

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

Notification under Article 7.3 of the Agreement  
on Import Licensing Procedures

POLAND

The following notification, dated 7 October 1997, has been received from the Permanent Mission of Poland.

Outline of systems

1. As a rule, imports into Poland are free, with exceptions foreseen in the Customs Law of 28 December 1989 (Dziennik Ustaw - Journal of Law/J.O. N 75, item 445 as amended) still in force. The replies to the Questionnaire describe the procedures which have been applied in 1997. Some changes to these procedures will take place in 1998 after substitution of the Customs Law by the Customs Code and other laws, complying with the rules of international trade adopted by WTO.

At present, according to the Customs Law, import licensing is required for :

- I. GOODS IMPORTED UNDER CONCESSIONS (SPECIAL PERMITS) GRANTED TO IMPORTERS;
- II. GOODS SUBJECT TO QUOTAS ESTABLISHED IN QUANTITY OR VALUE TERMS OR SUBJECT TO TEMPORARY RESTRAINTS ON IMPORTS; and
- III. GOODS IMPORTED IN THE FRAMEWORK OF INTERNATIONAL AGREEMENTS WHICH PROVIDE FOR SETTLEMENTS IN ACCOUNTING UNITS ACCEPTED IN INTERNATIONAL TRADE (IN FOREIGN CURRENCIES).

This system remains in application until the mutual obligations within the bilateral clearing agreements are liquidated by the deliveries of goods.

Since Poland's accession to WTO, no global quotas were applied in order to limit the volume of imports nor as a safeguard measure. Instead, the Council of Ministers in its regulations established for the year 1997 tariff quotas for agricultural products in conformity with Polish undertakings in WTO, as well as tariff quotas for some industrial products with lower in-quota duties than provided in the Polish Customs Tariff. Licensing enables the administration of tariff quotas.

I. GOODS IMPORTED UNDER CONCESSIONS (SPECIAL PERMITS) GRANTED TO IMPORTERS

Purposes and coverage of licensing

2. Concession is considered a condition for importation of certain goods, namely of some food preparations, alcoholic beverages, tobacco products, mineral oils and fuels and products of its distillation (see Annex 1<sup>1</sup>).

3. Goods can be imported irrespective of their origin and of the country of exportation.

4. The purpose of the concessions and of licensing of the goods in question is to admit to import activities only those importers who can be trusted, are solid and reliable; in case of alcohol and tobacco products the system is maintained also for reasons of security and health of the consumers.

Granting of concessions and of licences is not intended to restrict the quantity or value of imports, but to strengthen the discipline of the economic operators.

5. The decision concerning goods to be subjected to concessions in 1997 was taken by the Minister of Foreign Economic Relations, in virtue of the Law on Economic Activities and published in the Regulation on the List of goods and services concessions to carry on activities in foreign trade are required for (J.O. N 155/96, item 762).

The legal basis for licensing is provided for in Article 7.1 of the Customs Law, according to which the system is obligatory for goods subject to concessions. The legislation confers authority upon administration to designate goods subject to concessions for importers and consequently to licensing. The system can not be abolished without changes in the legislation.

Procedures

7. (a) The application for a licence has to be made prior to the importation with such an advance that the customs clearance of goods not be disturbed. The applications are processed without delay as and when received, usually within few days to the extent administratively feasible, if applicants observe the obligatory procedures, and depending on the number of applications.

Licences are granted on a first-come, first-served basis. The past performance of the applicant is, among others, taken into consideration when the application is processed. New importers are treated on an equal basis as others, if they meet the formal requirements.

(b) The applications are not approved immediately on receipt in order to avoid giving preference to some importers in relation to others, that is in contradiction with the rule of equal treatment of all applicants.

(c) There are no limitations as to the period of the year during which the applications can be submitted.

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<sup>1</sup>Available for consultation in the Secretariat (Market Access Division) in Polish only.

- (d) Applications are processed and licences granted by a single administrative organ, since 1 January 1997, the Ministry of Economy.

8. The application is not processed when it does not meet the formal requirements (for example, if some of the required documents are lacking). The licence may authorise the importation of a product in quantities or in value lower than applied for, if the licences granted previously were not utilised several times or utilised in part. In all cases, decisions are communicated to the applicants. The applicant is entitled to apply for a reconsideration of his application or to complain to the High Administrative Court.

#### Eligibility of importers to apply for licence

- 9(b). Under non-restrictive systems, all physical and legal persons are eligible to apply for licences, provided their economic activities had been registered. For goods subject to concessions only holders thereof are eligible to make applications.

To the application for a concession, various documents and information have to be appended in accordance with the Regulation of the Minister of Economy (O.J.N 70/97, item 445).

The systems applied to registration of economic activities are governed by separate rules. The registration is carried on either by courts or by organs of local administration (communities), depending on the kind of enterprise. Registration records are kept and registration fees collected by organs responsible for registration. The fees are diversified.

10. A sample application form (see Annex 2<sup>1</sup>) for goods subject to licensing is annexed to the Regulation of the Minister of Economic Relations with Abroad of 22 December 1993 on the method of quota allocation and on issuing of export and import licences (J.O. 131/93, item 626). The Regulation indicates which documents and information are to be submitted with the application.

According to the above-mentioned Regulation, importers have to annex to the application the following documents or their certified copies :

- confirmation of the right to operate in foreign trade within the registered economic activity (copy from the commercial or other register);
- copy of the applicant's statistical identification, i.e. his statistical number, issued by an appropriate statistical office;
- certificate that the applicant is not in arrears with taxes, issued by an appropriate fiscal office; and
- copy of the contract.

In addition, the following documents are required :

- copy of the concession granted to the applicant by the Minister of Economy, declaration about the level of sales of products subject to licensing during the last twelve months preceding the submission of the application, with the indication of main buyers in Poland and principal foreign suppliers;

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- balance of utilisation of import licences allocated in the past;
- indication of the documentary evidence concerning proper or other financial means necessary for import payments;
- commitment that the quality of imported goods meets the Polish standards and requirements and that quality certificates issued by Polish or foreign supervising firms will be provided;
- in case of application for a licence to import certain alcoholic beverages, the permit to carry out activities in wholesale trade of spirits on the Polish territory, granted by the Minister of Economy;
- in case of application for a licence to import alcoholic beverages and preparations in containers of 2 liters or more, the permit to produce and bottle vodka, granted by the Minister of Agriculture and of Foodstuffs Economy, or the agreement with an economic operator holding such a permit; and
- in case of application for a licence to import liquid fuels, the declaration on the storing conditions and capacities at the applicant's disposal and the document certifying his legal title to utilise them (property, rent).

11. Upon actual importation, the importer presents the usually required documents such as invoice, SAD, transport document, and obligatorily, the licence and the copy of concession.

12. The licensing fees are as follows :

- Zl 200, if the value of imported goods indicated in the licence is not higher than Zl 100,000;
- Zl 400, if the value of imported goods is higher than Zl 100,000.

13. There is no deposit or advance payment associated with the issuance of licences .

#### Conditions of licensing

14. Import licences are generally valid for three months. The period of validity of a licence may be extended upon an appropriate application submitted by the importer.

15. Non-utilisation of a licence or utilisation of its portion are not penalised.

16. Each licence bears the applicant' s name. Licences are not transferable between importers.

17. (b) No other conditions are attached to the issue of a licence by the regulations in force.

#### Other procedural requirements

18. Apart from import licensing, generally the imported goods to be released for free circulation on the Polish territory have to meet several requirements, i.e. of certification and standardisation, which, however, are not considered a condition of licence issuance. The compliance with such requirements is verified, in accordance with the legislation in force, including the Customs Law, when the decision on the entry of imported goods on the Polish territory is taken.

19. Payments for purchase of goods which remain abroad or are imported for commercial purposes as well as for purchase of services and property rights on non-material goods do not require foreign exchange permit. Intermediation of foreign exchange banks is necessary in case of transfers and payments realated to foreign trade.

## II. GOODS SUBJECT TO QUOTAS ESTABLISHED IN QUANTITY OR VALUE TERMS OR SUBJECT TO TEMPORARY RESTRAINTS ON IMPORTS

2. Temporary restraints on import have been maintained in 1997 in virtue of the regulations of the Council of Ministers for the following goods:

- liquefied petroleum gas and other gaseous hydrocarbons - PCN code 2711 (J.O. 148/96, item 692 - see Annex 3<sup>1</sup>);
- substances depleting the ozon layer and products containing such substances - different PCN codes (J.O. 148/96 item 694 - see Annex 4<sup>1</sup>);
- parts used in industrial assembly of motor vehicles - different PCN codes (J.O. 104/96, item 480; J.O. 157/96, item 794; J.O. 65/97, item 416 - see Annex 5<sup>1</sup>).

The rules related to importation of goods for industrial assembling are described in the Comments to Sections 84 and 87 of the Polish Customs Tariff for the year 1997 and in the descriptions of the particular code numbers (for industrial assembly).

3. See I. 3.

4. 1) Licensing of liquefied petroleum gas (butane and propane) was introduced in order to control whether the quality of imported goods meets Polish technical norms as well as for reasons of security. Licensing does not aim at limiting either quantities or value of imports. It is intended to discipline economic operators importing goods subject to licences. At the same time the system provides information which in other situations are obtained through monitoring.
- 2) The object of licensing is to protect the natural environment, in accordance with the provisions of Montreal Protocol.
- 3) The purpose of licensing of certain goods imported for industrial assembly of motor vehicles is to contribute to the modernisation of this sector of economy and thus to achieve the adequate level of quality of assembled motor vehicles. This is necessary from the point of view both of road transport security and of natural environment protection.

The high standard of assembled vehicles will be achieved by elimination of assembly on the basis of imported parts and components of low technological quality, carried on by firms which do not have appropriate facilities and are not properly equipped in machinery and appliances.

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The introduction of a system of permits-concessions to produce/assembly motor vehicles, trailers and semi-trailers has been considered. The system would be applied to the producers of Polish vehicles as well as to the assemblers who operate on the basis of CKD and SKD assemblies.

5. Article 9.1 of the Customs Law transfers the authority upon the Council of Ministers to put into force the temporary restraints on import or export of goods, if reasons of commercial policy or economic or national interests justify it. For goods subject to temporary import restraints, licence is a condition for importation. See also I.5.

7(a)-(d). For 1), 2), 3) - see I.7(a)-(d).

8 - For 1) and 2) see I.8

- For 3) - application for a licence to import parts for industrial assembly of motor vehicles is not processed in case the applicant did not perform such activity before the 24 August 1996. For other applicants see 1) and 2) above.

9(b). See I.9(b); concession is not a condition for importation. For 3), see also 8. 3) above.

10. The same sample form of application as annexed to I.10. Four basic documents enumerated in I.10 are required.

In addition the applicants have to submit :

- the declaration that the imported gaseous hydrocarbons comply with the Polish norms.
- opinion concerning the possibility of importation, issued by the Institute of Industrial Chemistry - Office of Protection of the Ozon Layer.

11. Besides the documents normally required by the Customs, the licence must be presented.

12. see I. 12.

13. see I. 13.

14. see I. 14.

15. see I. 15.

16. see I. 16.

17. see I. 17.

18. see I. 18.

19. see I. 19.

III. GOODS IMPORTED IN THE FRAMEWORK OF INTERNATIONAL AGREEMENTS WHICH PROVIDE FOR SETTLEMENTS IN ACCOUNTING UNITS ACCEPTED IN INTERNATIONAL TRADE (IN FOREIGN CURRENCIES)

Within the existing amount of assets, licences expressed in value of imports are allocated to the applicants in accordance with the intergovernmental arrangements. The licensing procedures described either in part I or in part II of the replies are applied depending on the kind of imported goods. Import under this licensing system is negligible and it concerns only few countries.