a mandatory basis?

Answer:

SASO will carry out periodical review of its mandatory standards to review the need of continuing implementing them as mandatory standards.
