WTO Import Licensing

Submitted by: WTO
WTO Import Licensing

Import Licensing Workshop
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Outline

I. Introduction

II. How does the WTO regime govern import licensing?

III. Agreement on Import Licensing Procedures

IV. Role of the WTO Committee on Import Licensing

IV. Conclusion
I. Introduction: What is import licensing?

- Can be defined as ....
  Administrative procedures requiring the submission of an application or other documentation (other than those required for customs purposes) to the relevant administrative body as a prior condition for the importation of goods

- Two types of import licensing:
  - Automatic import licensing
  - Non-automatic import licensing

II. How does the WTO regime govern import licensing?

- Basic obligations of administrative procedures:
  - GATT Article VIII deals with import licensing procedures in a non-specific manner.
  - GATT Article X requires Members to publish promptly laws, regulations, judicial decisions and administrative rulings of general application, including those pertaining to requirements on imports or exports and to administer them in a uniform, impartial and reasonable manner.
  - Agreement on Import Licensing Procedures requires Members to keep procedures simple, transparent, and predicable so as not to become an obstacle for trade.
II. How does the WTO regime govern import licensing? (cont.)

What is the substantive content behind an import licensing measure?

For example:

- Article 4.2 of AG
  - Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties FN, except as otherwise provided for in Article 5 and Annex 5.

*FN: These measures include quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state-trading enterprises, voluntary export restraints, and similar border measures other than ordinary customs duties ….

II. How does the WTO regime govern import licensing? (cont.)

- Procedures vs. Substantive Content
  
  In Korea – Various measures on beef, the US alleged that Korea’s import regime was trade-restrictive and thus inconsistent with Article 3.2 of the Agreement on ILP.

  The Panel found that*:

  “… many of the US claims regarding alleged violations of the Licensing Agreement are concerned with the substantive provisions of Korea’s import […] regime. It has been repeatedly said that such substantive matters are of no relevance to the Licensing Agreement which is concerned with the administrative rules of import licensing systems.”

  “For these reasons, the Panel does not reach any general conclusion on the compatibility of Korea’s import licensing system with the WTO Agreement”.

  * (Panel report, Korea – Various measures on beef, paras. 784-785)
III. Agreement on Import Licensing Procedures

• **Background**
  - 1973-1979 Agreement first negotiated in Tokyo Round
  - “Import Licensing Code” entered into force 1 January 1980
  - Disciplines on transparency and notifications strengthened in the Uruguay Round. Revised Agreement from 1 January 1995.

  - Nowadays...
  - Committee decisions (in particular 1995-1996) played key role in clarifying and further elaborating notification requirements under the Agreement.

III. Agreement on Import Licensing Procedures (cont.)

• **General Provisions**
  - Neutral application, fair and equitable administration
  - Publication of rules and procedures
  - Transparency provisions
  - Simple forms and procedures
  - Other principles
III. Agreement on Import Licensing Procedures (cont.)

Specific provisions

• Automatic Import Licensing
  - Automatic import licensing (licensing maintained to collect statistical and other factual information on imports) is defined as import licensing where the approval of the application is granted in all cases (Article 2.1).
  - Any person fulfilling the legal requirements should be equally eligible to apply for and obtain import licenses (non-discrimination).
  - The application shall be approved immediately on receipt when feasible or within a maximum of 10 working days (Article 2.2 (a)).

• Non-automatic Import Licensing
  - Described in Article 3.1 as “import licensing not falling within the definition of automatic import licensing”.
  - Used to administer trade restrictions such as quantitative restrictions, which are justified within the WTO legal framework.
  - No additional restrictive or distortive effects
  - All relevant information to be published
  - No discrimination among applicants
  - Time limits for processing applications
  - Validity of a license, and other provisions…
III. Agreement on Import Licensing Procedures
Specific provisions (cont.)

• Non-automatic Import Licensing

- Qualified importer
- Type testing for health and standards, e.g.: National Institutes of Health and Safety
- Provincial Health and Environmental Institute
- Report to importer
- Import approval from Ministry of Health
- Import approval from other ministry, e.g.: Ministry of Trade, Ministry of Economy
- Arrival of goods to customs
- License granted and custom clearance

Source: OECD Looking Beyond Tariffs

III. Agreement on Import Licensing Procedures (cont.)
Notification

- What should be notified?
  - Copies of publications and full text of laws and regulations (Articles 1.4 (a) and 8.2 (b))
  - Notification of changes (Article 5.1-5.4)
  - Reverse notification (Article 5.5)
  - Annual questionnaire (by 30 Sept. each year) (Article 7.3, and Appendix)
### III. Agreement on Import Licensing Procedures

**Notification (cont.)**

- **Current Notification Forms:**
  - G/LIC/N/1/country code/serial number
    - Article 1.4 (a)
    - Article 8.2 (b)
    - G/LIC/3
  - G/LIC/N/2/country code/serial number
    - Article 5.1 – 5.4
  - G/LIC/N/3/country code/serial number
    - Article 7.3
    - G/LIC/3

  *Source: WTO room documents RD/LIC/6; RD/LIC/8*

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### III. Agreement on Import Licensing Procedures

**ANNEX I**

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*Source: WTO document G/LIC/22*
III. Agreement on Import Licensing Procedures

Notification (cont.)

- N 2 (G/LIC/N/2)

Source: WTO document G/LIC/22
### III. Agreement on Import Licensing Procedures

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Source: WTO document G/LIC/3

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### III. Agreement on Import Licensing Procedures

#### Notification (cont.)

- **Important Committee Decisions:**
  - G/LIC/3 “Procedures for Notification and Review under the Agreement on Import Licensing Procedures” (7 November 1995)
  - G/LIC/22 “Notification Forms: Article 1.4 (a) and/or Article 8.2(b) and Article 5 of the Agreement on Import Licensing Procedures” (2 August 2011)

- **Timelines for submission of notifications to the Committee:**
  - Before 30 September each year (for replies to annual questionnaire)
  - Within 60 days of publication (new procedures or changes to procedures)
III. Agreement on Import Licensing Procedures
Notification (cont.)

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III. Agreement on Import Licensing Procedures
Notification (cont.)

Issues affecting notification compliance identified by Secretariat

Source: WTO room documents RD/LIC/6; RD/LIC/8
IV. Role of the WTO Committee on Import Licensing

- Provides Members with opportunity to review notifications submitted by fellow-WTO Members through questions received on licensing regimes of other Members, whether or not these regimes have been notified to the Committee. (G/LIC/Q/…)

- Provides a regular forum for exchanging views on specific trade issues raised by Members.

IV. Role of the WTO Committee on Import Licensing (cont.)

Enhancing transparency

Improving transparency in notification procedures - possible ways forward:

- Members can raise issues through the Committee to.....
  - identify duplicative provisional requirements
  - clarify elements to be notified
  - clarify “unclear” issues
  - identify problems with existing templates
  - review annual questionnaire
  etc.

Source: WTO room documents RD/LIC/6; RD/LIC/8
IV. Role of the WTO Committee on Import Licensing
Enhancing transparency (cont.)

- Possible work projects for the future .....  
  - simplify notification procedures
  - redesign notification templates
  - share good practices
  - discuss targeted technical assistance (e.g. workshop for Geneva delegates, regional/national workshops, E-learning, etc.)
  - establish online notification and integrate import licensing into I-TIP databank
  (https://www.wto.org/english/res_e/statis_e/itip_e.htm)

Source: WTO room documents RD/LIC/6; RD/LIC/8

V. Conclusion

- Make the procedures clearer
- Keep them as clear and simple as possible
Thank you!

If you have any question, please feel free to contact me at carriejiwu@taiwanwto.ch, tel:+41 (0)22 545 5319