

**REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES<sup>1</sup>**

Notification under Article 7.3 of the Agreement on Import Licensing Procedures

UKRAINE

The following communication, dated 6 December 2010, has been received from the delegation of Ukraine.

Ukraine applies the following systems for import licensing:

1. The system for import licensing, which is aimed at protecting life and health of people, animals and plants, at protecting the environment from ozone-depleting substances (to comply with the requirements of the Montreal Protocol) as well as at ensuring the interests of national and international security and implementation of international agreements.
2. The licensing system involving quotas set for imports of goods, which is aimed to apply safeguard measures. The safeguard measures, under this system, are set forth pursuant to Law of Ukraine "On application of special measures to Ukraine's imports" #332-XIV of 22 December 1998 and pursuant to relevant Decisions of Ukraine's Interagency Commission for international trade.

**I. THE SYSTEM FOR IMPORT LICENSING, WHICH IS AIMED AT PROTECTING LIFE AND HEALTH OF PEOPLE, ANIMALS AND PLANTS, AT PROTECTING ENVIRONMENT FROM OZONE-DEPLETING SUBSTANCES, AS WELL AS AT ENSURING THE INTERESTS OF NATIONAL AND INTERNATIONAL SECURITY AND IMPLEMENTATION OF INTERNATIONAL AGREEMENTS, WITH THE LIST OF GOODS SUBJECT TO THIS SYSTEM BEING ANNUALLY APPROVED BY THE CABINET OF MINISTERS OF UKRAINE**

**Outline of system**

1. Under this system and pursuant to Article 16 of Law of Ukraine "On foreign economic activities" of 16.04.1991#959-XII (with relevant changes and additions) the list of goods importation of which is subject to licensing and volumes of quotas are to be approved by the Cabinet of Ministers of Ukraine based on the submission of the central executive government body for economic policy issues (the Ministry of Economy) by way of adopting annual resolutions.

The list of goods importation of which is subject to licensing, and quotas in 2010 are approved by the resolution of the Cabinet of Ministers of Ukraine #1406 of 23.12.2009 (as amended).

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

The form of licensing of imports can be either automatic or non-automatic.

Automatic import licensing is defined as an administrative procedure for preparing and issuing a license that does not have a restrictive impact on imports of goods subject to licensing.

The goods falling under the system of automatic licensing are specified in section 2.

Importation of goods under the system of automatic licensing is licensed regardless of what country is its exporting country.

Non-automatic import licensing is defined as an administrative procedure for preparing and issuing a license, which is used in case of application of quotas, quantitative or other restrictions on imports of goods.

Currently in Ukraine the importation of goods under the non-automatic licensing regime is carried out with respect to:

- 1) particular goods from Republic of Macedonia within the tariff quota established pursuant to the Free Trade Agreement between Ukraine and Republic of Macedonia, ratified by Law of Ukraine #2599-III as of 05.07.2001;
- 2) raw cane sugar within the tariff quota set pursuant to Law of Ukraine #404-V as of 30.11.2006 "On establishment of tariff quota for importation of raw cane sugar in Ukraine".

#### **Purposes and covering of licensing**

2. Under this system, pursuant to Resolution of the Cabinet of Ministers of Ukraine #1406 of 23.12.2009, the following imports are subject to automatic licensing in 2010:

Print paints and ink, specified under the methodology specified by the Ministry of Finance and the State Customs Service, having protective properties, specifically as follows: luminescent or color changing in the ultraviolet light, invisible in daylight, luminescent in the ultraviolet light and invisible in infrared light (only those under UKTZED code 3215 11 00 00), color changing or invisible in daylight under temperatures over +30° C, penetrating through paper sheet and changing color on its other side (only those under UKTZED code 3215 11 00 00), optical variability that changes color depending on the angle of observation or lighting (optical - paints) (only those under UKTZED code 3215 19 00 00)	3215 11 00 00 3215 19 00 00
Only paper not whitened with water marks without fibre obtained mechanically, or in which such fibre amount to not more than 10 percent by weight of the total fibre with density of 40 grams or more per square meter	4802 55 4802 56 4802 57 00 4802 58
Only paper not whitened with water marks with fibre obtained mechanically, more than 10 percent by weight of the total fibre	4802 61 4802 62 00 4802 69 00
Optical polycarbonates for laser reading systems	3907 40 00 00
Machinery for manufacture of disks for laser reading systems: injection-moulding machines for disk manufacture press-moulds for thermoforming machines for injection moulding of disks matrixes or moulds containing data necessary to mould disks	8477 10 90 00 8480 71 90 90 8524 91 00 00 8524 99 10 00 8524 99 90 00
Ozone depleting substances	Based on the list specified in Appendix 1
Products that may contain ozone-depleting substances	Based on the list specified in Appendix 2

Non-automatic licensing within the tariff set quota pursuant to the Free Trade Agreement between Ukraine and Republic of Macedonia applies to imports of goods from Republic of Macedonia based on the list as provided in Appendix 3, as well as to imports of raw cane sugar within the tariff quota set pursuant to Law of Ukraine as of 30.11.2006 #404-V "On establishment of a tariff quota for importation of raw cane sugar in Ukraine", in accordance with Appendix 4.

3. Importation of goods under the system of automatic licensing is licensed regardless of what country is its exporting country.

Licensing of import of goods specified in Appendices 1 and 2 is carried out in conformity with requirements of the Montreal Protocol.

Subject to licensing under the non-automatic licensing regime are:

- imports of goods from Republic of Macedonia based on the list set in accordance with Appendix 3;
- imports of raw cane sugar pursuant to allocation of a tariff quota for 2010 by supplying countries in accordance with Appendix 4 (see also document G/AG/N/UKR/3 as of 02.02.2010).

4. The system for licensing of imported goods is not intended for restricting quantity or value of import.

The goals of licensing are to:

- protect life or health of people, animals and plants;
- protect environment from ozone-depleting substances;
- ensure the interests of national and international security;
- ensure implementation of international agreements of Ukraine.

5. Licensing of foreign economic transactions is provided for under Law of Ukraine "On foreign economic activities" of 16.04.1991 #959-XII as amended. Under Article 16 of Law of Ukraine "On foreign economic activities" of 16.04.1991 #959-XII, a decision to apply the regime of licensing of importation of goods and volumes of quotas is to be adopted by the Cabinet of Ministers of Ukraine based on the submission of the Ministry of Economy of Ukraine.

The Ministry of Economy annually establishes a list of goods importation of which is subject to licensing, a period of validity of licensing and quantitative or other limitations for each specific category of goods subject to this regime.

The list of goods importation of which is subject to licensing and quotas in 2010 are approved by the resolution of the Cabinet of Ministers of Ukraine #1406 of 23.12.2009 (as amended).

The Cabinet of Ministers of Ukraine may abolish a regime of licensing of importation of goods during the year in question provided that the goals of the regime have been achieved.

A procedure for allocation of a tariff quota for importation of raw cane sugar in Ukraine, as well as the requirement to obtain a license for importation, are established by Resolution of the Cabinet of Ministers of Ukraine #1002 as of 12.11.2008 (as amended).

### **Procedures**

6. Currently in Ukraine non-automatic licensing applies to:

- importation of particular goods from the Republic of Macedonia within the tariff quota pursuant to the Free Trade Agreement between Ukraine and Republic of Macedonia, ratified by Law of Ukraine as of 05.07.2001 #2599-III (on the bilateral basis);
- importation of raw cane sugar within the tariff quota pursuant to Law of Ukraine as of 30.11.2006 #404-V "On setting a tariff quota for importation of raw cane sugar in Ukraine" and the resolution of the Cabinet of Ministers of Ukraine #1002 as of 12.11.2008 "On approval of the procedure for allocation of tariff quota for importation of raw cane sugar in Ukraine" (pursuant to international obligations).

Each of the aforementioned systems of non-automatic licensing is described individually below.

(a) Regarding importation of particular goods from the Republic of Macedonia within the tariff quota pursuant to the Free Trade Agreement between Ukraine and Republic of Macedonia, ratified by Law of Ukraine as of 05.07.2001 #2599-III

I. Decision of the Government concerning approval of the list of goods importation of which is subject to licensing, and quotas in 2010 is published in official print media of Ukraine (Uriadovy kurier, Ofitsijnyj visnyk Ukrainy), and is also published on the Internet sites of government agencies, in particular, on the sites of the Verkhovna Rada of Ukraine /portal.rada.gov.ua/, the Cabinet of Ministers of Ukraine /www.kmu.gov.ua/ and the Ministry of Economy /me.kmu.gov.ua/.

Resolution of the Cabinet of Ministers of Ukraine as of 23.12.2009 #1406 "On approval of the lists of goods export and import of which are subject to licensing, and quotas for 2010" establishes the volumes of tariff quotas for goods importation of which from the Republic of Macedonia is subject to licensing within the established tariff quotas.

Order of the Ministry of Economy #302 as of 14.09.2007 "On approval of the regulatory – legal acts relating to licensing of importation of goods and amendments to the Procedure for consideration of applications for issuance of licenses in the sphere of non-tariff regulation of foreign economic activities in the Ministry of Economy of Ukraine", which sets forth a procedure for consideration of applications for issuance of licenses, a procedure for preparation and issuance of licenses for importation of goods subject to licensing, license form and procedure for filling it out, an application form for obtaining a license and its filling out, is presented on the Internet site of the Ministry of Economy /me.kmu.gov.ua/.

Information relating to the current status of use of import quotas in 2010 under the specified system of licensing is presented monthly on the official website of the Ministry of Economy.

Quotas are not set for individual entities. Applications to obtain licenses for supplies of goods within the quotas are reviewed in order of their receipt.

General provisions relating to the procedure for importation of goods subject to the quota regime, without any exceptions or exclusions apply to all business entities.

- II. Pursuant to the Free Trade Agreement between Ukraine and the Republic of Macedonia, the volume of a tariff quota for imports of particular goods from the Republic of Macedonia is to be set once and then to be approved annually by relevant Resolution of the Government on the list of goods importation of which are subject to licensing, and on the volumes of quotas for a year in question, without any six-month or quarterly break-down. A license is issued on the basis of an application within the quotas and with the period of effectiveness of the license specified. A license is issued for, and will be effective during a period remaining until the end of the year for which it is issued. Importation under a license may be carried out during the period of effectiveness of the license.
- III. All entities engaged in foreign economic activities, regardless of their ownership form, have the right to submit applications for licenses.

The Ministry of Economy monthly informs the State Customs Service about licenses issued to entities engaged in foreign economic activities for importation of goods subject to licensing and for which quotas have been set. The State Customs Service submits monthly to the Ministry of Economy information about the volumes of imports of goods subject to the licensing regime carried out by entities engaged in foreign economic activities.

Quotas not used in the previous period are not added to the volume of quotas for the next period.

So far the Ministry of Economy has never received any requests from foreign exporting countries to provide them with information regarding a list of importers which have been issued relevant licenses.

- IV. An application for a license may be submitted on any day after the date of the opening of the quota.

- V. In case of application of the regime of non-automatic licensing, a period for consideration of such applications may not exceed 30 days following the date of receipt of the applications, provided that applications are reviewed in the order of their filing, and may not exceed 60 days following the end of the announced period for submission of applications, if all applications are reviewed at the same time (Article 16 of Law of Ukraine "On foreign economic activities" of 16.04.1991 #959-XII). A license may be issued within the shortest term possible and depending only on technical capacity of the relevant competent body.
- VI. A license shall be effective for importation of goods from the date it is granted.
- VII. The Ministry of Economy considers license applications. Applications shall not be submitted to other bodies for approval, commenting or endorsement. An importer does not have to apply to any other administrative bodies for approval of one's application.
- VIII. If the demand for licenses cannot be fully satisfied, the decision on granting the licenses is made on the basis of the "first come, first served" within the quota approved for the country in question. However, if at the time of submission of an application the set volumes for quotas have been used up, such application shall not be accepted for consideration. The fact that the quotas have been exhausted is notified in writing to the entity engaged in foreign economic activities that has submitted the application. A decision to grant a license shall be passed on the basis of consideration of information regarding the use of earlier granted licenses provided that entities engaged in foreign economic activities comply with requirements of the legislation on protection of economic competition.

There are no maximum amounts set for quotas that may be allocated per applicant or for quotas set for new entities engaged in foreign economic activities. Examination of applications for import licenses is carried out on receipt within the quotas set for the supplying country.

- IX. There are no such cases.
- X. There are no such cases.
- XI. There are no such cases.
- (b) Regarding imports of raw cane sugar within the tariff quota established pursuant to Law of Ukraine as of 30.11.2006 #404-V "On establishment of a tariff quota for importation of raw cane sugar in Ukraine" and Resolution of the Cabinet of Ministers of Ukraine as of 12.11.2008 #1002 "On approval of the procedure for allocation of tariff quotas for importation of raw cane sugar in Ukraine"
- I. The procedure for allocation of quotas among supplying countries is set forth under Resolution of the Cabinet of Ministers of Ukraine as of 12.11.2008 #1002 "On approval of the procedure for allocation of tariff quotas for importation of raw cane sugar in Ukraine" (as amended).

The procedure for examination of applications for licenses and for granting of import licenses is regulated under order of the Ministry of Economy as of 20.01.2009 #15 "On procedure for issuance of licenses for importation of raw cane sugar in Ukraine within the set tariff quotas" (as amended).

The specified legislative and regulatory-legal acts are published in official publications "Oficiyniy visnyk" and "Uryadovyi currier" and on the Internet sites of government agencies,

in particular, of Verkhovna Rada (<http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi>), of the Cabinet of Ministers of Ukraine (<http://www.kmu.gov.ua/control/npd/search>) and *of the* Ministry of Economy ([http://www.me.gov.ua/control/uk/publish/category/main?cat\\_id=119225](http://www.me.gov.ua/control/uk/publish/category/main?cat_id=119225)).

Information relating to quotas and procedures for filing applications is published on the official website of the Ministry of Economy ([me.kmu.gov.ua, http://www.me.gov.ua/control/uk/publish/category/main?cat\\_id=119225](http://www.me.gov.ua/control/uk/publish/category/main?cat_id=119225)).

Information relating to quotas and procedures for licensing importation of raw cane sugar within the tariff quota for 2010 has also been notified to the WTO (documents G/AG/N/UKR/3 of 02.02.2010 and G/AG/N/UKR/3/Rev.1 of 24.03.2010).

Information relating to the aggregate level of quotas for importation of raw cane sugar in Ukraine in 2010, as well as quotas break-down by supplying countries is presented on the website of the Ministry of Economy, and has also been distributed in the WTO document G/AG/N/UKR/3 as of 02.02.2010.

Information relating to the factual use of import quota in 2010 under the specified system of licensing is updated monthly on the official website of the Ministry of Economy ([me.kmu.gov.ua](http://www.me.gov.ua)).

Quotas are not set for individual entities.

Information regarding the beginning of acceptance of applications for import licenses of raw cane sugar within the tariff quota is presented on the official website of the Ministry of Economy ([me.kmu.gov.ua](http://www.me.gov.ua)) from 10 days prior the filing of applications.

Applications to obtain licenses for supplies of goods within the quotas are reviewed in order of their receipt.

General provisions relating to the procedure for importation of goods subject to the quota regime, without any exceptions or exclusions apply to all business entities.

- II. A tariff quota for import of raw cane sugar is the annual one and is set once a year, without any six-month or quarterly break-down. The term of the validity of the import license is 60 days from the date of its signing but shall be valid only till December 31 of the year for which it has been issued, within the amount of tariff rate quota. Importation under a license may be carried out during the period of effectiveness of the license.
- III. All entities engaged in foreign economic activities, regardless of their ownership form, have the right to submit applications to obtain a license.

In the period not later than 15 days of expiring the date of import license validity, the subjects of foreign economic activity should submit to the Ministry of Economy the information on factual import of goods under the license (indicating amounts).

The Ministry of Economy monthly submits to the State Customs Service and to the Ministry of Agriculture information on granted licenses. The State Customs Service monthly submits to the Ministry of Economy and the Ministry of Agriculture information on the quantity of raw sugar imported by the entities engaged in foreign economic activities of Ukraine.

The amount of the tariff quota not used in the current year is not to be added to the quota set for the following year.

So far the Ministry of Economy has never received any requests from foreign exporting countries to provide them with information regarding a list of importers which have been issued relevant licenses.

- IV. An application for a license may be submitted within 10 days from the date of publication of information regarding the beginning of the receiving of applications for licenses to importation of raw cane sugar within the tariff quota on the official website of the Ministry of Economy.
- V. A decision on granting a license for import of raw cane sugar must be passed within a period not longer than 30 days from the date of the registration of the application. A license may be issued within the shortest term possible and depending only on technical capacity of the relevant competent body.
- VI. A license shall be effective for importation of goods from the date it is granted and is valid for customs clearance during the period of effectiveness of the license. Importation of goods under a license may be carried out by individual parties. To obtain an import license the applicant should not submit certificate of origin of goods (or its copy) issued by the authorized bodies of the country of origin.
- VII. The Ministry of Economy considers license applications for import of raw cane sugar to Ukraine. Applications shall not be submitted to other bodies for approval, commenting or endorsement. An importer does not have to apply to any other administrative bodies for approval of one's application.
- VIII. If the demand for licenses cannot be fully satisfied, the decision on granting the licenses is made on the basis of the "first come, first served" within the quota approved for the country in question. If the amount of set quotas has been depleted, admission of applications shall be discontinued. There are no maximum amounts set for quotas that may be allocated per applicant or for quotas set for new entities engaged in foreign economic activities. Examination of applications for import licenses is carried out on receipt within the quotas set for the supplying country.
- IX. There are no such cases.
- X. There are no such cases.
- XI. There are no such cases.
- 7.(a). Applications for licenses may be filed on any working day before the customs clearance of the goods. In case of application of the regime of automatic licensing a period for issuing a license may not exceed 10 workdays from the date of receipt of an application (Article 16 of Law of Ukraine "On foreign economic activities" of 16.04.1991 #959-XII). A license may be issued within the shortest term possible and depending only on technical capacity of the relevant competent body.
- (b) A license may be issued within the shortest term possible and depending only on technical capacity of the relevant competent body.



- (c) There are no restrictions regarding a period of the year during which it is allowed to file an application for a license.
- (d) Under Article 16 of Law of Ukraine "On foreign economic activities" of 16.04.1991 #959-XII, consideration of applications is to be carried out by the Ministry of Economy of Ukraine or, within the limits of the delegated powers – by relevant regional bodies, specifically by the Ministry of Economy of the Autonomous Republic of Crimea, by the respective departments of oblast, Kyiv and Sevastopil municipal state administrations that carry out issuance of licenses for importation of products by subjects of entrepreneurial activities who are registered in respective regions and whose declared value of goods under the agreements (contracts) does not exceed 300 000 USD (Order of the Ministry of Economy of 14.09.2007 #302 "On approval of the regulatory – legal acts concerning licensing of imports of goods and amendments to the Procedure for the processing of applications for issuance of licenses in the sphere of non-tariff regulation of foreign economic activities in the Ministry of Economy of Ukraine").

Applications shall not be submitted to other bodies for approval, commenting or endorsement.

At the same time to obtain a license for importation of particular categories of goods, under automatic system of licensing, an importer will be required to obtain an approval in one of the relevant administrative bodies (pursuant to Resolution of the Cabinet of Ministers of Ukraine # 1406 of 23.12.2009).

Such approvals are issued, depending on the category of products, by the following agencies:

Central government inspectorate for plant protection (within the Ministry of Agricultural Policy of Ukraine)	Import of chemical substances for plant protection (codes 3808 10, 3808 20, 3808 30)
The state technological centre for protection of soil fertility (within the Ministry of Agricultural policy of Ukraine)	Import of agrichemicals (plant growth regulators – code 3808 90)
Ministry of Environmental Protection of Ukraine	Import of ozone-depleting substances and products that may contain ozone – depleting substances (codes according to Annexes 1 and 2)

8. An application shall not be accepted if the set of documents accompanying it is incomplete. If a set of accompanying documents filed with the application is complete, then the application shall be accepted immediately.

An application may not be rejected in the event of insignificant errors in the documents filed for the purpose of obtaining a license, provided that such errors do not alter the principal data contained in the application. The principal data are data specified in provisions of the foreign economic agreement (contract).

If necessary documents are submitted and if these documents meet the established requirements, then issuance of the license may not be denied.

Reasons to refuse to issue a license may include:

- Submission of documents that fail to meet the requirements concerning completeness of a set of documents to be filed;
- Submitted documents are inconsistent with legislation of Ukraine;

- The quota set for the goods in question is exhausted (in the event of application of the procedure for non-automatic licensing);
- Imposition on the subject of foreign economic activities, or on his foreign partner, of a special sanction in the form of temporary suspension of foreign economic activities pursuant to Article 37 of Law of Ukraine "On foreign economic activities";
- Actions of the subject of foreign economic activities that result in violation of international obligations assumed by Ukraine;
- Violation by the subject of foreign economic activities or his foreign partner of legislation of Ukraine in the sphere of foreign economic activities.

A decision to refuse to issue a license must be substantiated, passed within the terms set for review of applications, and must be sent (handed) to the applicant in writing.

A decision to refuse the issue of a license may be appealed by the subject of entrepreneurial activity to the district administrative court with the jurisdiction over the place of the state registration of the subject of entrepreneurial activity (plaintiff) in conformity with provisions of the Code of Administrative Proceedings of Ukraine.

#### **Eligibility of importers to apply for licence**

9. All subjects of foreign economic activities, regardless of ownership form, have the right to file applications for issue of a license for imports of goods both under the automatic, and non-automatic regime of licensing.

There is no such system for registration of individuals or firms. Accordingly, there is no registration fee. There is no list of approved importers.

#### **Documentational and other requirements for application for a licence**

10. Information that must be specified in applications for an import license is determined in accordance with the application form (the sample application form is provided in Appendix 5).

An application for a license must contain the following information: full name of the subject of foreign economic activities, full name of its manager, description and code of the good (goods) under Ukrainian classification of goods of foreign economic activities (UKT ZED), name of the consumer of the good (goods), code and name of the state (states) of origin and exportation, quantity and value of the good (goods), code and name of the and customs point, full names and addresses of the seller and customer, nature of the contract, currency of payment, principal and additional unit of measurement for the good (goods), approval of executive bodies (if required), basis for request for a license, special terms of the license (if exist).

To obtain a license for importation of goods it is necessary to submit the following documents accompanying the application:

- a letter requesting a license and guaranteeing payment of the state fee for the issuance of the license;
- a copy of a foreign economic activity contract, all annexes and specifications for this contract, certified by the manager of the subject of entrepreneurial activity and verified with his seal;
- a copy of the state registration certificate as the subject of entrepreneurial activity certified by the manager of the subject of entrepreneurial activity and verified with his seal;
- if required – approval of the relevant authorized agency (please refer to the answer in section 5d).

11. At the time of actual importation the following documents are required:

- foreign economic agreement (contract);
- shipment customs declaration;
- certificate of origin;
- import license.

12. A fee is administered for the issue of an import license in the amount which is based on actual costs relating to the application of the licensing procedure, specifically:

- 220 UAH - under the regime of automatic licensing;
- 780 UAH - under the regime of non-automatic licensing;  
(Resolution of the Cabinet of Ministers of Ukraine # 362 of 18.05.2005 "On establishing the amount of the fee for the issue of export (import) licenses").

When an application for an import license is filed, no proof of payment of the fee is required. A document confirming payment of the fee is submitted at the time of issue of the license.

13. There is no requirement to make a deposit or an advance payment to be issued an import license.

#### **Conditions of licensing**

14. A license is issued for a term that does not prevent the subject of foreign economic activities from importing, including from importation from distant places, and is consistent with the terms of the foreign economic activity agreement (contract). In practice the license is issued for the term not longer than the rest of the current year.

Licenses for importation of goods, which were not used in the previous year, usually are extended for 2 months and remain valid until the 1st of March of the following year, unless otherwise is provided by applicable international agreements. This provision is implemented by annual resolutions of the Cabinet of Ministers of Ukraine at the time of approval of the lists of goods importation of which is subject to licensing in the respective year.

15. No penalties are imposed for a failure to use a license or part of a license.

16. Licenses are not transferable between importers.

17. Other conditions accompanying issuance of licenses are:

- submission of a document verifying payment of the fee for a license;
- submission of a power of attorney, or of a copy of a power of attorney authorizing receipt of a license, and submission of a document identifying the person receiving the license if the license is issued to the authorized representative of the subject of entrepreneurial activity.

#### **Other Procedural requirements**

18. There are no administrative procedures prior to importation other than the licensing procedure for importation of goods (and if necessary prior receiving of approval of relevant administrative bodies specified in section 5d).

19. Payments for goods that are being imported are made pursuant to terms and conditions of the foreign economic agreement (contract) between a subject of foreign economic activities of Ukraine and a foreign subject of business activity. Payments are carried out through the authorized banks (banks which have received the general license from the National Bank to engage in currency transactions) in currency specified in the foreign economic agreement (contract). If the amount of foreign currency in the account of an importer in the authorized bank is less than needed, then the bank, acting under the instruction of the importer, will purchase currency at the inter-bank currency market of Ukraine.

A procedure for obtaining a license does not have any connection to the obtaining of foreign currency.

Importer's solvency is not related in any way to his having an import license.

Possession of currency by the importer depends on the results of its business (export) activity.

If necessary, foreign currency is purchased at the inter-bank currency market of Ukraine.

Resolution of the Board of the National Bank of Ukraine of 10.08.2005 #281 "On approval of the regulatory – legal acts of the National Bank of Ukraine" (as amended) provides a basis for purchasing foreign currency at the inter-bank currency market of Ukraine for payments to non-residents in connection with trade transactions.

Under this Resolution, a purchase of foreign currency for purposes of payments to non-residents in connection with trade transactions is carried out on the basis of the following documents:

- application for a purchase of foreign currency;
- agreement with a non-resident prepared in accordance with requirements of the existing legislation of Ukraine;
- shipment customs declaration (if the goods are shipped in the territory of Ukraine);
- delivery-acceptance act or other document certifying provision of services or performance of works;
- documents required for the documentary form of payments (letter of credit, encashment).

## **II. THE SYSTEM OF LICENSING USING QUOTAS FOR IMPORTED GOODS, WHICH ARE ESTABLISHED UNDER SEPARATE DECISIONS OF THE INTERAGENCY COMMISSION OF UKRAINE FOR INTERNATIONAL TRADE**

### **Outline of system**

1. Under the Law of Ukraine "On foreign economic activities" #959-XII of 16.04.1991, quantitative restrictions on imports under this system are applied to goods with respect to which Interagency Commission for international trade (further – Commission) has adopted a decision to apply safeguard measures in accordance with Law of Ukraine "On application of special measures with respect to imports to Ukraine" #332-XIV of 22 December 1998. Quota-based regulation of imports is implemented by way of issuance of special licenses. The total amount of import under such licenses may not exceed the established quota.

Importation of goods specified by Decision of the Commission is carried out on the basis of special licenses issued by the Ministry of Economy of Ukraine.

This system of licensing is non-automatic.

### **Purposes and covering of licensing**

2. In 2010 the specified system covers the licensing of imports of seamless casing and pumping steel pipes with outer diameter not more than 406.4 mm (code 7304 29 11 00).

3. Currently the special licensing system applies regardless of the country of origin and export to seamless casing and pumping steel pipes with outer diameter not more than 406.4 mm.

The annual special quota for imports to Ukraine is 15230 tons.

The special measures are applied for the period of three years – from 01.10.2008 until 30.09.2011.

The first annual period: 01.10.2008 – 30.09.2009.

The second annual period: 01.10.2009 – 30.09.2010.

The third annual period: 01.10.2010 – 30.09.2011.

Annual amounts of the special quota are allocated as follows:

Country of export /origin	Quota for the first annual period (01.10.2008 – 30.09.2009), tons	Quota for the second annual period (01.10.2009 – 30.09.2010), tons	Quota for the third annual period (01.10.2010 – 30.09.2011), tons
Russian Federation	10311	10827	11342
Austria	2125	2231	2337
Poland	955	1003	1051
Romania	181	190	200
Slovakia	148	156	163
India	63	66	69
China	42	44	46
Other countries	679	713	747

In case of allocation of quotas between the exporting countries, such allocation may be agreed with such countries. If no such agreement has been reached, the quotas will be allocated between the exporting countries depending on their shares of imports in Ukraine subject to special investigation during the previous representative period.

4. The special licensing system is intended to restrict the quantity of imports of the determined goods. The purpose of licensing is the protection of interests of national goods producers from growing imports of such goods.

5. The system of special licensing is established by the Law of Ukraine "On the Application of Special Measures to Imports into Ukraine," No. 332-XIV, dated 22 December 1998 and the Law of Ukraine "On Foreign Economic Activity" No. 959-XII, dated 16 April 1991 with relevant changes and amendments. Quantitative restrictions of imports under this licensing system are established according to the Decisions of the Commission and orders of the Ministry of Economy. In particular, by order of the Ministry of Economy of Ukraine as of 13.10.2008 #552 "On application of special measures relating to the importation in Ukraine of seamless casing and pumping steel pipes regardless of country of origin and export" pursuant to the decision of the Commission as of 23.07.2008 # SP-182/2008/143-31 "On application of special measures relating to the importation in Ukraine of seamless casing and compressor-pump steel pipes regardless of country of origin and export".

The Decision of the Commission determines the products subject to licensing. The Government may not cancel the special licensing system without a legislative approval.

## **Procedures**

- 6.I. According to the special import licensing system, which envisages quota allocation, the lists of products are determined by the decisions of the Commission.

Decisions of the Commission regarding the application of special measures as to imports of certain goods with allocation of aggregate level of quotas and allocation of quotas by countries of export/origin are published in the official publication, in particular: "Uruadoviy Courier" (Governmental Courier) newspaper.

Orders of the Ministry of Economy, which are registered with the Ministry of Justice and published in the official publication, in particular: "Offitsiynyi Visnyk Ukrainy" (Official Bulletin of Ukraine), determine licensing procedures apply to import of goods to Ukraine subject to special measures. The specified regulatory-legal acts are also made available on the Internet sites of government agencies, in particular, of the Cabinet of Ministers of Ukraine /[www.kmu.gov.ua/](http://www.kmu.gov.ua/) and the Ministry of Economy (<http://me.kmu.gov.ua>).

Information relating to the status of use of import quotas in 2010 under this system of licensing is updated monthly on the official website of the Ministry of Economy ([me.kmu.gov.ua](http://me.kmu.gov.ua)).

The Ministry of Foreign Affairs of Ukraine notifies governmental bodies of exporting countries.

To prevent monopolization of the market the total number of applications from the same importer to obtain special licenses within the established quotas may not exceed 35 per cent of the size of the quota period or such other period if envisaged by the relevant decision of the Commission.

General provisions relating to the procedure for importation of goods subject to the quota regime, apply to all business entities without any exceptions or exclusions.

Any exceptions or deviations from the requirements of special licensing are not allowed without amendments of normative and legislative acts.

- II. The size of the special quota is determined for a quota period and may not exceed the amount specified by the relevant decision of the Commission. The quota period and allocation of quotas during the quota period shall be set by the relevant decision of the Commission.

The period of validity of a special license within the customs territory of Ukraine is 90 days, except for cases of expiry of relevant quota period. If an entity engaged in the foreign economic activities of Ukraine under the granted special license fails to import the specified quantity of goods within the period specified in the license, then, based on the verification by the customs body of the actual size of the import of these goods and their remaining quantity under the special license, the Ministry of Economy will issue a new license for the remaining goods. In such a case the importer is required to file an application for the new license for the remaining goods.

- III. Licensing procedures apply to all importers of goods subject special measures under decisions of the Commission.

The Ministry of Economy quarterly examines information on the actual imports of products subject to special measures, submitted by the State Customs Service of Ukraine.

In case if the special quota is not used fully in the quota period, it is allowed to carry over the remaining quota for the next quota period within 6 percent of the quota size set for the quota period, unless otherwise is provided by applicable decision of the Commission.

Information regarding recipients of a special license may be provided upon request.

- IV. The applications for import licenses are accepted starting from 14 days prior to the first day of the relevant quota period.
- V. The term during which the license application may be considered is 15 working days.
- VI. A special license shall be effective for importation of goods as of the date of its issuance.
- VII. The Ministry of Economy of Ukraine considers license applications. Applications shall not be submitted to other bodies for approval, commenting or endorsement. An importer does not have to apply to any other administrative bodies for approval of one's application.
- VIII. If the demand for a license cannot be fully satisfied, then a license is issued for a part of the demand, i.e., for amount of quota left. Applications for special licenses are considered in the order of their submission, pursuant to dates of registration with the Ministry of Economy of Ukraine.

To prevent monopolization of the market the total number of applications from the same importer to obtain special licenses within the established quotas may not exceed 35 per cent of the size of the quota period or such other period if envisaged by the relevant decision of the Commission. All importers differ only by date of the submission of the application. Applications are considered in the order of their receipt.

- IX. Issue of special licenses under this scheme does not depend on availability of bilateral quotas or arrangements. Special licenses are not issued automatically.
  - X. There are no such cases.
  - XI. There are no such cases.
- 7(a) Acceptance of import license applications starts 14 days prior to the first day of the relevant quota period. The term of obtaining license depends only on the technical capabilities of the licensing body.
  - (b) The term during which the license application may be considered is 15 working days. The license may be issued in a shortest possible term, which depends on the technical opportunities of the relevant competent body.
  - (c) Acceptance of import license applications starts 14 days prior to the first day of the relevant quota period. The license application may be denied providing the amount of quota established for the relevant period is exhausted.
  - (d) The Ministry of Economy of Ukraine considers license applications. There is no necessity to pass applications to other bodies for approval, commenting or endorsement. The importer has to approach one administrative body only.

8. A special license application is accepted in all cases except for cases of inconsistency of the filed application with provisions of the contract and/or submission of the application in an inappropriate form, and/or submission of incomplete set of required documents.

License may be denied due to the following reasons:

- the submitted documents are inconsistent with current Ukrainian legislation;
- the amount of the special quota is exhausted; and
- imposition on the subject of foreign economic activities, or on his foreign partner, of a special sanction in the form of temporary suspension of foreign economic activities pursuant to Article 37 of Law of Ukraine "On foreign economic activities".

A decision to refuse the issue of a license may be appealed by the subject of entrepreneurial activity to the district administrative court with the jurisdiction over the place of the state registration of the subject of entrepreneurial activity (plaintiff) in conformity with provisions of the Code of Administrative Proceedings of Ukraine.

#### **Eligibility of importers to apply for licence**

9. All subjects of foreign economic activities, regardless of ownership form, have the right to file applications for issue of the special import license.

There is no such system for registration of individuals or firms. Accordingly, there is no registration fee. There is no list of approved importers.

10. The established application form determines the information required in such applications. A sample of application form for special license is attached (Appendix 6).

The following documents, along with the application, are submitted in order to obtain a license:

- a request letter regarding the issue of a license, with guarantee of the payment of the official fee for the issue of such license;
- a copy of the contract, all annexes and specification thereto certified by the Head of the agent of entrepreneurial activity;
- a copy of state registration certificate certified by the Head of the agent of entrepreneurial activity;
- a copy of the certificate for attributing an identification number of a taxpayer;
- the original a certificate of origin of foreign goods issued by the authorized body of foreign country of export and its copy; and
- a certificate of goods examination issued by the Chamber of Commerce and Industry of Ukraine or its regional department, with determination of the code of goods.

The applicant – upon submission of the documents – is notified that he/she may be granted an import quota in the size specified in the special license application.

11. At the time of actual importation the following documents are required:

- special license original;
- certificate of origin of goods; and
- cargo (shipment) customs declaration.



12. State fee in the amount of 780 UAH is established for the issue of a special import license and based on actual costs relating to the application of the licensing procedure (Resolution of the Cabinet of Ministers of Ukraine #362 of 18.05.2005 "On establishing the amount of the fee for the issue of export (import) licenses").

13. There is no requirement to make a deposit or an advance payment to be issued a special import license.

14. The period of validity of a special license is 90 days, except for cases of expiry of a relevant quota period. If an entity engaged in the foreign economic activities of Ukraine under the granted special license fails to import the specified quantity of goods within the period specified in the license, then, based on the verification by the customs body of the actual size of the import of these goods and their remaining quantity under the special license, the Ministry of Economy will issue a new license for the remaining goods. In such a case the importer is required to file an application for a new license for the remaining goods.

15. No penalties are imposed for a failure to use a license or part of a license.

16. Licenses are not transferable between importers.

17. Other conditions accompanying issuance of licenses are:

- submission of a document verifying payment of the fee for a license;
- submission of a power of attorney, or of a copy of a power of attorney authorizing receipt of a license, and submission of a document identifying the person receiving the license if the license is issued to the authorized representative of the subject of entrepreneurial activity.

#### **Other procedural requirement**

18. There are no administrative procedures prior to importation other than the licensing procedure for importation of goods.

19. Please refer to the information provided under this point in Section "The system for import licensing, which is aimed at protecting life and health of people, animals and plants, at protecting the environment from ozone-depleting substances (to comply with the requirements of the Montreal Protocol) as well as at ensuring the interests of national and international security and implementation of international agreements".

## APPENDIX I

The List of ozone-depleting substances importation of which is subject to licensing in 2009

<b>Substance Description</b>	<b>UKTZR code</b>
Carbon tetrachloride	2903 14 00 00
1,1,1-Trichloroethane (methylchloroform)	2903 19 10 00
Bromomethane (methyl bromide)	2903 30 33 00
Trichlorofluoromethane	2903 41 00 00
Dichlorodifluoromethane	2903 42 00 00
Trichlorotrifluoroethanes	2903 43 00 00
Dichlorotetrafluoroethanes	2903 44 10 00
Chloropentafluoroethane	2903 44 90 00
Chlorotrifluoromethane	2903 45 10 00
Pentachlorofluoroethane	2903 45 15 00
Heptachlorofluoropropanes	2903 45 25 00
Hexachlorodifluoropropanes	2903 45 30 00
Pentachlorotrifluoropropanes	2903 45 35 00
Tetrachlorotetrafluoropropanes	2903 45 40 00
Trichloropentafluoropropanes	2903 45 45 00
Dichlorohexafluoropropanes	2903 45 50 00
Chloroheptafluoropropanes	2903 45 55 00
Tetrachlorodifluoroethanes	2903 45 20 00
Bromochlorodifluoromethane	2903 46 10 00
Bromotrifluoromethane	2903 46 20 00
Dibromotetrafluoroethanes	2903 46 90 00
Other perhalogenated derivatives, halogenated only with fluorine and chlorine, of methane, ethane or propane - dichlorofluoromethane (GHFV-21), chlorodifluoromethane (GHFV-22), chlorofluoromethane (GHFV-31), tetrachlorofluoroethane (GHFV-121), trichlorodifluoroethane (GHFV-122), dichlorotrifluoroethane (GHFV-123), chlorotetrafluoroethane (GHFV-124), trichlorofluoroethane (GHFV-131), dichlorotrifluoroethane (GHFV-132), chlorotrifluoroethane (GHFV-133), dichlorofluoroethane (GHFV-141), 2-dichlorofluoroethane (GHFV-141-b), chlorodifluoroethane (GHFV-142), chlorodifluoroethane (GHFV-142-b), chlorofluoroethane (GHFV-151), hexachlorofluoropropane (GHFV-221), pentachlorodifluoropropane (GHFV-222), tetrachlorotrifluoropropane (GHFV-223), trichlorotetrafluoropropane (GHFV-224), dichloropentafluoropropane (GHFV-225), 1-trifluoro-2-difluoro-3-dichloropropane (GHFV-225ca), 1-chlorodifluoro-2-difluoro-3-chlorofluoropropane (GHFV-225-cb), chlorohexafluoropropane (GHFV-226), pentachlorofluoropropane (GHFV-231), tetrachlorodifluoropropane (GHFV-232), trichlorotrifluoropropane (GHFV-233), dichlorotetrafluoropropane (GHFV-234), chloropentafluoropropane (GHFV-235),	2903 49 10 00

Substance Description	UKTZRD code
tetrachlorofluoropropane (GHFV-241), trichlorodifluoropropane (GHFV-242), dichlorotrifluoropropane (GHFV-243), chlorotetrafluoropropane (GHFV-244), trichlorofluoropropane (GHFV-251), dichlorodifluoropropane (GHFV-252), chlorotrifluoropropane (GHFV-253), dichlorofluoropropane (GHFV-261), chlorodifluoropropane (GHFV-262), chlorofluoropropane (GHFV-271)	
Other perhalogenated derivatives, halogenated only with fluorine and bromine, of methane, ethane or propane - dibromofluoromethane, bromodifluoromethane, bromofluoromethane, tetrabromofluoroethane, tribromodifluoroethane, dibromotrifluoroethane, bromotetrafluoroethane, tribromofluoroethane, dibromodifluoroethane, bromotrifluoroethane, dibromofluoroethane, bromodifluoroethane, bromofluoroethane, hexabromofluoropropane, pentabromodifluoropropane, tetrabromotrifluoropropane, tribromotetrafluoropropane, dibromopentafluoropropane, bromohexafluoropropane, pentabromofluoropropane, tetrabromodifluoropropane, tribromotrifluoropropane, dibromotetrafluoropropane, bromopentafluoropropane, tetrabromofluoropropane, tribromodifluoropropane, dibromotrifluoropropane, bromotetrafluoropropane, tribromofluoropropane, dibromodifluoropropane, bromotrifluoropropane, dibromofluoropropane, bromodifluoropropane, bromofluoropropane	2903 49 30 00

**APPENDIX II**

The list of products which may contain ozone-depleting substances and importation of which is subject to licensing (except for products transported in containers with personal articles) in 2009

<b>Product description</b>	<b>UKTZED code</b>
Products supplied in aerosol packaging	2842 10 00 00, 3004, 3006 70 00 00, 3006 80 00 00, 3204, 3208, 3209, 3212, 3214, 3304, 3305, 3306, 3307, 3401 30 00 00, 3402, 3403, 3405, 3506 91 00, 3808, 3809, 3811, 3812, 3814 00, 3820 00 00, 3824 90 70 00, 3824 90 99 00, 3825, 3910 00 00, 9505 90 00 00
Mixtures containing containing acyclic hydrocarbons perhalogenated only with fluorine and chlorine	3824 71 00 00
Other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens	3824 79 00 00
Products of chemical or related production containing ozone-depleting substances	3824 90 99 00
Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated	8415
Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 8415	8418
Cooling towers and similar plant for direct cooling (without a separating wall) by means of recirculated water	8419 89 10 00
Fire extinguishers charged	8424 10
Automatic goods-vending machines incorporating heating or refrigerating devices	8476 21 00 00, 8476 81 00 00
Air coolers of evaporative type	8479 60 00 00
Air humidifiers and dehumidifiers	8479 89 10 00
Arms and individual protection devices in aerosol packaging	9304 00 00 00

**APPENDIX III**

List of commodities, import of which from republic of Macedonia is subject to licensing in the context of tariff quota due to provisions of Free Trade Agreement between Ukraine and Republic of Macedonia

<b>Name of Product</b>	<b>UKTZED Tariff Code</b>	<b>Volume of Quota, metric tones (litters for liquids)</b>
Meat of sheep or goats, fresh, chilled or frozen	0204	500
Fruits of the genus Capsicum or of the genus Pimenta	0709 60	5000
Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared	0712	500
Fruit, dried, other than that of headings 08.01 to 08.06; mixtures of dried fruits or nuts of this Chapter	0813	200
Pepper of the genus Piper; dried or crushed or ground fruits of the genus Capsicum or of the genus Pimenta	0904	500
Plants and parts of plants (including seeds and fruits), used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, fresh or dried, whether or not cut, crushed or powdered	1211 90	500
Sugar confectionery (including white chocolate), not containing cocoa	1704	500
Chocolate and other food preparations containing cocoa	1806	500
Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour and meal), pre-cooked, or otherwise	1904	500
Sweet biscuits; waffles and wafers	1905 31 1905 32	100
Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid	2001	6000
Tomatoes prepared or preserved otherwise than by vinegar or acetic acid	2002	4000
Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006	2005	3000
Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter	2007	100
Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included	2008	500
Fruit juices (including grape must) or vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	2009	3000000
Sauces and preparations therefore; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard	2103	3000
Wine of fresh grapes, including fortified wines; grape must other than that of heading 2009	2204	40000000
Spirits obtained by distilling grape wine or grape marc	2208 20	100000
Spirituos beverages	2208 90	100000
Vinegar and substitutes for vinegar obtained from acetic acid	2209 00	100000
Tobacco, not stemmed/stripped	2401 10	10000

**APPENDIX IV**

Allocation the Tariff Rate Quota on Imported Raw Cane Sugar to Ukraine in 2009

			<b>Tons</b>
Total amount of annual tariff rate quota			267800.000
including: for Paraguay			260.000
Section 1 - 80 % of the quota - for supplying countries			214032.000
No.	Country of origin	specific weight in imports for three years, %	Quota amount by proportion
1	Brazil	73.58120%	157487.306
2	Columbia	3.00598%	6433.756
3	Cuba	7.79284%	16679.164
4	Salvador	2.72187%	5825.663
5	Guatemala	3.87746%	8299.011
6	Guyana	0.53726%	1149.899
7	Latvia	1.14655%	2453.982
8	Nicaragua	0.82523%	1766.266
9	Peru	0.97319%	2082.929
10	Republic of South Africa	1.00897%	2159.522
11	Switzerland	0.05385%	115.251
12	Thailand	4.23053%	9054.695
13	The United States of America	0.24482%	523.991
14	Denmark	0.00001%	0.015
15	The Netherlands	0.00026%	0.550
	TOTAL	100.0000%	214032.000
Section 2 - 20 % of the quota - for new supplying countries			53508.000

**APPENDIX V**

Application for an import license

1. Customer EDRPOU Code (DRFO number)					
Telephone:					
Fax:					
Number of the current account in national currency, bank name, MFO, bank location					
Number of the current account in foreign currency, bank name, MFO, bank location					
2. Consumer of the product			3. Seller		
4. Commodity Code under UKTZED	5. Unit of measurement	6. Quantity	7. Value (thous. USD)	8. Value (in the contract currency)	9. Additional name of the commodity
10. Country of Destination Code			13. Basic conditions for delivery of the product		
11. Country of the seller Code			14. Contract currency Code		
12. Country of origin Code			15. Currency of payment Code		
16. Customs			17. Nature of the agreement Code		
18. Basis for requesting a license					
19. Full name of the manager of the customer					
Title					
Place of seal Signature Date					
20. Special conditions (if exist)					

**APPENDIX VI**Application for Special License No.

1. Applicant, location			Code under EDRPOU ( <i>Unified State Register of Enterprises and Organizations of Ukraine</i> )		
Telephone		Fax			
Current account					
Current account in a foreign currency					
2. Incoming number			Date of registration		
3. Consumer of the product, location			4. Seller, location		
5. Commodity Code under UKTZED	6. Unit of measurement	7. Quantity	8. Value ((thous. USD)	9. Value (currency of the contract)	10. Additional name of the commodity
11. Country of destination code _____			14. Basic conditions for delivery of the product		
12. Country of export code _____			15. Currency of the contract code _____		
13. Country of origin code _____			16. Currency of the payment code _____		
17. Customs code _____			18. Nature of the agreement		
19. Basis for requesting a special license					
20. Surname, name and patronymic of the Head of the applicant					
Position					
Place of Stamp					
Signature					
Date					
21. Special conditions					