



# Import Licensing Regimes: An APEC Snapshot and Considerations for their Use

By Denise Cheek and Carlos Kuriyama

According to the WTO Agreement on Import Licensing Procedures, import licensing is defined as “administrative procedures used for the operation of import licensing regimes requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation into the customs territory of the importing member”. While the requirement of an import license could address legitimate public interests in certain circumstances, such as controlling the entry of hazardous materials, sometimes licenses could also represent an unnecessary barrier to trade with a detrimental effect on consumers and firms, in particular small and medium enterprises (SMEs).

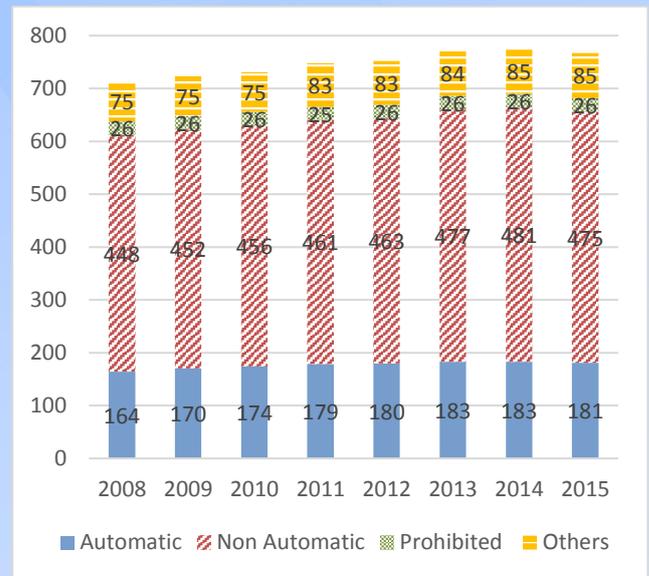
This policy brief provides a snapshot of the use of import licensing in the APEC region, explores the reasons why economies implement these measures, and also the costs for behind such licenses. In addition, the policy brief discusses policy recommendations regarding the implementation of import licenses, including alternatives that governments can put in place to achieve the objectives behind import licensing in a less trade distortive way.

## Import Licensing in APEC

Based on information from the WTO Integrated Trade Intelligence Portal (i-TIP), import licensing in the APEC region has been increasing over the years, in spite of the slight drop between 2014 and 2015 (Figure 1<sup>1</sup>). A large proportion of import licenses maintained by APEC economies are non-automatic, and largely relate to managing import quantities as well as product standards.

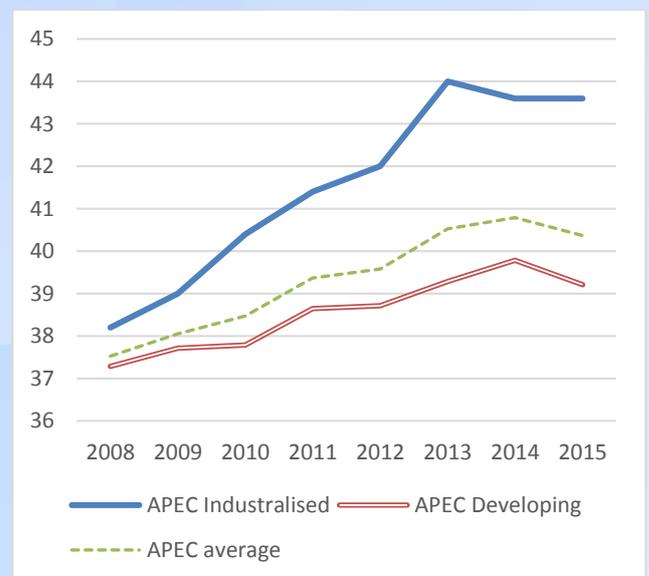
The average number of import licensing regimes per economy in both industrialised and developing economies also went up during the period 2008-2015 (Figure 2). Notably, the average for industrialised economies has been higher than that of developing economies, with the gap widening over the years. This is a worrying trend as hindering market access for developing economies into their developed counterparts remains one of the main concerns regarding the use of import licenses.

**Figure 1: Import Licensing Regimes in APEC**



Source: WTO i-TIP database. Calculations by APEC Secretariat, Policy Support Unit

**Figure 2: Average Number of Import Licensing Regimes per Economy**



Source: WTO i-TIP database. Calculations by APEC Secretariat, Policy Support Unit

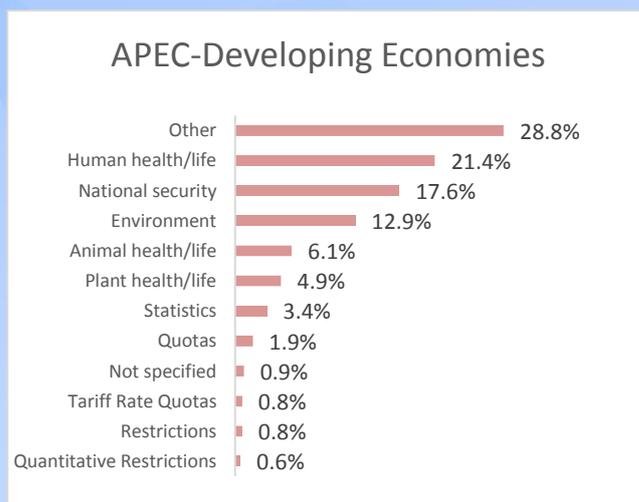
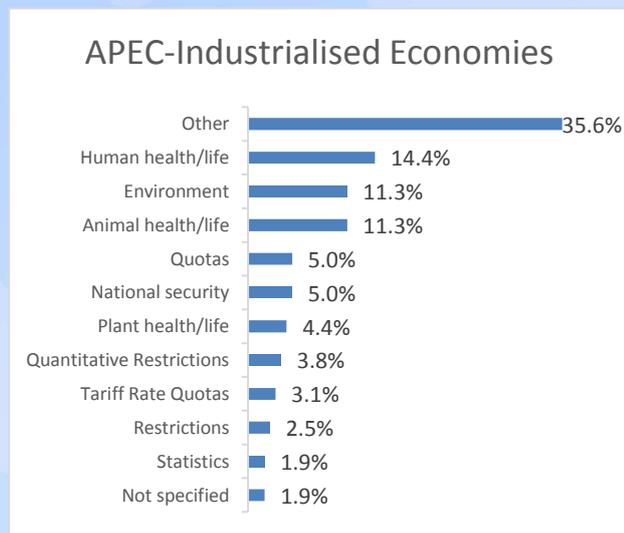
Figure 3 breaks down the composition of import licensing regimes in industrialised and developing APEC economies in 2015 according to the justification given by governments in implementing those regimes. Around one-third of them were related to miscellaneous reasons, categorized as “others”, such as the need to meet international commitments (e.g. ozone-depleting substances) and restrictions based on moral, religious or cultural grounds (e.g. tobacco, alcoholic beverages).

In terms of specific reasons, the protection of human health/life appeared to be one of the most important issues in implementing import licenses in the APEC region (e.g. pharmaceutical products, food). Industrialised economies placed more weight on environmental issues (e.g. chemicals, waste), while developing economies were inclined to restrict imports for national security reasons (e.g. firearms and weapons, nuclear products).

Whilst import licenses can be used to implement quantitative import restrictions, there were only a few reports of APEC economies using them for this purpose. Such use was also more common among the industrialised economies.

The WTO i-TIP database also reveals that implementing an import licensing scheme as a way to obtain information and generate statistics was more common in APEC developing economies<sup>2</sup>.

**Figure 3: Reasons for Imposing Import Licensing Regimes in APEC (2015)**

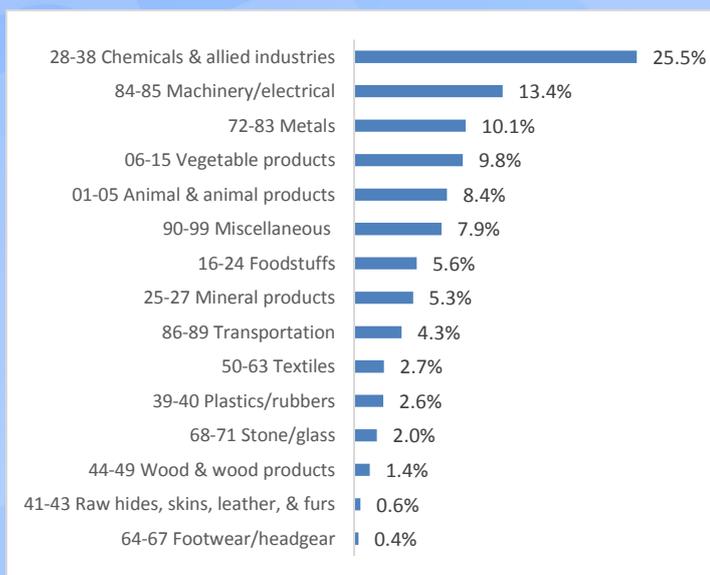


Source: WTO i-TIP database. Calculations by APEC Secretariat, Policy Support Unit

Looking at the specific sectors mostly affected by the imposition of import licenses in 2015, around 25% of these regimes in APEC focused on the chemicals and allied industries (Figure 4), which is unsurprising given their association with public health (e.g. pharmaceuticals) and national security and environmental issues (e.g. industrial chemicals). Import licenses on food-related sectors were also common – 23.8% of the import licensing regimes in the APEC region were imposed on vegetable, animal products and foodstuffs, based on food safety and social welfare grounds.

Among the other manufacturing sectors, 13.4% of the import licensing regimes affected machinery and electrical products, due to issues related to human safety (i.e. the preservation of life and public health) and national security (e.g. telecommunication equipment). Transportation equipment, such as motor vehicles, accounted for 4.3% of the import licensing regimes in APEC. Import licenses on vehicles are usually in force due to environmental regulations and safety grounds.

**Figure 4: Import Licenses by HS Codes in APEC in 2015**



Source: WTO *i-TIP* database. Calculations by APEC Secretariat, Policy Support Unit

Within APEC, a number of initiatives including aspects concerning import licenses has been launched to facilitate trade in the APEC region. For example, the Boracay Action Agenda to Globalize Micro, Small and Medium Enterprises encourages increasing transparency and predictability of import licensing regimes. Also, the Bogor Goals of free and open trade and investment aims to reduce substantially those import licensing regimes that represent unnecessary impediments to trade.

#### Motivations for Implementing an Import Licensing Scheme

Governments usually cite economic, social and/or administrative reasons to justify the implementation of an import licensing regime. For example, regimes imposed for economic purposes are mostly to control import quantities in order to protect the local producers and avoid a drop in prices (e.g. import licenses for basic agricultural products). On some occasions, governments also benefit by collecting fees from importers applying for such licenses.

Licensing for social considerations could be justifiable if they do not introduce an unnecessary distortion to trade. In fact, it can lead to quality assurance and greater consumer confidence<sup>3</sup>, since the issuance of the import license means that those products are meeting the technical standards and sanitary requirements required by the authorities to be considered safe<sup>4</sup>. Other social considerations are related to the need to control imports and conduct surveillance on certain products, for instance the control of alcohol, tobacco and drugs for public health reasons.

Import licensing regimes are also used for administrative reasons. For example, automatic licenses are usually applied to collect statistics. In addition, they could provide information to analyse the impact of policies and make *ex-post* necessary adjustments. Furthermore, these regimes allow authorities to request for additional information before authorising the importation of any controlled product, and eventually provide legal power to deny the approval of any application<sup>5</sup>.

#### Costs of Import Licensing

Import licensing regimes can act as a trade barrier, with SMEs amongst the firms that could be most affected by such regimes. SMEs tend to incur higher costs from import licensing compared to larger firms due to limited access to information. Moreover, it is harder for SMEs to meet the technical requirements to obtain a license due to the high fixed cost of technology and services needed to meet these conditions<sup>6</sup>. This situation is more acute in developing economies where resources are more limited.

Import licenses are generally more trade-restrictive and less transparent than tariffs and could increase the risk of corruption. Indeed, several studies show that the distortions caused by import licenses are greater than the benefit of the regimes themselves, and most of the benefits from eliminating import licenses tend to accrue to the economy maintaining these measures. For example, a study by Morkre and Tarr (1995) estimated that the elimination of the import licensing scheme for agricultural products in Hungary after the fall of communism could have increased welfare by 0.107% of its GDP<sup>7</sup> (around USD 37 million based on 1991 GDP values).

#### Market Access

Import licensing requirements could create market access problems in foreign and domestic markets. On the one hand, exporting firms could face market restrictions when governments overseas impose an import licensing system. On the other hand, domestic firms could face difficulties obtaining imported equipment, materials and components to produce final goods when their home economies maintain strict import licensing regimes.

Furthermore, import licences could act as a barrier to competition. For example, Harvie (2001) found that after the relaxation of the import licensing regime in Viet Nam in 1995, there was a significant rise in private firm participation and an increase of SME exports, which increased their participation in Viet Nam's total exports from 12% to 22% between 1997 and mid-2000<sup>8</sup>. This increase in SME exports also created increased employment opportunities, especially for the poor.

#### Artificial Scarcity and Higher Prices

The "infant industry" argument has been used in the past to justify imposing import licenses and restrict foreign competition, under the premise that new firms require time to develop their production processes and gain

comparative advantages before they are exposed to international competition. However, doing so can drive domestic prices above world prices since the supply for products is restricted. While domestic producers may benefit from such a system, social welfare as a whole is reduced. For instance, the Reserve Bank of New Zealand (1981) found that import licensing were protecting domestic industries at the cost of higher prices for the local community and an industrial structure that was uncompetitive for international standards<sup>9</sup>.

#### *Administrative Costs*

The administrative costs of maintaining a system to run an import licensing regime could be greater than the benefit of the regime itself. Elements such as an easy registration of importers, simple steps in the application process, and fair and transparent rules on decision-making and appeals, are important considerations when designing an import licensing scheme. High administrative and procedural costs are one of the key problems identified by several studies<sup>10</sup>.

Applying for a license takes time and resources. In fact, the WTO Agreement on Import Licensing Procedures establishes that applications for automatic import licenses should be processed within a maximum of 10 working days when administratively possible. Non-automatic licenses should be processed no longer than 30 days when applications are considered individually on a first-come first-served basis, and 60 days if all applications are considered simultaneously<sup>11</sup>.

Another problem arises when import licensing regulatory functions are divided among a number of government agencies, and may not necessarily be coordinated. OECD estimates that licensing delays can result in additional costs of 4%-6% of import duties, including expenses such as warehouse costs. Late delivery penalties can also add up to 10% of the price of the good<sup>12</sup>. In Hong Kong, China, the Hong Kong Trade and Development Council (2005) found that administrative costs fell by 40% after import licenses and quotas on textiles and apparel were removed after the Uruguay Round<sup>13</sup>.

#### *Rent Seeking Behaviour*

Unlike tariffs where resources are allocated through price mechanisms, licensing allocations often require subjective judgements which increase the probability of rent seeking among firms and officials. Weak legal structures increase the propensity of such behaviour. The occurrence of bribery and the use of connections to obtain a licence or block an application is higher in that context. For example, Mobarak and Purbasari (2006) found cases in developing economies where politicians in power were more interested in protecting business interests of people connected to them, for example by assigning import licenses on the basis of those relationships. They also found that licensing increased prices for both consumers and downstream producers, and kept inefficient firms in the market<sup>14</sup>.

## **Policy Recommendations and Options**

An import licensing regime may be reasonable when the benefits of implementing and maintaining it outweigh the costs. In many cases however, the costs are high and it is better to discourage its application. The decision of whether to implement an import licensing scheme should be subjected to the “necessity” and “proportionality” tests. The former refers to whether the trade measure is necessary to achieve a policy objective, while the latter refers to whether the measure is the least trade distorting one to achieve the aforementioned objective<sup>15</sup>.

In some cases, the implementation of an import licensing regime might not necessarily be the least trade distortive measure to achieve certain policy objective. For instance, even in the case of automatic import licenses, it takes time and cost to apply for one. This additional cost is transferred at the end to consumers. Instead of using these licenses as a means to collect data, customs authorities could obtain similar trade data directly from information available in import manifests and declarations.

Similarly, any concerns on imports based on animal, human and plant health or life; environmental reasons; safety grounds; intellectual property; and cultural or moral reasons could be addressed in ways more efficient compared to the application of import licenses. For instance, imported goods could go through simplified customs procedures by using risk assessment techniques to determine the cargo that would be subjected to inspection at the port of entry or to ex-post verifications. It is therefore possible to find a balance between trade facilitation and import control.

If the use of an import licensing regime is still preferred despite its associated costs, it is important to keep in mind the rules and principles of the WTO Agreement on Import Licensing Procedures, which seeks to keep import licensing procedures as simple, transparent and predictable as possible to minimize distortions to trade. Any change in procedures should be published before it comes into effect. Also, applications should be processed in a short amount of time. The utilisation of IT systems such as single windows could be very helpful. Decisions should follow a non-discriminatory nature, and license applications should neither be rejected nor imposed with excessive penalties for minor administrative errors. Rejected applicants should also have the right to appeal and seek feedback.

Recent trade agreements have included provisions governing the use of import licenses, with the aim of increasing transparency and preventing them from becoming an unnecessary barrier to trade. For example, the chapter on National Treatment and Market Access for Goods in the Trans-Pacific Partnership (TPP) prohibits import licensing conditional on the fulfilment of a performance requirement, and also forbids requiring exporters to have contractual relationships with domestic distributors before goods can enter the domestic market. Signatories are also required to notify the other TPP

Parties about changes in licensing procedures to maintain transparency and facilitate trade.

Relaxing licensing requirements would facilitate trade flows in the APEC region, in particular SMEs will benefit the most with policies eliminating or relaxing import licensing requirements. Amidst the increasing anti-globalization rhetoric across the world, it is important for APEC members to continue promoting open and free trade. In this context, APEC should continue to discuss initiatives that are aimed at improving transparency in import licensing regimes, and to explore good regulatory practices that could help governments achieve their policy objectives without implementing unnecessary trade-restrictive measures.

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<sup>1</sup> Since WTO members report their import licensing regimes in different ways (i.e. all products subject to an import license in one notification or one notification per product category and/or type of import license), the number of import licensing regimes in each APEC economy was calculated by counting the number of Harmonized System chapters (HS 2-digit codes) with at least

one product (HS 6-digit subheading) subject to an import license.

<sup>2</sup> Import licenses with the purpose of gathering statistical information are usually subjected to an automatic regime, in which importers obtain the license after meeting a minimum criteria.

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<sup>3</sup> UNCTAD (2013)

<sup>4</sup> Disdier, Fontagne and Mimouni (2006)

<sup>5</sup> Nevertheless, a large number of denied approvals by the competent authorities would constitute a *de-facto* import prohibition.

<sup>6</sup> UNCTAD (2013)

<sup>7</sup> Morkre and Tarr (1995)

<sup>8</sup> The figures exclude oil exports.

<sup>9</sup> Reserve Bank of New Zealand (1981)

<sup>10</sup> OECD (2005)

<sup>11</sup> Please refer to Articles 2 and 3 of the WTO Agreement on Import Licensing Procedures. Automatic import licenses are defined as those where approval of the application is granted in all cases. They have to be administered in a manner that do not have restricting effects on imports.

<sup>12</sup> OECD (2005)

<sup>13</sup> Hong Kong Trade and Development Council (2005)

<sup>14</sup> Mobarak and Purbasari (2005)

<sup>15</sup> Cadot, Munadi and Ing (2013)