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**Committee of Participants on the Expansion
of Trade in Information Technology Products**

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SUBMISSION FOR THE NON-TARIFF MEASURES WORK PROGRAMME

Communication from Canada

The following communication, dated 27 February 2001, has been received from the Permanent Mission of Canada.

Import Licensing of Information Technology Products

Introduction

Import licensing requirements for information technology products can constitute a serious market access barrier. While they may not be readily apparent to many exporters, these barriers can impose undue costs and undermine the intent of the ITA, which is to foster and enhance global trade in information technology products.

As is the case with many other non-tariff measures, there are WTO provisions governing the use of import licensing: specifically, the WTO Agreement on Import Licensing Procedures. This Agreement provides the parameters within which Members have the right to operate import licensing regimes. However, we would recall that the Agreement recognizes “that the flow of international trade could be impeded by the inappropriate use of import licensing procedures” and that import licensing “should be implemented in a transparent and predictable manner”. In addition, it specifies that “non-automatic licensing procedures should be no more administratively burdensome than absolutely necessary to administer the relevant measure”. It would appear that some of the major provisions in the Agreement which may be of particular relevance are those which cover issues such as scope, publication and transparency, time periods, number of approval bodies, complexity and administrative practices.

Product coverage

The number of information technology products covered by import licensing regimes throughout the world appears to be large. The principal ITA 1 products, automatic data processing machines (8471) and telecommunications equipment (8517 and 8525), face import licensing requirements in the largest number of countries. Many other information technology goods are also confronted with automatic or non-automatic import licensing requirements, such as IT-related electric conductors under HS headings 8544 and various instruments under HS heading 9027.

Impact on trade

Exporters have indicated that, when they or their customers apply for import licences, they regularly face disagreements regarding the appropriate classification of information technology goods

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under the Harmonized Commodity Description and Coding System. As the importing nation does not always make it clear in advance which code to use, the exporter and importer have no way of ensuring the correct one is used. This leads to the invalidation of the original import licence and can lead to extensive delays in clearing the good in question through customs.

Additional processing delays are engendered by the number of administrative bodies which often must approve import licences. For example, it is not uncommon for it to be necessary to obtain the approval of the Customs, Transport and Communications departments, as well as others. The number of approval authorities also reduces the level of transparency and accountability making it difficult for exporters to determine when their import licence will be approved and what actions they must take to expedite approval. As well, complex administrative requirements, if linked to the approval of many agencies, provide opportunities for irregularities.

As well, our research has revealed further concerns regarding the absence of transparency. Industry reports that administrative procedures are, at times, unclear and subjectively applied. Moreover, they have indicated that the requirements with which a particular shipment must comply can change between the time contracts are signed and the customer receives its shipment. Unfortunately, some countries have failed to consistently respond to the Import Licensing Committee's questionnaire, or report at all. In addition to questions regarding H.S. coding, the definitions of the goods covered by a particular licensing regime are, on occasion, vague— leading to uncertainty regarding the coverage of import licensing regimes. In some instances no distinction is made between automatic and non-automatic licensing provisions and the source of further information is not always provided.

As a result of the foregoing, and other causes, manufacturers of information technology equipment have expressed serious concern regarding the total length of time required to process import licences which ranges from several days to several months and, in some instances, up to one year. They indicate that these delays are costly. Broadly, inventory costs are a significant portion of total costs. More specifically, the warehousing costs at the port of entry are considerable and include indirect costs related to damage and pilferage. These costs total several percent of the total cost of the good per month. For example, a two month delay can be the equivalent of an additional import duty totalling four to six percent of the value of the product. Further costs can result from the penalties imposed by customers for failure to meet project completion dates which typically equal 10% of the price paid for the exported good.

Beyond the cost of delays are those associated with the administration by exporters or importers of import licensing requirements. Expert staff must be engaged to initiate, monitor, submit and track each licensing application.

It should be noted that it is the responsibility of the importer (i.e. the customer) to meet import licensing requirements. Hence, the exporting firm may rely on its customer to absorb the cost of compliance with import licensing obligations. Consequently, while there are real barriers to trade, they may be hidden from the exporting firm.

Conclusion

Canada believes that the removal of unnecessary impediments created by certain import licensing requirements for information technology products would significantly enhance trade in this sector, without jeopardizing the achievement of their WTO-consistent objectives. To do so would, in Canada's opinion, improve all participants' access to the leading edge technologies which have become central to economic growth.
