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Committee on Import Licensing

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IMPORT LICENSING SYSTEM OF PHILIPPINES

QUESTIONS FROM THE UNITED STATES TO PHILIPPINES

The following communication, dated 5 May 2023, is being circulated at the request of the delegation of the United States.

Philippines' response:

Per information from the Philippines Bureau of Fisheries Aquatic Resources (BFAR), the importation of fish is categorized into the following intent of importation:

1. If the fish being imported is intended for canning and processing, and for institutional buyers, it is covered by Fisheries Administrative Order (FAO) 195. There are no defined criteria as to who may import under such activity as long as the requirements set forth therein are met.
2. If the fish being imported is intended for wet markets, it is covered by FAO 259. Under Section 5 of 259, the following are the qualified importers:
 - a. Members of an organization or association from commercial fishing sector that have been in existence for at least three years prior to the effectivity of the FAO; and
 - b. Registered fisheries associations or cooperatives that have been doing fish trading business and in existence for at least three years prior to the effectivity of this Order.

On whether supermarkets, groceries, and online retailers are considered institutional buyers, per definition provided under FAO 195, these establishments are not to be considered as institutional buyers. Thus, they should not be allowed to import fish without the necessary CNI. The requirement of a CNI is provided for under Section 61 (c) of Republic Act (RA) 8550 (Fisheries Code of the Philippines) as amended by RA 10654.

U.S. follow-up question(s):

1. What is the SPS justification for not allowing groceries and online retailers to sell imported fishery products?
2. The United States thanks the Philippines for its 23 February 2023 Department Circular No. 3, Series of 2023, which revokes Department Circular No. 8, Series of 2021, which removed the unscheduled quantitative restriction known as the Certificate of Necessity to Import (CNI) for fresh onions. The United States asks that the Philippines abolish the practice of requiring CNIs for all other applicable products where it is still used, including fish products.

Philippines' response: In a related development, we wish to inform the US that the Philippines may consider to permanently institute the validity of SPSIC for meat and poultry to 90 days. This will be subject to public consultation with the relevant stakeholders.

U.S. follow-up question(s):

3. On 28 February, the Government of the Philippines, Department of Agriculture, Bureau notified the WTO SPS Committee about its new measure, Department of Agriculture Administrative Circular No. 6, as WTO notification G/SPS/N/PHL/525 with no comment period. Why was the notification issued and entered into force more than six months prior to the WTO notification? Please also notify the measure to the WTO Committee on Import Licensing.
4. The United States thanks the Philippines for its intent to permanently extend the validity period for meat and poultry SPSICs to 90 days. Please confirm if the SPSIC validity period for all commodities that present low risk (e.g., animal-origin proteins, hides/skins, fishery products, etc.) will also be extended? A 12-month validity period for these products would be reasonable from a risk-based perspective.
5. What is the risk-based perspective for not extending validity periods on all commodities for a full year?
6. Please confirm if the Philippines allows multiple shipments per SPSIC issued for extended validity periods. Allowing multiple shipments for each SPSIC does not compromise risks to public or animal health.
7. The United States also does not understand the risk-based criteria currently used to determine that SPSICs for frozen fish products should have a shorter validity period than meat products. Please confirm how risk-based criteria was used to determine these SPSIC validity periods.

Philippines' response: The limitation on the validity period of SPSICs is based on risk involved. High-risk commodities, such as those categorized as level 3 and 4 under [International Standards for Phytosanitary Measures] ISPM 32, are imposed with shorter duration validity period.

U.S. follow-up question(s):

8. ISPM-32 (Categorization of Commodities According to their Pest Risk) is an international standard for plants and plant products. What is the basis and criteria for determining levels of risk and SPSIC validity periods for non-plant products such as fish, eggs, dairy products, animal feeds and feed ingredients, live animals, live poultry, meat and poultry products, livestock genetics, etc.?
 9. Regarding SPSIC validity periods for plants and plant products, we note in your response that ISPM-32 guidelines are used to establish validity periods. Therefore, please provide the standard SPSIC validity period used by BPI for products categorized in accordance with ISPM-32 in levels 1, 2, 3, & 4.
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