

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

Notification under Article 7.3 of the
Agreement on Import Licensing Procedures¹

PEOPLE'S REPUBLIC OF CHINA

The following communication, dated 19 September 2002, has been received from the Permanent Mission of China.

Outline of system

1. China's administration of import adheres to the principles of fairness, justice, openness and transparency. China is committed in its Accession Protocol² and Working Party Report³ to eliminate import licensing requirements with respect to most products, only with the following exceptions for the purpose of statistics collection and monitoring development of imports:

(a) **Tariff Rate Quota:** Major agricultural products, wool, wool tops and fertilizers are subject to TRQ administration. All of these products except for fertilizer are subject to TRQ administration by the State Development Planning Commission (SDPC). Fertilizers are subject to TRQ administration by the State Economic and Trade Commission (SETC).

(b) **Import Quota:** Among all products subject to import quota, natural rubber is subject to administration of import quota by SDPC. Processed oil and automobile tires are subject to administration of import quota by SETC. All the rest are subject to administration of import quota by the Ministry of Foreign Trade and Economic Co-operation (MOFTEC).

(c) **Specific Tendering:** Specific machinery and electronic products are subject to import licensing administration by MOFTEC.

(d) **Automatic Import Licensing:** Important industrial products and some other products including some machinery and electronic products are subject to administration of automatic import licensing. Automatic import licensing for important industrial products is under administration of SETC, while the rest is under administration of MOFTEC.

For the regulations concerned, please refer to the reply to question 5.

¹ See document G/LIC/3, Annex, for the Questionnaire.

² WT/L/432.

³ WT/ACC/CHN/49.

Purposes and coverage of licensing

2. Import licensing covers administration of tariff rate quota, import quota, specific tendering and automatic import licensing. Products covered by import licensing have been notified to the Committee on Market Access under quantitative restrictions notification and to the Committee on Agriculture under Article 18.2 TRQ notification Table MA:1.
3. The system applies to goods originating in and coming from all other WTO Members.
4. The application of non-automatic import licensing procedures also serves the purpose of restricting quantity or value of imports, besides collecting statistics and monitoring development of imports. Automatic import licensing procedures serve only the purpose of collection of import statistics, without restriction of quantity or value of imports. So far there are no alternatives to accomplish these purposes.
5. Regulations, rules and circulars governing the import licensing system have been notified to the Committee on Import Licensing pursuant to Article 8.2(b) of the Agreement on Import Licensing Procedures⁴.

All the above-mentioned rules of import licensing system are legal requirements which cannot be abolished by any governmental authority without legal approval procedures.

Procedures

6.I The information is available in the following publications: MOFTEC Gazette, the International Business (daily newspaper), China Economic Journal, Economic Daily, as well as at MOFTEC website www.moftec.gov.cn, China Economic Information website www.cei.gov.cn, the State Development Planning Commission website www.sdpc.gov.cn, the State Economic and Trade Commission website www.setc.gov.cn.

The amount of import quotas and formalities of application for licences have been published.

The import quotas apply globally. It is not possible to publish the amount allocated to goods from each country before the allocation is made, as applicants' intention of importation source is not predictable.

The maximum amount allocated to each importer is treated as confidential business information and thus is not disclosed.

There are no exemptions or derogations from the licensing requirement.

II. The size of the quota is determined according to the commitments in the Tariff Schedule CLII of China and Annex 3 to the Protocol of Accession. Such decision is made once a year. Allocations of quota would be valid for a period of one calendar year. There is no such case where the size of quota is determined on a yearly basis but licences are issued for imports on a six-monthly or quarterly basis.

III. Quota licences are granted to all end-users including manufacturers, trading companies (importing companies included), with out any special consideration for domestic producers of like goods. According to the allocation principles, quota shall be utilised by end-users that have hold the quota allocated. Importers having actions such as transferring or selling documents for import are subject to administrative penalties in accordance with laws and regulations. They shall be criminally

⁴ G/LIC/N/1/CHN/1 and Add.1.

liable if their actions are deemed to constitute crimes according to the Criminal Law. Unused quota shall not be carried over to the next year. For sake of business confidentiality it is not appropriate to disclose names of importers to whom licences have been granted.

IV. The time limit for submission of application for licences for import of machinery and electronic products is 30 days as from the time of announcement of the opening of quotas, and 16 days for import of other products.

V. The competent authorities shall process the application for the Certificate of Tariff Rate Quota for Import of Agricultural Products and Certificate of Tariff Rate Quota for Import of Fertilizers within five working days, in exceptional circumstance with maximum ten working days, upon receipt of the application.

With respect to the machinery and electronic products, applicants complying with the legal requirements and submitting their applications in accordance with the procedures will obtain import quotas and licences for the next year allocated by the competent authority within 60 days as from 1 September of every year.

VI. In the soonest circumstance, the time between the granting of licences and the date of importation is one working day.

VII. There are different administrative bodies having the authority of granting licences for different categories of products. For each category of the products, licence applications are approved by one single administrative body, without need for certificates, stamps or approvals from others.

VIII. In the event that the demand for licences cannot be fully satisfied, as a priority, quota will be allocated to applicants with import performance. For those applicants without import performance, quota will be allocated largely based on their processing capacity or business volume.

There is no maximum quantity set per applicant unless specified in relevant rules.

With respect to the products subject to administration by the State Development Planning Commission and the State Economic and Trade Commission, quotas to be allocated to a new applicant are based on the proportion of the applicant's production capacity (or business volume) in the total production capacity (or business volume) of all qualified applicants, multiplied by total amount of quota. There are no specific requirements for products other than the above ones.

Applications are examined on receipt.

IX. All products administered by China's import licensing system are subject to the requirements of import licensing procedure, regardless of bilateral quotas or export restraint arrangements where export permits are issued by exporting countries. Licences in are not issued automatically.

X. There exists no such case.

XI. Products imported for processing are governed by the provisions contained in the contract for export that the processor has concluded. As these products are imported as bonded cargo in nature, they shall be re-exported after processing and shall not be sold in the domestic market.

7.(a) It is up to applicants when they shall submit applications for licences, being aware that the licence will be issued within a maximum of ten working days.

- (b) As long as the applications for licences are submitted in appropriate and complete form, the competent authority shall immediately grant to the extent administratively feasible, within a maximum of 10 working days.
 - (c) No.
 - (d) There are different competent authorities having the authority of granting licences for different categories of products. The reply to question 1 gives the names of these competent authorities. Lists of authorized bodies by these authorities are also published in MOFTEC Gazette.
8. Only failure to meet the published criteria will cause rejection of an application for a licence. The competent authority will inform the applicant about the inappropriate contents in the application and provide opportunity for the applicant to address them.

Eligibility of importers to apply for licence

9. Any legal persons, firms and organizations registered with the Administration of Industry and Commerce, qualified under the conditions stipulated by the relevant rules, are eligible to apply for licences. This registration follows relevant rules of the State Administration of Industry and Commerce.

Documentational and other requirements for application for licence

10. Applicants for automatic import licences for import of products other than machinery and electronic products shall submit application form of automatic import licence, import contract, a photocopy of the document(s) from the authorities concerned verifying the business scope of the applicants, in the case of imports through agent, contract between the import agent and the client, certificate proving that the use of the imports or the end-users comply with the specific requirements in case the use of import or the end-users are subject to such requirements, etc.

Applicants for import tariff quota are required to submit duplicates of their business licences, financial statements and taxation records of the previous year, record of the firm's annual review of the previous year. Applicants with import performance shall also submit records of customs declarations of their imports of the previous year. Proof of production capacity and proof of sales turnover are also required which are applicable for manufacturers and trading companies.

Applicants for import of specific machinery and electronic products shall provide statement on having not engaged in illegal or misdemeanor activities over the past three years, duplicates of their business licences or other registration documents defining their business scope of the product concerned, financial statement and taxation records of the previous year, proof of capacities of production, sales, maintenance, service and supply of parts which are compatible with the import applied for.

Applicants for import of machinery and electronic products subject to administration of automatic import licensing shall provide duplicates of their business licences, other registration documents and the document(s) from the authorities concerned verifying the business scope of the applicants, etc.

Applicants for import of machinery and electronic products as mentioned above shall fill in the application form for import of machinery and electronic products.

11. Regarding automatic import licence for products other than machinery and electronic products, applicants shall provide the documents listed in paragraph 1 of the reply to question 10. Regarding products subject to administration of import quota and tariff rate quota, importers of agricultural products subject to administration of tariff rate quota shall submit the certificate of import tariff rate quota for agricultural products; importers of natural rubbers shall submit the import licence and the certificate of import quota for natural rubbers; importers of fertilizers subject to administration of tariff rate quota shall submit the certificate of import tariff rate quota for fertilizers; importers of processed oils and automobile tires shall submit the import licence and the certificate of import quota for important industrial products.

Regarding machinery and electronic products, importers of products subject to administration of import quotas shall apply for the licence of import quota by presenting the certificate of import quota of machinery and electronic products. This licence shall enable them to proceed with customs-clearing procedures. Customs authorities will collect the certificate of import quota of machinery and electronic products for its record. Importers of specific machinery and electronic products subject to licence administration shall present the import licence of machinery and electronic products (certificate of import of machinery and electronic product prior to 1 January 2002) to proceed with customs-clearing procedures. Importers of machinery and electronic products subject to administration of automatic import licensing shall present automatic import licence to proceed with the customs-clearing procedures.

12. There are no licensing fees or charges except for charges for cost of licence and certificate of quota. The maximum of the charge for such cost is RMB 20.

13. No, there is no such requirement for deposit or advance payment.

Conditions of licensing

14. Licence for products in the category I of products subject to administration of automatic import licensing has a period of validity of six months. Licence for products in the category II of products subject to administration of automatic import licensing is valid during the calendar year. Licence for products in category III of products subject to administration of automatic import licensing has a period of validity of one year.

Automatic import licence is renewable. Any request for renewing a licence shall be processed with the competent authority granting the licence.

15. There is no penalty for non-utilisation of a licence or a portion of a licence.

16. No.

17. No other conditions are attached to the granting of a licence.

Other procedural requirements

18. No other administrative procedures, apart from import licensing and like administrative procedures, are required prior to importation.

19. The bank concerned will automatically provide foreign exchanges to importers. Procedures in this regard shall comply with the regulations concerned of the State Administration of Foreign Exchange.
