

CHAPTER 6

Import licensing procedures

Summary

*National import licensing procedures can adversely affect the flow of imports, particularly if these procedures are not transparent or if they unnecessarily delay the issue of licences. The Agreement on Import Licensing Procedures divides licences into two categories: automatic and non-automatic. Automatic licences should be issued within a maximum period of 10 days after the receipt of applications. Non-automatic licences, which are generally used to administer quantitative restrictions, must be granted within a maximum period of 30 days from receipt of application where licences are issued on a **first-come first-served basis** and 60 days **if all applications are considered simultaneously**.*

*The Agreement further lays down certain principles and rules to ensure that the flow of international trade is not impeded by the **inappropriate use of import licensing procedures** and that procedures are administered fairly and equitably.*

1. General

Agreement on Import Licensing Procedures (ILP),
Preamble

GATT's basic approach is that, in order to facilitate trade, formalities for, and documentation on, importation and exportation should be kept to the minimum. However, GATT recognizes that countries often, for various reasons, require importers to obtain import licences. Such licensing systems may be adopted to administer quantitative restrictions in the limited number of situations permitting member countries to use such restrictions. Alternatively, they may be used for the surveillance of trade statistics or the prices of certain goods.

ILP, Article 1.1

ILP, Articles 2 and 3

The Agreement on Import Licensing Procedures lays down rules for adopting and implementing national procedures for issuing import licences. It defines "import licensing" as "administrative procedures ... requiring the submission of an application ... to the relevant administrative body as a prior condition for importation ... of goods." It divides licensing systems into two categories: automatic and non-automatic. Under automatic systems, the authorities issue licences automatically without using any discretionary powers. Non-automatic licensing systems administer quota restrictions and other measures, and the authorities use their discretion in granting licences. The Agreement lays down general rules applicable to both systems and specific rules for each system. National licensing authorities must comply with these rules, the basic objective of which is to protect the interests of importers and foreign suppliers. The rules require national licensing authorities to ensure that licensing procedures:

- ☐ Are not more burdensome than absolutely necessary to administer the licensing system, taking into account the purpose for which they are adopted;

- ☐ Are transparent and predictable; and
- ☐ Protect the interests of importers and foreign suppliers from unnecessary delays and arbitrary actions.

2. Common rules

ILP, Article 1.4(a)

The Agreement obliges member countries to publish all information on import licensing procedures, so that importers, exporters and their governments are fully aware of:

- ☐ The eligibility of persons, firms and institutions to make applications;
- ☐ The administrative body responsible for the issue of licences; and
- ☐ The products subject to licensing.

ILP, Article 1.5 - 11

To protect the interests of importers and to facilitate speedy and prompt issue of licences, the Agreement further stipulates that:

- ☐ Application forms and procedures, including procedures for the renewal of licences, should be as simple as possible;
- ☐ Applications should not be refused for minor documentation errors which do not alter the basic data contained therein;
- ☐ Penalties imposed for such errors, except where fraudulent intent or gross negligence is involved, should not be more severe than required to serve as a warning;
- ☐ Licensed imports should not be refused for minor variations in value, quantity or weight from those designated in a licence, where such differences are consistent with commer-

cial practice or are due to losses in weight and quantities occurring in shipping or bulk loading.

ILP, Article 2

3. Automatic import licensing

In systems where administrative authorities do not exercise any discretion and “licences are granted in all cases”, the Agreement requires approval or licence to be granted immediately, on receipt of the application, and in any case “within a maximum period of 10 working days”.

ILP, Article 3

4. Non-automatic import licensing

Non-automatic licensing systems are used, as noted earlier, where the government’s primary purpose is to restrict imports. Governments may do this by publicly announcing predetermined quota or quantitative limits applicable to restricted goods. Licensing systems may also be administered without a public announcement of the quantities allowed to be imported.

Where import licensing is utilized for the administration of quotas, the Agreement requires the publication of the overall amount of the quota (quantity and/or value), its opening and closing dates, so that all interested parties — importers, exporters and foreign producers and their governments — are fully aware of them. Further, where a quota is allocated among supplying countries, the country granting the quota is not only required to publish information on the shares allotted to each country, but must also specifically inform the governments of all interested supplying countries of the distribution of shares.

The Agreement requires import licences to be issued within 30 days of the receipt of the application where the procedures provide that licences should be

issued “on a first-come first-served basis”. They must be issued within 60 days of the date of closing for the receipt of applications where these applications “are considered simultaneously”.

The rules further aim at ensuring that, in the distribution of licences, consideration is given to the practical difficulties that importers might have encountered in utilizing the licences issued to them. As a principle, licences should be issued to those importers who have made the best possible use of past licences. At the same time, care should be taken to ensure that importers who have not been able to use their licences for legitimate reasons are not “unduly penalized” by denial of a licence or by unduly reducing the value or quantity authorized under the licence. Licensing authorities are further required to give special consideration in distributing licences to new importers, particularly to those who import from developing and least developed countries.

5. Business implications

By obliging national licensing authorities to follow its principles and rules, the Agreement seeks to protect the interests both of foreign suppliers wanting to export products subject to licensing and of producing industries interested in importing such products. It further requires countries to adopt licensing procedures which, *inter alia*, would give importers the right to expect that:

- ☐ Licences will be issued promptly within the prescribed periods; and
- ☐ They will not be penalized for minor documentation errors.