

Abstract from the Law of Ukraine No 959-XII of April 16, 1991 "On Foreign Economic Activity" (articles 1, 9, 16, 20 and 37) relevant to import licensing procedures in the meaning of WTO Agreement on Import Licensing Procedures

Relevant recent amendments to the Law "On Foreign Economic Activity" (particularly to the Article 16 "Licensing of Foreign Economic Activity Operations") were introduced by the Law No 360-V of November 16, 2006, published "Uryadoviy Courier", 2006, 12, 09.12.2006 N 233, "Ofitsiyinyi Visnyk Ukrainy", 2006, N 49 (18.12.2006), # 3243, the Law No 253-VI of April 10, 2008, published in "Uryadoviy Courier", 2008, 04, 25.04.2008 N 78, "Ofitsiyinyi Visnyk Ukrainy", 2008, N 32 (08.05.2008), #1034

LAW OF UKRAINE
ON FOREIGN ECONOMIC ACTIVITY

(Changed and amended according to
Law of Ukraine

No 2139-12 of February 19, 1992;

Resolutions of the Supreme Council of Ukraine

No 2330-12 of May 12, 1992;

No 2489-12 of June 23, 1992;

Decrees of the Cabinet of Ministers of Ukraine

No 6-92 of 9 December 1992;

No 4-93 of January 11, 1993;

No 6-93 of January 12, 1993;

No 15-93 of February 19, 1993;

No 25-93 of March 17, 1993;

Laws of Ukraine

No 3898-12 of February 1, 1994;

No 68/95 of February 15, 1995;

No 75/95 of February 28, 1995;

No 82/95 of March 2, 1995;

No 90/95 of March 14, 1995)

No 335-XIV of December 22, 1998;

No 1182-XIV of October 21, 1999;

No 1595-III of March 23, 2000;

No 1807-III of June 08, 2000;

No 2953-III of January 17, 2002;

No 3047-III of February 07, 2002;

No 362-IV of December 25, 2002;

No 762-IV of May 15, 2003;

No 860-IV of May 22, 2003;

No 1294-IV of November 20, 2003;

No 1315-IV of November 20, 2003;

No 2157-IV of November 04, 2004;

No 2709-IV of June 23, 2005;

No 3078-IV of November 15, 2005;

No 3268-IV of December 22, 2005

No 139-V of September 14, 2006

No 358-V of November 16, 2006
No 360-V of November 16, 2006
No 253-VI of April 10, 2008

(For the official construction of the Law refer to Decision of the Constitutional Court of Ukraine No 16-rp/98 of November 26, 1998)

(In the title and body of the text of this Law the words "Ukrainian Soviet Socialist Republic", "Ukrainian SSR," "Government", "Council of Ministers of the Ukrainian SSR", "Ministry of Foreign Economic Contacts of the Ukrainian SSR", "State Department for Customs Control of the Ukrainian SSR", and "court or arbitration" replaced, accordingly, by the words "Ukraine", "Cabinet of Ministers of Ukraine", "Ministry of Economy of Ukraine", "Customs Service of Ukraine" and "court" according to Law of Ukraine No 335-XIV of December 22, 1998)

(Throughout the text hereof, the words "Ministry of Foreign Economic Contacts and Trade" in all cases have been replaced with the words "Ministry of Economy" in appropriate cases according to Law of Ukraine No 1595-III of March 23, 2000)

(Throughout the text hereof, the words "Ministry of Economy of Ukraine" in all cases have been replaced with the words "central economic policy executive agency" according to Law of Ukraine No 860-IV of May 22, 2003)

Chapter I. GENERAL PROVISIONS

Article 1. Terms Definitions

For the purpose of this Law the below specified terms shall be used in the following meaning

Audit - a revision of open accounts, stock-taking, constituent documents and other information on financial-economic activities of business entities with a view of establishing the authenticity of the accounts, stock-taking, its completeness and correspondence to the legislation and norms in force.

(Paragraph 2 of Article 1 in the wording of Law of Ukraine No 90/95 of March 14, 1995)

Currency money - values in currency:

- foreign currency in cash,
- payment documents (checks, promissory notes, bills of exchange, deposit certificates, letters of credit and others) in foreign currency;
- securities (shares, bonds, coupons for them, promissory notes) in foreign currency,
- gold and other precious metals in bullion, plates, coins and also certificates, bonds, warrants and other securities with their nominal in gold, precious gems;

Economic activity - any type of activity, including business undertakings, connected with production and material and non-material exchange in form of goods;

Dumping shall be understood as importation¹ of goods at prices lower than the comparable prices of similar goods in the country of export, thus damaging the domestic producers of such goods;

(Paragraph 9 of Article 1 in the wording of Law of Ukraine No 335-XIV of December 22, 1998)

Export (export of goods) shall be understood as sales of goods by Ukrainian business

entities in the foreign trade sphere (including such sales with payments made in other than the pecuniary form) with or without transferring these goods across the customs border of Ukraine, including re-export of goods. In this context re-export (re-export of goods) indicates sales to foreign business entities and exportation of previously imported goods;²

(Paragraph 10 of Article 1 in the wording of Law of Ukraine No 335-XIV of December 22, 1998)

Export (import) of capital - forwarding outside Ukraine (bringing to Ukraine) of capital in any form (currency money, goods, services, jobs, copy rights and other non-property rights) for the purpose of receiving incomes from productive and other forms of economic activities;

Foreign economic activity - activities of economic entities of Ukraine and foreign economic entities, based on mutual relations between them, which take place both on the territory of Ukraine and abroad;

Foreign economic agreement (contract) - a materially formed agreement between two or more foreign economic entities and their foreign counteragents, aimed at establishing, changing or terminating their mutual rights and duties in foreign economic activities;

Import (import of goods) shall be understood as acquisition (including purchase with payments made in other than the pecuniary form) of goods by Ukrainian business entities from foreign counterparts, with or without importation of these goods, including such purchases made for own consumption by institutions and organisations of Ukraine located beyond its borders;

(Paragraph 14 of Article 1 in the wording of Law of Ukraine No 335-XIV of December 22, 1998)

Foreign currency:

- currency in cash, monetary units (banker's bills, state treasury notes, coins) in circulation and be legal as payment means on the territory of a respective foreign country and also withdrawn from the circulation monetary units be subject of exchange for currently valid monetary units,

- payment documents in monetary units of foreign countries and international currency units;

- money in monetary units of foreign countries, international currency units and Ukrainian national currency with free conversion, which are on accounts and deposits in banking-credit institutions on the territory of Ukraine and abroad;

Foreign investments - all types of property and intellectual values, invested by foreign economic entities into Ukraine, resulting in incomes (profits) or some social effect;

Foreign economic entities - subjects of economic activities, permanently locating or residing outside Ukraine;

(Paragraph 20 of Article 1 changed and amended according to Law of Ukraine No 2157-IV of November 04, 2004)

Quotas (contingents) global - quotas for goods without specification of countries (groups of countries), where goods are exported or from which goods are imported;

Quotas (contingents) of group nature - quotas for goods with specification of countries, where goods are exported or from which goods are imported;

Export (import) quota - limit in volume for some category of goods, permitted for export from Ukraine (import to Ukraine) during the established term and which is set up in products or cost units;

Quotas (contingents) individual - quotas for goods with specification of a definite country, where goods may be exported or from which goods may be imported;

Paragraph 25 of Article 1 is expelled.

(Paragraph 25 was added to Article 1 according to Law of Ukraine No 335-XIV of December 22, 1998

Paragraph 25 was expelled according to Law of Ukraine No 360-V of November 16, 2006)

Paragraph 26 of Article 1 is expelled.

(Paragraph 26 was added to Article 1 according to Law of Ukraine No 335-XIV of December 22, 1998

Paragraph 26 was expelled according to Law of Ukraine No 360-V of November 16, 2006)

Special quotas shall be understood as a marginal import volume enforced with regard to certain goods subject to a special investigation and/or special measures, and which goods are allowed to be imported over a certain period, expressed in natural and/or cost units of measurement;

(Paragraph 27 was added to Article 1 according to Law of Ukraine No 335-XIV of December 22, 1998)

Paragraph 28 of Article 1 is expelled.

(Paragraph 28 was added to Article 1 according to Law of Ukraine No 335-XIV of December 22, 1998

Paragraph 28 was expelled according to Law of Ukraine No 360-V of November 16, 2006)

Paragraph 29 of Article 1 is expelled.

(Paragraph 29 was added to Article 1 according to Law of Ukraine No 335-XIV of December 22, 1998

Paragraph 29 was expelled according to Law of Ukraine No 360-V of November 16, 2006)

Special license shall be understood as a properly executed right to import, over a certain period, certain goods subject to a special investigation and/or special procedures.

(Paragraph 30 was added to Article 1 according to Law of Ukraine No 335-XIV of December 22, 1998 due to this, paras 25 - 46 shall be read as parts 31- 52 respectively)

Open license (individual) - a permit for export (import) of goods during a set up term (but no less than one month) with specification of its total volume;

General license - an open permit for export (import) operations for specified goods and / or a specified country (group of countries) during the validity term for license;

Export (import) license - a right for export (import) of specified goods or currency money for investments and crediting during a set up term;

Single license (individual) - a one-time permit given to a certain entity for realisation of an individual operation by a specified foreign economic entity for the period no shorter than one required for realisation of export (import) operation;

Customs regulation - regulation for questions connected with customs duty taxes and collections, procedures for customs control, organisation of activities of customs control bodies of Ukraine;

International co-operation - co-operation of two or more economic entities, provided at least one of them is foreign, for joint design or production, joint realisation of finished products and other goods based on specialisation in production of half-finished products (spare parts,

units, materials, equipment used in complex units) or specialised in technological phases (functions) of scientific-research works, production and realisation with co-ordination of respective programs for economic activities;

Moment of realisation of export (import) contract - moment, when all obligations under the concluded contract, including forming instruments (bills of exchange) or concluding credit agreements;

Moment of realisation of export (import) - moment, when goods cross customs border of Ukraine or property rights for specified goods, exported or imported, is transferred from seller to buyer;

(Paragraph 38 of Article 1 changed and amended according to Law of Ukraine No 2157-IV of November 04, 2004)

Moral damage - a non-material damage caused to foreign economic entities and which resulted or may result in material losses;

Limited business practice - realisation of individual or collective measures to limit competitiveness and monopolise production, division, exchange, consumption of goods and receiving superprofits;

Transfer of currency money outside Ukraine - a transfer of (currency) money for the benefit (to an account) of a foreign economic entity or to a banking-credit institutions, which is not an economic entity of Ukraine;

Advance import deposits - investments made by foreign economic entities to non-interest banking accounts, which serve them on the territory of Ukraine, for the period from the validity date of the agreement (contract) until the transfer of goods under this agreement (contract) across the customs border of Ukraine or transfer of goods by foreign economic entities on the territory of Ukraine, money in the currency under the agreement (contract) to the amount, established in set up interests to the cost of respective agreement (contract);

(Paragraph 42 of Article 1 changed and amended according to Law of Ukraine No 2157-IV of November 04, 2004)

Permanent location - location of the officially registered chief managing body of a foreign economic entity;

Permanent residence - residence on territory of a country for no less than one year for a physical person, who does not have a permanent residence on territories of other countries and having an intention to live on the territory of this country, provided this choice of residence is not motivated by official duties or duties under the agreement (contract);

Representative office of foreign economic entity - establishment or person, who represents interests of a foreign economic entity in Ukraine and has duly formed respective powers;

Special economic zone - territory, on which a respective law of Ukraine establishes a special legal regime for economic activities and special procedure for accomplishment and validity of the legislation of Ukraine;

Joint business (economic) activity - an activity based on co-operation of Ukrainian and foreign economic entities and share of results and risks of its realisation;

Joint ventures - enterprises based on joint capital of Ukrainian economic entities and foreign countries, joint managing and share results and risks of their activities;

(Paragraph 48 of Article 1 changed and amended according to Law of Ukraine No 2157-IV of

November 04, 2004)

Goods - any products, services, jobs, intellectual property rights and other non-property rights allotted for sale;

Goods group - a group of homogeneous goods under the designed system and codes;

Transit of goods - transit of goods, produced outside Ukraine, through the Ukrainian territory, provided these goods are not used in Ukraine;

Lost profit - income or profit, which might have been received by a foreign economic entity, but for circumstances, not depending on this foreign economic entity.

Article 9. Bodies for State Regulation of Foreign Economic Activities

The supreme body, realising the state regulation of foreign economic activities, is the Verkhovna Rada* of Ukraine. The competence of the Verkhovna Rada of Ukraine shall include:

- adoption, change and termination of laws as to foreign economic activities;
- approval of main directions of the foreign economic policy of Ukraine;
- consideration, approval and change of the structure of bodies for the state regulation of foreign economic activities;
- concluding international agreements of Ukraine in accordance with the laws of Ukraine on international agreements of Ukraine and bringing the current legislation of Ukraine into accord with the regulations, provided by these agreements;

Paragraph 6 of Part 1 of Article 9 has been suspended.

(The validity of Paragraph 6 of Part 1 of Article 9 has been suspended according to Decree No 15-93 of February 19, 1993)

- setting up special regimes for foreign economic activities on the territory of Ukraine in accordance with articles 24, 25 of this Law;
- approval of lists of goods, which export and import shall be licensed or prohibited in accordance with articles 16, 17 of this Law.

(Paragraph 8 of Part 1 of Article 9 in the wording of Law of Ukraine No 335-XIV of December 22, 1998)

The Cabinet of Ministers of Ukraine shall:

- take measures to carry out the foreign economic policy of Ukraine in accordance with laws of Ukraine;
- co-ordinate activities of ministries, state committees and governmental departments of Ukraine for regulation of foreign economic activities; co-ordinate the work of trade representations of Ukraine in foreign countries;
- take normative acts for managing foreign economic activities, where it is provided by the laws of Ukraine;
- negotiate and conclude international agreements of Ukraine on foreign economic activities, where it is provided by the laws of Ukraine on international agreements of Ukraine, provide realisation of international agreements of Ukraine on foreign economic activities by all

* Verkhovna Rada shall mean the Parliament of Ukraine

state managing bodies, subordinated to the Cabinet of Ministers of Ukraine;

- within their competence, set up by the laws of Ukraine, submit for consideration to the Verkhovna Rada of Ukraine proposals on the system of ministries, state committees and governmental departments - bodies of operative state regulation of foreign economic activities, which powers can not be superior to the powers of the Cabinet of Ministers of Ukraine, which it has in accordance with the laws of Ukraine;

- provide making up the payment balance, hard currency plan of Ukraine;

- take measures to provide rational use of money of the State currency fund of Ukraine;

- ensure the implementation of decisions of the United Nations Security Council on issues related to foreign economic activities.

(The Paragraph added to Part 2 of Article 9 according to Law of Ukraine No 362-IV of December 25, 2002)

The National Bank of Ukraine shall:

- provide keeping and use of the gold and currency reserve of Ukraine and other state values, which provide for Ukraine ability to pay;

- represent interests of Ukraine in relations with the central banks of other countries and other financial-credit institutions and conclude respective interbank agreements;

- regulate the rate of the national currency of Ukraine to monetary units of other states;

- prepare reports and accounts as to state credits and loans, realise operations with centralised currency resources, which are allotted from the State currency fund of Ukraine to the disposal of the National Bank of Ukraine;

Paragraph 6 of Part 3 of Article 9 has been suspended.

(The validity of Paragraph 6 of Part 3 of Article 9 has been suspended according to Decree No 25-93 of March 17, 1993)

- realise other functions in accordance with the Law of Ukraine "Banks and Banking Activities" and other laws of Ukraine. The National Bank of Ukraine may delegate these functions to a bank for realisation of foreign economic activities of Ukraine.

The central economic policy executive agency of Ukraine shall:

- provide a single foreign economic policy during foreign economic activities exercised by foreign economic entities coming out to the foreign market, co-ordination of their foreign economic activities, including following the international agreements of Ukraine;

- exercise control over all foreign economic entities follow the current laws of Ukraine and the conditions under international agreements;

(Paragraph 4 of Part 4 of Article 9 has been suspended according to Decree of the Cabinet of Ministers of Ukraine No 6-93 of January 12, 1993)

- carry out antidumping, antisubsidy, and special investigations in keeping with procedures established by the laws of Ukraine;

(Paragraph 5 was added to Part 4 of Article 9 according to Law of Ukraine No 335-XIV of December 22, 1998)

- fulfil other functions in accordance with the laws of Ukraine and the Regulations on the central economic policy executive agency.

The Customs Service of Ukraine shall:

- exercise customs control in Ukraine in accordance with the Ukrainian legislation in force;

The Antimonopoly Committee of Ukraine shall:

- exercise control over foreign economic entities' observing the legislation on the protection of the economic competition.

(Part 6 was added to Article 9 according to Law of Ukraine No 82/95 of March 2, 1995; changed and amended according to Law of Ukraine No 1294-IV of November 20, 2003)

Interdepartmental Commission on International Trade shall:

- exercise on-line state regulation of foreign trade activities in Ukraine in keeping with the laws of Ukraine;

- make decisions relating to the commencement and execution of antidumping, subsidization or special investigations, and antidumping, countervailing or special measures.

(Part 7 was added to Article 9 according to Law of Ukraine No 335-XIV of December 22, 1998).

Article 16. Licensing of Foreign Economic Activity Operations

(Article 16 with amendments introduced in compliance
Ukrainian Parliament Regulation No.2330-XII of May 12, 1992,
Cabinet of Ministers of Ukraine decrees
No.6-92, of December 9, 1992,
No.6-93 of January 1, 1993,
No.15-93 of February 19, 1993,
Laws of Ukraine
No.3898-XII of February 1, 1994
No.335-IV of December 22, 1998,
No.1595 of March 23, 2000,
No.1807-III of June 8, 2006,
No.2953-III of January 17, 2007
No 253-VI of April 10, 2006
in the wordings of Laws of Ukraine
No.1315-IV of November 20, 2003,
No.360-V of November 16, 2006)

Licensing of foreign economic activity (trade) operations shall be defined as a set of administrative measures by a body of the executive in charge of economic policy on granting foreign trade business entities permission to engage in the export (import) of commodities.

The export (import) of commodities shall be licensed in an automatic or non-automatic regime of licensing.

Automatic licensing shall be defined as a set of administrative actions by a body of the executive in charge of economic policy to grant foreign trade business entities permission to engage in the export (import) of commodities for which quotas (qualitative or other restrictions) have been set. Automatic licensing of export (import) as an administrative procedure for executing and issuing

- exercise customs control in Ukraine in accordance with the Ukrainian legislation in force;

The Antimonopoly Committee of Ukraine shall:

- exercise control over foreign economic entities' observing the legislation on the protection of the economic competition.

(Part 6 was added to Article 9 according to Law of Ukraine No 82/95 of March 2, 1995; changed and amended according to Law of Ukraine No 1294-IV of November 20, 2003)

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- exercise on-line state regulation of foreign trade activities in Ukraine in keeping with the laws of Ukraine;

- make decisions relating to the commencement and execution of antidumping, subsidization or special investigations, and antidumping, countervailing or special measures.

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No.15-93 of February 19, 1993,
Laws of Ukraine
No.3898-XII of February 1, 1994
No.335-IV of December 22, 1998,
No.1595 of March 23, 2000,
No.1807-III of June 8, 2006,
No.2953-III of January 17, 2007
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The export (import) of commodities shall be licensed in an automatic or non-automatic regime of licensing.

Automatic licensing shall be defined as a set of administrative actions by a body of the executive in charge of economic policy to grant foreign trade business entities permission to engage in the export (import) of commodities for which quotas (qualitative or other restrictions) have been set. Automatic licensing of export (import) as an administrative procedure for executing and issuing

licenses shall not produce a restrictive effect on the commodities that are not subject to export (import) licensing.

Automatic import licensing has to be called off in case of termination of the circumstances that were the reasons for its introduction, as well as in case of the existence of other procedures that can achieve the objectives for which automatic licensing is introduced.

Non-automatic licensing shall be defined as a set of administrative actions by a body of the executive in charge of economic policy to grant foreign trade business entities permission to engage over a determined period in the export (import) of commodities for which quotas (qualitative or other restrictions) have been set. Non-automatic licensing of export (import) as an administrative procedure for executing and issuing licenses shall be used when quotas (quantitative or other restrictions) have been set for the export (import) of commodities.

Quantitative restrictions shall be applied exclusively on a nondiscriminatory basis, that is no bans or restrictions shall be applied by Ukraine to the import of any commodity into the territory of Ukraine or to the export of any commodity intended for the territory of any state, if only the import of a similar commodity from all third states into Ukraine or the export to all third states are similarly banned or restricted, if otherwise not provided for by the international agreements and legislation of Ukraine.

Export licensing of commodities shall be introduced in Ukraine in case of:

- a considerably disturbed equilibrium concerning certain commodities on the domestic market that are of significant importance for the vital activity of Ukraine, especially agricultural products, fishing products, food industry products, and essential industrial items or other commodities. Such licensing is of a temporary nature and shall be applied until the equilibrium concerning certain commodities on the domestic market is restored;
- the need to protect human life and health, animals or plants, the environment, civic morale, the national wealth of artistic, historical or archeological importance, or protect intellectual property rights, as well as in compliance with the requirements to state security;
- export of gold and silver, except for bullion;
- the need to apply measures for the protection of national commodity producers in case of restrictions of the export of national materials required to ensure the sufficient quality of such materials for the national processing industry over periods when the domestic price for such materials is below world prices, provided the Cabinet of Ministers of Ukraine introduces a stabilization plan and such restrictions do not result in the increase of export of commodities of such a sector of domestic industry. Such measures shall be applied exclusively on a nondiscriminatory basis;
- the need to ensure the protection of patents, trademarks and copyrights;
- the need to ensure Ukraine's performance of international agreements;

Import licensing of commodities shall be introduced in Ukraine in case of:

- marked deterioration of the balance of payments and external payments (if other measures are ineffective);

- sharp reduction in or minimal size of gold and foreign exchange reserves;
- the need to protect human life and health, animals or plants, the environment, civic morale, the national wealth of artistic, historical or archeological importance, or protect intellectual property rights, as well as in compliance with the requirements to state security;
- export of gold and silver, except for bullion;
- the need to apply measures for the protection of national commodity producers in cases of increased imports into Ukraine that cause considerable damage or threaten to cause considerable damage to the national commodity producers of similar or directly competitive commodities. Such licensing has to be of a temporary nature and be applied for a period, which will make it possible to prevent considerable damage or compensate for the considerable damages caused to national commodity producers and offer them the opportunity to restore their profitability;
- the need to ensure the protection of patents, trademarks and copyrights;
- the need to ensure Ukraine's performance of international agreements;

The decisions on applying the regime of export (import) licensing of commodities, including the setting of quotas (quantitative and other restrictions), shall be made by the Cabinet of Ministers of Ukraine upon presentation of the central agency of the executive in charge of economic policy, along with a list of definite commodities subject to export (import) licensing, the validity period and quantitative or other restrictions on every commodity.

In case of application of measures to protect the national commodity producers, the Interagency Commission on International Trade shall make a decision on introducing the regime of licensing in compliance with legislation.

Only one type of license may be established for each kind of commodity.

Licenses shall be issued by the central agency of the executive in charge of economic policy, and also within the scope of its granted powers by a corresponding republican agency of the Autonomous Republic of Crimea, a structural unit of a state administration in the oblasts, and b the Kyiv and Sevastopol city state administrations.

If a foreign trade business entity violates the procedure of engaging in such activity, as established by the present Law and other Ukrainian laws, an individual regime of licensing may be applied to him in compliance with Article 37 of the present Law.

Licenses shall be issued on the basis of the applications submitted by foreign trade business entities according to the form established by the central agency of the executive in charge of economic policy.

In order to acquire a license, applicants, as a rule, petition one agency of the executive. In case of a need for adjustment, petitions to several agencies of the executive are possible, but not more than three.

Applications for the acquisition of licenses may be considered under the sequence of their arrival, which is determined in accordance with the date of registration of applications, or simultaneously until the expiry of the announced time of their acceptance.

In the application for the acquisition of a license, the following information shall be stated: full name of the foreign trade business entity, surname and name of his manager, name and code of the commodity (commodities) in accordance with the Ukrainian Classification of Foreign Trade Commodities (UCFTC), name of the manufacturer, user of commodity (commodities), code and name of the state (states) of origin and destination – in case of export, code and name of the state (states) of origin and dispatch – in case of import, validity period of the license, quantity and cost of the commodity (commodities), code and name of the customs, full name and address of the seller and buyer, kind of agreement, payment current, basic and additional unit of measurement of the commodity (commodities), adjustment with the agency of the executive (when necessary), reasons for the application for license acquisition, special terms of the license.

During submission of the application the applicant can be requested to present documents and information considered to be necessary for confirming the information in the application and foreign trade agreement (contract).

An application may not be refused in case of insignificant mistakes in the documents submitted for the acquisition of a license, if they do not change the basic information contained in the application. Referred to basic information is the data stipulated by the terms of a foreign trade agreement (contract).

In case of introduction of the regime of automatic licensing, the issuance of licenses shall not exceed 10 working days from the date of receipt of an application and other necessary documents conforming to the established requirements. The issuance of licenses may not be denied, if all the necessary documents are submitted and conform to the established requirements.

In case of introduction a non-automatic regime of licensing:

- the period of consideration of applications shall not exceed 30 days from the date of their receipt, if the applications are considered under the sequence of their arrival, and not exceed 60 days from the date of expiry of the announced time of application acceptance, if they all are considered simultaneously;
- licenses shall be issued on the basis of applications within the limits of quotas with indication of the license validity period.
- if at the moment of application submission (under the consideration procedure of the sequence of their arrival) the set quotas (quantitative or other restrictions) are exhausted, such an application shall not be considered. The foreign trade business entity who submitted a corresponding application shall be notified about the fact of exhaustion in writing within seven working days from the date of its receipt;
- the decision on the issuance of licenses shall be made with allowance for the information about the use of previously received licenses, provided the foreign trade business entity complied with the requirements of legislation on the protection of economic competition.

During the consideration of applications submitted simultaneously, in case of introduction of non-automatic licensing for the first time, quotas shall be allocated proportionally to the volumes stated in the applications of the foreign trade economic entities.

Non-automatic licensing shall not produce any restrictive or hindering effect on trade and commodities nor add to such an effect arising from the introduction of the non-automatic licensing regime.

Restrictions on the import of commodities for which certain quotas have been set shall be prohibited before the full exhaustion of such quotas.

(Article 16 supplemented by a new part in compliance with Law of Ukraine No.253-VI of April 10, 2008)

A license shall be issued, if the application and other submitted documents have been executed in compliance with the requirements set by legislation. The validity period of a license has to stipulate the license holder meeting his commitments under a foreign trade agreement (contract), but not exceed the validity period of the quantitative restrictions.

The decision on refusal of license issuance shall be motivated, made within the time established for the consideration of applications, and be forwarded (issued) to the applicant in writing.

In case of refusal of license issuance, the applicant shall be entitled to challenge the decision in compliance with legislation.

For the issuance of a license a fee shall be charged in the amount established by the Cabinet of Ministers of Ukraine with allowance for the actual expenses related to the application of the licensing procedure.

Customs clearance of commodities subject to export (import) licensing shall be carried out only if a corresponding license is available.

Customs clearance of commodities that are licensed and shipped in bulk may not be denied, if the cost, quantity or weight of such commodities differs negligibly from those stated in the license. The Cabinet of Ministers of Ukraine, upon presentation of the central agency of the executive in charge of economic policy, shall set the threshold difference of such indicators.

(Article 16 supplemented by a new part in compliance with Law of Ukraine No.253-VI of April 10, 2008)

The central agency of the executive in charge of economic policy shall every month inform the central agency of the executive in charge of customs about the issued licenses for the export (import) of commodities subject to licensing.

The central agency of the executive in charge of customs shall every month submit to the central agency of the executive in charge of economic policy information about the volumes of exported (imported) commodities under the issued licenses.

Licensing of commodity-exchange (barter) operations shall be carried out if the objects of these operations are commodities subject to export (import) licensing.

Export (import) licensing of disks for laser-read systems, matrixes, equipment and raw materials for their manufacture shall be carried out with allowance for the requirements of legislation to the manufacture and export (import) of disks for laser-read systems in accordance with the procedure of license issuance set out in this Article.

Licensing shall not be applied to the export of sale of compensatory and profitable products acquired by an investor into ownership under the terms of an agreement on the distribution of products, as concluded in compliance with the requirements of the Law of Ukraine *On Agreements of Distribution of Products*. The introduction of any restrictions on the export and

sale of such products, quantitative restrictions included, shall be prohibited, if otherwise not provided for in the agreement of distribution of products.

The licensing procedures set in the present Article shall not be applied to the export (import) of the commodities specified in Article 20 of the present Law.

The list of commodities subject to export (import) licensing, the information about the validity period of licenses and the introduction of any amendments to them, as well as the procedure for considering applications shall be printed in Ukraine's official publications and notified to a corresponding WTO committee within 60 days from the date of printing, along with copies of these publications.

The publications shall include the following information:

- list of commodities subject to licensing procedures;
- contact point for providing information about the right to license acquisition;
- administrative body (bodies) for submitting applications for licenses;
- date and name of publication setting forth the licensing procedures;
- indication whether licensing is automatic or non-automatic;
- administrative purposes – in case of automatic import licensing;
- indication of actions applied under the licensing procedure – in case of non-automatic import licensing;
- expected duration of licensing, if it is possible to establish with a certain degree of probability, and in not – the reasons why this information cannot be provided.

If a quota is allocated among states-suppliers, the information about the allocation of the quota is subject to publication and notification to other states interested in supplying certain commodities to Ukraine.

The official publication shall be printed within 21 days from the date of introduction of the licensing regime, but not later than the referred to date.

(Article 16 supplemented by a new part in compliance with Law of Ukraine No.253-VI of April 10, 2008)

In response to the request of an interested WTO member country, the following information shall be provided:

- procedure for applying restrictions;
- the number of licenses issued over a certain period with the indication, when necessary, about the volumes and/or cost of commodities;
- allocation of licenses among states-suppliers;
- statistical data about the volumes and/or cost of commodities.

The effect of this Article shall not be applied to the operations of the National Bank of Ukraine, which are carried out in compliance with the Law of Ukraine *On the National Bank of Ukraine*.

Pursuance of foreign trade by foreign trade business operators without corresponding licenses entails the imposition of fines in compliance with Article 37 of the present Law in the amount of 10 percent of the cost of the performed operation converted into Ukrainian currency at the official exchange rate of the hryvnia to foreign currencies set by the National Bank of Ukraine on the day of performance of such an operation.

The fines shall be collected by agencies of the State Tax Service on the basis of corresponding decisions of the central agency of the executive in charge of economic police under the procedure set out by the Law of Ukraine *On the Procedure for Settling Liabilities by Taxpayers to the Budgets and Specialized State Funds*.

Article 20. Measures to Protect the Economic Competition in the Field of Foreign Economic Activities (The title of Article 20 in the wording of Law of Ukraine #1294-IV of November 20, 2003)

Foreign economic activity, except for cases, envisaged in this article, shall be carried out allowing for provisions of the legislation on the protection of the economic competition.

(Part 1 of Article 20 in the wording of Law of Ukraine #82/95 of March 2, 1995; changed and amended according to Law of Ukraine #1294-IV of November 20, 2003)

There shall be realised exclusively by authorised by Ukraine as a state foreign economic entities export and import of weapon, ammunition, military machinery and special devices for their production, explosive substances, nuclear materials, technologies, equipment, special non-nuclear materials and connected with these services, sources of ionising testing and also other types of products, technologies and services, which are currently used for production of weapon and military machinery, which are the state secrecy of Ukraine, established by the laws of Ukraine; precious metals and alloys, precious gems; drugs; export of pieces of arts and ancient things from the museums of Ukraine.

Authorising foreign economic entities, which may carry out the specified exports and imports, and regulating the respective export-import operations shall be the competence of the Cabinet of Ministers of Ukraine, which shall agree its decisions with the respective Committee of the Supreme Council of Ukraine.

(Part 3 of Article 20 changed and amended according to Law of Ukraine #2157-IV of November 04, 2004)

There shall not be allowed establishing any form of the state monopoly for exports and imports of other goods, not contained in this article. No organisation, state inclusive, has rights to realise functions, directly or indirectly preventing from foreign economic entities to realise their activities, except for those, contained in this Law.

(Part 5 of Article 20 has been deleted on the basis of Law of Ukraine #82/95-VR of March 02, 1995)

(Part 6 of Article 20 has been deleted on the basis of Law of Ukraine #82/95-VR of March 02, 1995)

(Part 7 of Article 20 has been deleted on the basis of Law of Ukraine #82/95-VR of March 02, 1995)

(Part 8 of Article 20 has been deleted on the basis of Law of Ukraine #82/95-VR of March 02, 1995)

Article 37. Special Sanctions for Violations of This and Other Relating Laws of Ukraine

The following sanctions may be used against foreign economic entities and foreign subjects of economic activities for violations of this or other relating laws of Ukraine:

- fines, where foreign economic entities and foreign subjects of economic activities untimely fulfil or do not fulfil their responsibilities. Amounts of this fines shall be set up by the respective provisions of the laws of Ukraine and/or decisions of courts of Ukraine;

(Paragraph 3 of Part 1 of Article 37 has been deleted according to Law of Ukraine #335-XIV of December 22, 1998)

- the application of the individual licensing regime to parties to foreign economic activities and foreign business entities in case of the violation by them of this Law and/or laws of Ukraine related thereto that institute certain prohibitions, restrictions or procedures for the performance of foreign economic transactions;

(Paragraph 4 of Part 1 of Article 37 changed and amended according to Laws of Ukraine #335-XIV of December 22, 1998; in the wording of Law of Ukraine #3268-IV of December 22, 2005)

- temporary termination of foreign economic activities, where this law or relating laws of Ukraine are violated, measures causing damage to the interests of the national security are undertaken.

The sanctions specified in this article shall be applied by the central executive agency for the economic policy on the basis of suggestions of agencies of the state tax and control/revision services, customs and law-enforcement agencies, bodies of the Antimonopoly Committee of Ukraine, the specifically authorised executive agency for the regulation of financial service markets, and the National Bank of Ukraine, or by court decision. Sanctions listed in this article may be applied to parties to foreign economic activities or foreign business entities during three years of the detection of the violation of the legislation.

(Part 2 of Article 37 changed and amended according to Laws of Ukraine #335-XIV of December 22, 1998; #1294-IV of November 20, 2003; in the wording of Law of Ukraine #3268-IV of December 22, 2005)

The proposal for the application of sanctions must contain the following data: the name and details of the party to foreign economic activities (in case of foreign business entities, in the language of their home country), the details of the violation with references to specific provisions of the legislation of Ukraine, the type of the special sanction to be applied, the name and details of the counterparty, during whose contract implementation the legislation has been violated, and other appropriate information.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

The application of the special sanctions to the parties to foreign economic activities and foreign business entities may be preceded with the official warning of the central executive agency for the economic policy.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

The individual licensing regime shall be in place until the elimination of the violations of the legislation of Ukraine or the application of practical measures that guarantee the compliance with this Law and/or other related laws of Ukraine, and reversed by the central executive agency for the economic policy.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

The temporary suspension of foreign economic activities shall be in place until the elimination of the violations of the legislation of Ukraine or the application of practical measures that guarantee the compliance with this Law and/or other related laws of Ukraine, but not more for three months from the date of the relevant decision made by the central executive agency for the economic policy. After the temporary suspension of the foreign economic activities, the parties to foreign economic activities and foreign business entities shall be migrated by the central executive agency for the economic policy to the individual licensing regime.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

The validity of the temporary suspension of the foreign economic activities shall only be extended by court decision.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

In order to extend the temporary suspension of the foreign economic activities, the central executive agency for the economic policy shall submit a claim to the court on the basis of the information from the initiator of the said sanction.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

While making a decision to extend the temporary suspension of the foreign economic activities, the court shall specify the deadline for this sanction.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

If parties to foreign economic activities and foreign business entities subjected to sanctions have made good the committed violations of the legislation of Ukraine or have taken practical measures that guarantee the compliance with this Law and/or related laws of Ukraine, the initiators of the proposal for the application of sanctions may submit materials for the reversal (modification, suspension) of sanctions to the central executive agency for the economic policy.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

In case of force majeure circumstances, the claim submission to the court in the home country of the counterparty or the International Commercial Court of Arbitration, the Maritime Arbitration Commission under the Chamber of Commerce and Industry of Ukraine for the recognition or the collection from a foreign business entity of the debt related to the failure to perform conditions of a foreign economic contract, and in case of taking the measures to eliminate the violations of the legislation, the central executive agency for the economic policy may suspend the sanctions. Upon the expiry of the sanction suspension, the sanction shall resume without an additional decision of the central executive agency for the economic policy.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

In case of the elimination of the violations of the legislation of Ukraine or the application of practical measures that guarantee the compliance with this Law and/or other related laws of Ukraine, and bringing the foreign economic activities into compliance with laws of Ukraine, or the submission of the sufficient evidence of the impossibility (lack of feasibility) of the application of practical measures that guarantee the enforcement of the law, the parties to foreign economic activities and foreign business entities subjected to sanctions shall have the right to submit relevant materials and petitions for the reversal (modification, suspension) of sanctions to the central executive agency for the economic policy.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

The petition must contain the following documents:

the letter of request with the presentation of reasons that have resulted in the violation

and the measures taken to bring the activities into compliance with provisions of the legislation of Ukraine;

originals or properly authenticated copies of materials (certificates) from the state authorities that control the foreign economic activities or the foreign exchange control, and/or foreign exchange control agents that testify to the practical measures taken by the party to foreign economic activities in respect of bringing its activities into the conformity with provisions of the legislation of Ukraine.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

The total time for the review of such petitions must not exceed thirty calendar days.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

For the purposes of the clarification of the information, the central executive agency for the economic policy may request state authorities that control the foreign economic activities or the foreign exchange control, and/or foreign exchange control agents to provide additional materials (information) about the activities of parties to foreign economic activities that have petitioned it for the reversal (modification, suspension) of the sanction.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

The liability for the false information provided in petitions in respect of the application (reversal, modification, suspension) of sanctions, on whose basis the relevant decisions are made by the central executive agency for the economic policy, shall be borne by the initiator of the proposal in accordance with the procedure prescribed by law.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

Parties to foreign economic activities shall be liable for the false information submitted to the central executive agency for the economic policy.

(The Part added to Article 37 according to Law of Ukraine #3268-IV of December 22, 2005)

The application of sanctions listed in this article may be disputed at court. Interests of the state in case of the examination of such disputes in courts shall be represented by the central executive agency for the economic policy and the state authorities that have proposed to apply sanctions. The appeal against the application of sanctions to the court shall not suspend the sanctions until the issue of the relevant ruling by the court.

(Part 18 of Article 37 in the wording of Law of Ukraine #3268-IV of December 22, 2005)

(Part 19 of Article 37 has been deleted according to Laws of Ukraine #335-XIV of December 22, 1998; changed and amended according to Law of Ukraine #3268-IV of December 22, 2005)