

**RESPONSES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES<sup>1</sup>**

Notification pursuant to Article 7.3 of the  
Agreement on Import Licensing Procedures

PEOPLE'S REPUBLIC OF CHINA

The following communication, dated 27 September 2006, is being circulated at the request of the Delegation of the People's Republic of China.

**Outline of System**

1. Import licensing in China can be divided into three categories:
  - (a) import license administration
  - (b) automatic import licensing
  - (c) import tariff rate quota administration

**Purposes and Coverage of Licensing**

2. Import license administration is applicable to all the products subject to import restriction, including chemicals that may be used for military weapons, toxicant or drugs as well as ozone depleting materials

Automatic import licensing is applicable to products free from import restriction, but the importation of which needs monitoring, including poultry, vegetable oil, wine, tobacco, asbestos, copper ore and concentrates, coal, terephthalic acid, plastic raw material, natural rubber, synthetic rubber, waste paper, synthetic fiber cloth, cellulose diacetate filament tow, copper, aluminium, mechanic and electrical products, iron ore, crude oil, processed oil, alumina, chemical fertilizer, pesticide, sliced or chipped polyester, automobile tyre, terylene, steel and steel billet.

Import tariff rate quota administration is applicable to grain, cotton, sugar, wool, wool top and chemical fertilizer.

3. The three licensing system applies to goods coming from all countries.
4. China eliminated all the quantitative restriction measures on imports on 1 January 2005 and the products formerly subject to quantitative restrictions were moved into the category of free importation or automatic import licensing.

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

Import license administration is an administrative measure over products, including chemicals that may be used for military weapons or toxicant and drugs, as well as ozone depleting materials, on which import restrictions must be applied according to the obligations under international Conventions to which China is a signatory.

Automatic import licensing is an administrative measure over certain products which are free of import restrictions but monitoring on importation and statistics collection of which are deemed necessary. It is implemented in a way fully consistent with the *Agreement on Import Licensing Procedures*, and there is no restriction in terms of import quantity or value.

Import tariff rate quota administration is confirmed by other WTO members within the framework of WTO Agreements and the negotiations on China's accession. It is an administrative measure over certain products subject to import restrictions. The primary categories of products under administration of import tariff rate quota are in the agriculture sector.

5. The Chinese government has always been committed to establishing and maintaining transparent, fair and non-discriminatory import licensing procedures. The fundamental principles governing import licensing are contained in the *Foreign Trade Law* and the *Law on Administrative Licensing*. Under the two Laws, the State Council of the People's Republic of China promulgated the *Regulations on Administration of Import and Export of Goods* in form of State Council Decree, through which situations where import licensing procedures apply are established. Pursuant to the Regulation, the government body governing foreign trade under the State Council, i.e. the Ministry of Commerce (MOFCOM) and its predecessor the Ministry of Foreign Trade and Economic Cooperation (MOFTEC), promulgated the *Measures on Administration of Import Licenses for Goods* and the *Measures on Administration of Automatic Import Licensing for Goods* in form of Ministry Decree, which set out clearly implementing details of import licensing procedures. On 10 December 2004, MOFCOM published MOFCOM Decree No. 26 and 27 of 2004, which respectively included the revised *Measures on Administration of Automatic Import Licensing for Goods* and *Measures on Administration of Import Licenses for Goods*. In accordance with these two Ministry Decrees, MOFCOM publishes yearly, in the form of Ministry Announcement, the *Catalogue of Goods Subject to Import License Administration* and the *Catalogue of Goods Subject to Automatic Import Licensing Administration*, which list all the products subject to import licensing procedures, including import license administration and automatic import licensing, except for those under tariff rate quota (TRQ) administration.

As for products under TRQ administration, pursuant to the *Regulations on Administration of Import and Export of Goods*, MOFCOM and the National Development and Reform Commission (NDRC) jointly promulgated the *Interim Measures on Administration of Tariff Rate Quota for Importation of Agricultural Products* in form of Ministry Decree, and the former State Economic and Trade Commission and the General Administration of Customs jointly promulgated the *Interim Measures on the Administration of Tariff Rate Quota for Importation of Fertilizers* in form of Ministry Decree. In accordance with these two Ministry Decrees, the quantities of TRQ, allocation methods and application conditions of the products under TRQ administration are published annually in form of Ministry Announcement.

### **Procedures**

6. No product is subject to import quota license administration any more.

On 7 December 2005, MOFCOM published MOFCOM Announcement No. 93 of 2005, which abolished the import tariff rate quota administration on vegetable oil. At present, products under import tariff rate quota administration include grain, cotton, sugar, wool, wool tops and chemical fertilizer, the TRQ of which is applied globally.

I. NDRC promulgated on 30 September 2005 *the Quantities, Application Conditions and Allocation Methods of Tariff Rate Quota for Importation of Grain and Cotton of 2006* in its *Announcement No. 58 of 2005*. MOFCOM promulgated on 26 September 2005 *the Application and Allocation Methods of Tariff Rate Quota for Importation of Sugar of 2006* in its *Announcement No.64 of 2005*, and *Implementing Rules on the Administration of Tariff Rate Quota for Importation of Wool and Wool Tops of 2006* in its *Announcement No. 65 of 2005*. MOFCOM also promulgated on 29 September 2005 *the Quantities, Allocation Principles and Application Procedures of Tariff Rate Quota for Importation of Fertilizers of 2006* in its *Announcement No. 67 of 2005*.

II. The tariff rate quota for the next year is issued to end users before 1 January of the year, and the tariff rate quota is valid throughout the whole calendar year.

For the TRQ holder for grain, cotton and sugar, a TRQ warrant, which should be provided to the Customs during Customs clearance, is valid throughout the whole calendar year. The TRQ holder is entitled to demand an extension for the warrant from the competent authority if the original warrant expired in case of uncompleted importation or the business contract not performed, but the validity period of the warrant should not exceed the end of February of the next calendar year.

For the TRQ holder for wool and wool top, the TRQ warrant is valid for six months within the calendar year. However, the TRQ holder is entitled to demand an extension for warrant from the competent authority if the original warrant expired in case of uncompleted importation or business contract not performed. The validity period of warrant should not exceed the end of February of the next calendar year.

For the TRQ holder for chemical fertilizer, the TRQ warrant is valid for six months. However, the TRQ holder is entitled to demand an extension for the warrant from the competent authority if the original warrant expired in case of uncompleted importation. The extension should not exceed the validity period of the Tariff Rate Quota.

III. For products under import tariff rate quota administration, the TRQ holders should annually return, for reallocation, the unfilled tariff rate quota of the calendar year within the scheduled time limit. To ensure that the allocated tariff rate quota is used for importation, for TRQ holders who do not fully use the tariff rate quota for the year and do not return the unfilled tariff rate quota within the scheduled time limit, their next year quantity of tariff rate quota will be reduced accordingly.

IV. For products under import tariff rate quota administration, the period for submission of application is 15 days. (Excluding those to which first come, first served is applicable.)

V. For products under import tariff rate quota administration, the time for processing the application is two months after the closing date of the period for the submission of application.

VI. For products under import tariff rate quota administration, at least one day remains between the granting of the tariff rate quota and the date of the opening of the period of importation.

VII. For products under import tariff rate quota administration, according to the variety of products, the applicant should submit the application to entities with authorization of either MOFCOM (sugar, wool, wool top and chemical fertilizer) or NDRC (grain and cotton) to have the application verified. The entities will then transmit the application to either MOFCOM or NDRC. MOFCOM or NDRC will, through the authorized entities, allocate to applicants import tariff rate quota. Import TRQ holders do not have to acquire an import license.

VIII. The allocation of import tariff rate quota for agricultural products is based on the number of applicants, historical import performance, production capacity and other relevant commercial standards,

or on the principle of “first come, first served”(wool and wool top). The reallocation is based on the principle of “first come, first served”, according to published application conditions.

The allocation of import tariff rate quota for chemical fertilizers is based on the number of applicants, historical import performance, capacity of production and operation, quota utilization record and other factors such as the number of new applicants.

IX. For products under import TRQ administration, no matter whether the exporting country issues export permits or not, import licensing procedures are required and the import licensing is not automatic.

X. Not applicable.

XI. The issue of licenses is not on condition that goods should be exported and not sold in the domestic market

7. There are no quantitative restrictions for products under automatic import licensing and import license administration.

(a) For products under automatic import licensing, so long as the content and format of the application are correct, the issuing entity should, to the extent practicable, grant the license immediately, or under special circumstances, no more than 10 working days.

For products subject to import license administration, e.g. narcotic drugs etc, the time for granting permit is based on the period necessary for making a reasonable judgement on the justification of the import, but in any case no more than 10 working days.

(b) For products under automatic import licensing administration, the license can be granted immediately upon request.

(c) An Automatic import license is valid within the calendar year, but no more than six months. However, if the holder needs to have the license validity period extended in case of an uncompleted importation or a business contract not performed, he has to apply to the former license issuing body again.

Import license is valid throughout the whole calendar year, and no other limitation is attached.

(d) The consideration of license application is effected by one single administrative organ.

For products under automatic import licensing, the applicant only has to submit the application to the entities authorized by MOFCOM.

For products under import license administration, according to the variety of goods, the applicant should apply to different government entities competent for import permits. With the import permit granted, the applicant then obtains import license from entities authorized by MOFCOM. After obtaining the import permit, import license will be granted automatically. The time for granting an import license is no more than three working days, and under special circumstances it is no more than 10 working days.

8. For products under automatic import licensing, once the State decides to implement temporary measures to prohibit the importation of certain goods or to restrict the quantity of importation of certain goods, the granting of automatic import licenses will be ceased automatically on the day of entry into force of these temporary measures. The temporary measures will be published thirty days before their entry into force.

For products under import license administration, if the justification for importation is believed to be unconvincing, the application may be refused. The applicant will be given the reason for the refusal, and will also be informed of having the right to, pursuant to laws and regulations, apply to administrative reconsideration or initiate administrative lawsuit.

### **Eligibility of Importers to Apply for Licence**

9. Since 1 July 2004, an automatic registration system has been implemented for any individual or enterprise who intends to conduct import and export. For detailed information, please refer to *Measures for Registration of Foreign Trade Operators*, published on 25 June 2004 in *MOFCOM Decree No. 14 of 2004*.

For products under import license administration, automatic import licensing and import tariff rate quota administration, except for those under state trading administration the importation of which can only be conducted by state trading enterprises, any individual or enterprise can apply for import license so long as they meet the criteria set for different goods as published. The lists of state trading enterprises are also published.

### **Documentation and Other Requirements for Application for Licence**

10. For information required to be provided in the application for import license, please refer to the *Measures on Administration of Import License for Goods* published on 10 December 2004 in *MOFCOM Decree No. 27 of 2004*.

For information required to be provided in the application for automatic import license, please refer to the *Measures on Administration of Automatic Import Licensing for Goods* published on 10 November 2004 in *MOFCOM and GCA Joint Decree No. 26 of 2004*.

For information required to be provided in the application for tariff rate quota for importation of agricultural products, please refer to the *Quantities, Application Conditions and Allocation Methods of Tariff Rate Quota for Importation of Grain and Cotton of 2006* published on 30 September 2005 in NDRC's *Announcement No. 58 of 2005*, the *Application and Allocation Methods of Tariff Rate Quota for Importation of Sugar of 2006* was published on 26 September 2005 in MOFCOM's *Announcement No. 64 of 2005* and the *Implementing Rules on the Administration of Tariff Rate Quota for Importation of Wool and Wool Tops of 2006* published on 26 September 2005 in MOFCOM's *Announcement No. 65 of 2005*.

For information required to be provided in the application for tariff rate quota for importation of fertilizers, please refer to the *Quantities, Allocation Principles and Application Procedures of Tariff Rate Quota for Importation of Fertilizers of 2006* published on 29 September 2005 in MOFCOM's *Announcement No. 67 of 2005*.

11. For documents required to be provided in the actual importation of products under import license administration, please refer to the *Measures on Administration of Import License for Goods* published on 10 December 2004 in *MOFCOM Decree No. 27 of 2004*.

For documents required to be provided in the actual importation of products under automatic import licensing, please refer to the *Measures on Administration of Automatic Import Licensing for Goods* published on 10 November 2004 in *MOFCOM and GCA Joint Decree No. 26 of 2004*.

For documents required to be provided in actual importation of products under import tariff rate quota administration of agricultural products, please refer to the *Interim Measures on Administration of*

*Tariff Rate Quota for Importation of Agricultural Products* published on 27 September 2003 in *MOFCOM and NDRC Joint Decree No. 4 of 2003*.

For documents required to be provided in actual importation of products under import tariff rate quota administration of fertilizers, please refer to the *Interim Measures on Administration of Tariff Rate Quota for Importation of Fertilizers* published on 15 January 2002 in *Decree No. 27 of 2002* of the former State Economic and Trade Commission and GCA.

12. There are no licensing fees or administrative charges.
13. There is no deposit or advance payment requirement associated with the issue of licenses.

#### **Conditions of Licensing**

14. An Import license is valid throughout the whole calendar year, and no other limitation is attached. The validity period for a license can be extended once, but no more than 3 months.

The validity period for an automatic import license is six months, and the license is valid only in the calendar year when it is issued. However, if the holder needs to have the validity period of the license extended in case of uncompleted importation or a business contract not performed, he has to apply to the former license issuing body again.

The validity period for the import tariff rate quota is one year.

For the TRQ holder for grain, cotton and sugar, a TRQ warrant, which should be provided to customs during customs clearance, is valid throughout the whole calendar year. The TRQ holder is entitled to demand an extension for the warrant from the competent authority if the original warrant expired in case of uncompleted importation or business contract not performed, but the validity period of the warrant should not exceed the end of February of the next calendar year.

For the TRQ holder for wool and wool top, the TRQ warrant is valid for six months within the calendar year. However, the TRQ holder is entitled to demand an extension for warrant from the competent authority if the original warrant expired in case of uncompleted importation or a business contract not performed. The validity period of the warrant should not exceed the end of February of the next calendar year.

For the TRQ holder for chemical fertilizer, the TRQ warrant is valid for six months. However, the TRQ holder is entitled to demand an extension for the warrant from the competent authority if the original warrant expired in case of uncompleted importation. The extension should not exceed the validity period of the Tariff Rate Quota.

15. For products under import tariff rate quota administration, the TRQ holders should annually return, for reallocation, the unfilled tariff rate quota of the calendar year within the scheduled time limit. To ensure that the allocated tariff rate quota are used for importation, for the TRQ holders who do not fully use tariff rate quota for the year and do not return the unfilled tariff rate quota within the scheduled time limit, their next year quantity of tariff rate quota will be reduced accordingly.

For the products under import license administration and automatic import licensing, non-utilization or a portion of license will not be punished.

16. All the 3 categories of licenses listed above are not transferable.
17. There are no other conditions attached to the issue of a license.

**Other Procedural Requirements**

18. For products included in the catalogue of products subject to statutory inspection, an inspection and quarantine certificate issued by quality supervision, inspection and quarantine authorities should be provided prior to importation.

19. For products under automatic import licensing, the bank will provide foreign exchange to applicants with an automatic import license.

For products under import license administration and import tariff rate quota administration, foreign exchange will be provided pursuant to relevant regulations of the State Administration of Foreign Exchange.

Generally foreign exchange is available to cover licenses issued.

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