

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

Notification under Article 7.3 of the
Agreement on Import Licensing Procedures¹

POLAND

The following communication, dated 14 October 2002, has been received from the Permanent Mission of Poland.

Outline of system

1. As a rule, imports into Poland are free of restrictions or of the requirement of obtaining a licence, unless statutory regulations or international agreements provide otherwise. Furthermore foreign trade in goods and services is permitted to everybody upon equal rights, subject to terms and restrictions laid down in statutory regulations or international agreements.

Rules for importation into Poland are set in:

- Law – Customs Code dated 9 January 1997 (text published in the Dziennik Ustaw (Journal of Laws) No. 75 of 2001, under item no.802 with later amendments);
- Law dated 11 December 1997 on administering foreign trade turnover in goods and services (published in Journal of Laws No. 157, item no.1026 on 23 December 1997 with later amendments);
- Regulation of the Minister of Economy dated 18 April 2001 concerning licences (permits) to bring goods into and take goods out of the customs area of Poland (Dziennik Ustaw No.35 of 2001, item no. 412) – describes forms of applications for licence (permit), list of documents to be attached to the application, forms of licence (permits), conditions on which particular licence can be issued and used. This Regulation concerns non-tariff measures such as automatic registration, non- automatic registration and quotas;
- Regulation of the Minister of Economy dated 9 March 2001 (Dz. U. No. 19 item 236 and No.35 item 412) concerning import licences issued within tariff quotas - describes form of application for import licence, list of documents to be attached to the application, form of licence, conditions on which licence can be issued and used.

Note:

We are not dealing in this notification with:

- a) the system concerning foreign trade turnover in armaments and dual-use goods. This is covered by separate Law dated 29 November 2000 on foreign trade turnover in goods, technologies and services of strategic significance for state safety, and also for maintaining international peace and

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

safety and amendments of some Laws (published in Dziennik Ustaw No.119, item 1250). All updated laws and regulations covering the subject area are available on website: www.mg.gov.pl/struktur/wwwdke;

- b) wastes - conditions for entry and exit of wastes into and out of Poland are set in the Law dated 27 April 2001 on wastes (Dziennik Ustaw No. 62, item 628);
- c) substances depleting the ozone layer – conditions on which foreign trade turnover in these substances is allowed are set:
 - in the Law dated 2 March 2001 on proceedings with substances depleting ozone layer (Dziennik Ustaw No.52, item 537 and No.100, item 1085);
 - Regulation of the Minister of Economy dated 2nd August 2002 concerning detailed conditions and mode of licence issuing and forms of applications for licence to manufacture and to conduct a foreign trade in ozone layer depleting substances (Dziennik Ustaw No.134, item 1129).

Purposes and coverage of licensing

2-5.

A. Non- tariff measures

Automatic registration of import is applied for statistical and monitoring purposes. It applies to goods originating in and coming from all countries (*erga omnes*) and is not intended to restrict the quantity or value of imports.

Goods subject to automatic registration of import comprise some agricultural, some steel products, yarn of synthetic staple fibres, slot machines (mechanical, electromechanical, electronic equipment meant for games played for money or gift prizes), gelatine and gelatine derivatives other than used in food processing industry. All these, i.e. lists of products with respective PCN Codes, were duly notified pursuant to Article 5 of the Agreement on Import Licensing Procedure. Applications are handled on the “first come, first serve” basis.

Goods subject to non-automatic registration of import in 2002 year comprise only worn clothes falling under PCN 6309 00 00 0 and it was also duly notified pursuant to Article 5 of a/m Agreement. The only difference between automatic and non-automatic registration is that in case of the later one licences can be granted for the quantity smaller than applied for , but not smaller than set in the relevant Regulation. Applications are handled on the “first come, first served” basis.

Quotas – in 2002 there were established, by the pertinent Regulations of the Minister of Economy restrictive quotas on import of coal from Czech Republic (500,000 tons) and Russia (1,600,000 tons). In both cases quotas are allocated according to "first come, first served" rule with maximum of 2500 tons to be granted for a single licence.

B. Tariff measures

Tariff quotas – tariff quotas set up in 2002 are listed below:

1. Regulation of the Council of Ministers of 11 December 2001 on establishment of tariff quotas for imports of certain agricultural products – market access quotas for agricultural products established in accordance with WTO Agreement; in force till 31 December 2002.

2. Regulation of the Council of Ministers of 11 December 2001 on establishment of tariff quotas for imports of certain agricultural products from the European Union member countries – meat, cheeses, wheat, flour, malt, sausages, bran; in force till 31 December 2002.
3. Regulation of the Council of Ministers of 11 December 2001 on establishment of tariff quotas for imports of certain products originating from the Czech Republic, the Slovak Republic, the Republic of Hungary. The Republic of Slovenia and the Republic of Bulgaria – fruit, cereals, cheeses, processed tomatoes, wines, beer; in force till 31 December 2002.
4. Regulation of the Council of Ministers of 11 December 2001 on establishment of tariff quotas for imports of certain products originating from the Faroe Islands –meat, sausages, fodder; in force till 31 December 2002.
5. Regulation of the Council of Ministers of 11 December 2001 on establishment of tariff quotas for imports of certain products originating from the State of Israel – fish, flowers, vegetables, sweets, fruit juices, wines; in force till 31 December 2002.
6. Regulation of the Council of Ministers of 11 December 2001 on establishment of tariff quotas for imports of certain products originating from the Republic of Turkey – cheeses, vegetables, tea, sweets, jams, citric fruit, fruit juices, beer, wine; in force till 31 December 2002.
7. Regulation of the Council of Ministers of 11 December 2001 on establishment of tariff quotas for imports of certain products originating from the Republic of Croatia – meat, sweets, beer, wine; in force till 31 December 2002.
8. Regulation of the Council of Ministers of 11 December 2001 on establishment of tariff quotas for imports of certain products originating from the Republic of Estonia – milk cheeses, honey, fruit, coffee, malt, sausages, sweets, vegetables, fruit juices, sauces, soups; in force till 31 December 2002.
9. Regulation of the Council of Ministers of 11 December 2001 on establishment of tariff quotas for imports of certain products for military purposes – equipment and armaments; in force till 31 December 2002.
10. Regulation of the Council of Ministers of 23 April 2002 on establishment of tariff quotas for imports of certain products for plants producing automotive spare parts – spares and components for production of automotive spare parts and equipment for automotive industry plants; in force till 31 December 2002.
11. Regulation of the Council of Ministers of 23 April 2002 on establishment of tariff quotas for imports of certain machinery and investment equipment for automotive industry – equipment for automotive industry plants; in force till 31 December 2002.
12. Regulation of the Council of Ministers of 23 April 2002 on establishment of tariff quotas for imports of certain goods for automotive industry – spares and components; in force till 31 December 2002.
13. Regulation of the Council of Ministers of 23 April 2002 on establishment of tariff quotas for imports of certain raw materials for production of food for persons on glutenless diet – starch without gluten; in force till 31 December 2002.

14. Regulation of the Council of Ministers of 23 April 2002 on establishment of tariff quotas for imports of seeds of Polish varieties of sugar beets reproduced abroad and designated for obtaining a qualified seed material; in force till 31 December 2002.
15. Regulation of the Council of Ministers of 23 April 2002 on establishment of tariff quotas for imports of certain components for telecommunication industry – spares and components for production of telecommunication equipment; in force till 31 December 2002.
16. Regulation of the Council of Ministers of 30 April 2002 on establishment of tariff quotas for imports of certain chemical products and components for electronic industry – raw materials and semis for electronic industry; in force till 31 December 2002.
17. Regulation of the Council of Ministers of 30 April 2002 on establishment of tariff quotas for imports of certain machinery and equipment for electronic industry – investment equipment for electronic industry; in force till 31 December 2002.
18. Regulation of the Council of Ministers of 23 April 2002 on establishment of tariff quotas for imports of certain oils for chemical industry – linseed and soybean oil; in force till 31 December 2002.
19. Regulation of the Council of Ministers of 23 April 2002 on establishment of tariff quota for import of flax for textile industry – raw flax; in force till 31 December 2002.
20. Regulation of the Council of Ministers of 23 April 2002 on establishment of tariff quotas for imports for metallurgical industry – metallurgy raw materials; in force till 31 December 2002.
21. Regulation of the Council of Ministers of 23 April 2002 on establishment of tariff quotas for imports of certain products for exploitation of seagoing vessels and inland navigation – marine diesel oil; in force till 31 December 2002.
22. Regulation of the Council of Ministers of 26 February 2002 on establishment of tariff quotas for imports of certain products for pharmaceutical industry – pharmaceutical raw materials; in force till 31 December 2002.

In the case of tariff quotas each of them is established as a regulation of the Council of Ministers and is published in the Journal of Laws (Dziennik Ustaw).

Allocation of the particular quota differs depending on its character. Thus, quotas established in accordance with the multilateral treaties (GATT, UE, CEFTA, etc.) contain agricultural goods and their allocation is principally carried out on the first come first served basis with the following exceptions:

- certain goods or groups of goods are allocated in proportion to the number of applicants 21 days after given regulation entered into force;
- global amount of quota for some goods is allocated in equal quarterly portions;
- for certain goods, there are maximum amounts set for a single import licence;
- issuance of an import licence for sugar (within GATT market access quota established for this commodity) is possible under condition that deposit equal to 3 EUR/100 kilos net will be submitted.

Tariff quotas established in accordance with the bilateral agreements are entirely allocated on the first come first served basis (Estonia, Croatia, Faroe Islands) with some exceptions as far as imports from Turkey and Israel are concerned (tariff quota for fruit juices from Israel is being

allocated in proportion to the number of applicants with maximum limit amounting to 200 ton per single import licence; tariff quotas for import from Turkey of fruits, nuts, spices, dried fruits and fruit juices are being allocated on first come first served basis but maximum amounts per single licence for these goods are set).

The third category of tariff quotas are the ones established due to internal economic reasons, when the domestic production is not sufficient for the needs of particular branches of industry. These quotas are being allocated in proportion to the number of applicants and if the demand is smaller than quota established, then allocation is carried out on the first come first served basis.

As far as laws and regulations under which the licensing is carried out, please see reply to question 1.

All measures set up, whether tariff or non-tariff ones, are statutory established for definite period of time, in practice with validity till the end of the calendar year. In order to further maintain the given measure, it has to be established anew.

Procedures

6. There are no restrictive quotas established in the year 2002 except of ones for coal from Czech Republic and Russia.

7.(a) In accordance with the rules of the Code of Administrative Procedures, applications have to be processed without unnecessary delay i.e. within 2 weeks or 10 working days. In case there is need of some additional explanations, application can be processed and import licence issued within 30 days. In practice, the average actual time to process and issue an import licence is not exceeding one week.

(b) In general, licences are not granted on request. However, in case licences are granted on the first come first served basis and there is no backlog of applications, it is possible to issue a licence the same day.

(c) Applications for import licence can be submitted any time during validity of a given measure if there are no specific provisions as to the mode of allocation. The same relates to quotas if they are not yet fully allocated.

(d) In general, no matter under which licensing system, whether it is automatic registration, non-automatic registration, quota or tariff quota, as far as industrial products are concerned, the administrative body authorized to issue licences is the Ministry of Economy. However, there is one exception: slot machines, for which import licences are being issued at border by Customs. In case of agricultural products with exception of gelatine (handled by the Ministry of Economy), licences are being issued by Agricultural Market Agency.

8. Applications for an import licence can only be refused if they do not meet legally set requirements. Reason or reasons of refusal are communicated to the applicant, who in accordance with the rules of Code of Administrative Procedures, has the right to appeal to the Ministry of Economy or Ministry of Agriculture (in case refusal is made by Agricultural Market Agency) and, at a second instance, to the Supreme Administrative Court.

Eligibility of importers to apply for a licence

9. All natural and legal persons domiciled in the Republic of Poland, irrespective of nationality or origin, are eligible to apply for an import licence, provided their economic activities have been duly registered in the Republic of Poland.

Documentational and other requirements for application for licence

10. Forms of applications are attached as appendices² Nos. 1, 2, 3 and 4 to the Regulation of the Minister of Economy dated 18 April 2001 (non-tariff measures) and appendix² Nos. 1, 2, 3 and 4, to the Regulation of the Minister of Economy dated 9 March 2001 and amended on 18 April 2001 (tariff quotas). The application for a licence contains the usual information regarding the importer, goods, and purchasing contract.

The following documents have to be annexed to the application:

- extract (copy) from the commercial or other register;
- copy of the applicant's statistical identification, i.e. statistical number of the company issued by an appropriate statistical office;
- certificate that the applicant is not in arrears with taxes, issued by appropriate fiscal office;
- certificate that the applicant is not in arrears with the obligatory social insurance premium, issued by appropriate social insurance office;
- copy of contract;
- balance of utilization of the previously obtained licence from Customs Office, if there was such a case.

11. Upon actual importation, the importer presents documents such as invoice, SAD, transport document and import licence usually required by the Customs.

12. Import licence is free of charge.

13. There is no deposit or advance payment associated with the issuance of licences (except of import licence for sugar within WTO market access quota).

Conditions of licensing

14. Import licences are generally valid for three months. Its validity cannot be extended. Upon expiry applicant can apply for the new licence submitting, along with the application, a copy of the expired licence with balance of utilization noted down by Customs.

15. Non-utilization or partial utilization of licence is not penalized.

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

17.(a)-(b) There are no other conditions connected with the issuance of a licence. However, there are two exceptions:

- tariff quota for import of certain products for military purposes (item no.9 of the list of tariff quotas) – application prior to be submitted to the Ministry of Economy has to be certified by the Ministry of Defence as to the conformity to the relevant contract signed with the Ministry of Defence or with the company authorized by the Ministry of Defence to sign such a contract;

² Available for consultation in the Secretariat (Market Access Division) (in Polish only).

- non-automatic registration of the import of worn clothes – to the application for the licence has to attached a certification that goods to be imported were disinfected and disinfected.

Other procedural requirements

18. There are no other administrative procedures required to importation apart from health, sanitary, veterinary and quality regulations.

19. The foreign exchange is automatically provided for goods to be imported and a licence is not a condition for obtaining foreign exchange.
