

IMPORT & EXPORT REGULATIONS

Applicable legislation in this field

- Government Decision no.764/1991 on certain measures about the observance of the export and import licenses, published in the Official Gazette no. 232/19th of November 1991
- Government Decision no.215/1992 on the regime of the Romanian export and import licenses, published in the Official Gazette no. 91/31st of May 1992
- Government Ordinance no.26/1993 on the Customs tariff of import published in the Official Gazette no.213/31st of August 1993
- Government Decision no. 1491/2002 for the approval of the norms on the regime of the export and import licenses for the commodities and operations submitted for licensing, published in the Official Gazette no. 960/28th of December 2002
- Government Emergency Ordinance no. 204/2002 for the modification of the denomination and classification of the commodities from the customs tariff of import of Romania and of the customs fees afferent to these ones, published in the Official Gazette no. 957/27th of December 2002

I. Scope of the legal regulations on the import-export regime

Only the economic entities having stipulated such transactions as their object of activity can perform the operations of export and import.

II. Public authorities having duties in this field

The public authorities with duties in this field are: The Ministry of Trade and Economy, The Romanian Centre of Foreign Trade, The Ministry of External Affairs.

III. Import and export licenses

According to the provisions of Government Decision no. 215/1992 which regulates the regime of the import and export licenses, the export and import of the commodities from and to the customs territory of Romania are liberalized, not being subjected to the export licenses, respectively the import ones.

However, there are certain categories of commodities for which quantitative restrictions are established (contingent commodities) or they are subject to the control regime, as there are certain categories of commodities for which the obtaining of the import/export licenses issued by the Ministry of Trade and Economy is necessary, for their introduction, respectively removal from the Romanian customs territory.

1. Types of licenses

1.1 Import licenses

The Ministry of Trade and Economy issues import licenses, legal documents necessary to the economic entities for the introduction on the customs territory of Romania, in the conditions approved by these documents of the following categories of commodities:

- a) commodities subject to the import control regime;
- b) commodities that are subject to some tariff contingencies, established by Government decision;
- c) commodities subject to the regime of the automatic import licenses.

1.2 Export licenses

The Ministry of Trade and Economy issues export licenses, legal documents necessary to the economic entities for the removal from the customs territory of Romania, in the conditions approved by these documents of the following categories of commodities:

- a) commodities subject to some quantitative restrictions at the export, which are established through Government decision;
- b) commodities subject by some countries to some quantitative limitations upon importing from Romania;
- c) commodities subject to supervision by certain countries;
- d) commodities subject to the export control regime;
- e) commodities subject to the regime of the automatic export licenses;

- f) commodities subject to the regime of the automatic export licenses, but which are:
 - resulted from the operations of active improvement, Lohn or processing;
 - sent temporarily abroad for the operations of passive improvement, Lohn or processing;
 - intended for the production process within the works of constructions-assembly and of complex installations, performed abroad by Romanian trade companies;
- g) commodities exported with payment after more than one year from the date of delivery.

Specification

According to the Government Decision no.449/1992, at the issue of the export licenses within the contingents approved for some products a banking security of good performance in the amount of 2% from the value in lei of the export license is requested.

In the event of the failure of execution of the export license for which contingent was given, within 30 days from the expiration of the validity of the issued export license in the valorisation of the respective contingent, the banking security previously filed is executed by the bank, the funds thus resulted being taken over by the state budget.

1.3 Operation licenses

The Ministry of Trade and Economy issues operation licenses, legal documents necessary for the economic entities for the distinguishing and unfolding, in the approved conditions by these documents, of the following categories of operations:

- a) commercial transactions involving settlement in accounts of clearing, barter or cooperation, agreed on the basis of some governmental agreements concluded between Romania and other countries;
- b) transactions for recovery of the Romania's debts by import of commodities;
- c) transactions which are performed on the basis of some credits with State warranty;
- d) transactions connected by import-export, concluded at level of economic entity;

- e) transactions of compensation of external debts of the autonomous administrations, resulted from the international performing of services, through the previous agreement of the relevant ministries and of the Ministry of Public Finances.
- f) transactions of compensation of the external debts of the trade companies or of the regies autonomous, resulted from the imports of raw materials and materials for production, as well as from imports for the retechnologisation of new unpaid investments at the settling day according to the contracts concluded, through export of Romanian products, with the prior consent of the relevant ministries and of the Ministry of Public Finances.

2. License obtaining procedure

The forms of the application for license are obtained against payment from the Romanian Centre of Foreign Trade and are not assignable and may only be used by the company that acquired them.

The license applications filled according to the legal instructions and forwarded for approval shall be registered with the Romanian Centre of Foreign Trade together with all the documents related to the import-export operations. The application, concluded in many counterparts must be signed by the applicant's agent and bear the company's seal.

In case of import-export related transactions, all license applications referring to the respective transaction must be forwarded at the same time.

The license applications presented by the economic entities must not comprise erasures, corrections or adding made at another typewriter. The existence of such kind of deficiencies leads to the rejection of the applications.

The applications shall be settled within ten days since their registration, except the situation in which the licenses department considers that more documents or more information are necessary and when the ten days term shall start from the date of their receipt.

The licenses or, as the case may be, the answer or rejection of the license applications, accompanied by the written motivation of the refusal, shall be taken over by the agents of the economic entities from the Ministry of Trade and Economy.

In the case of the import-export operations, all licenses referring to these ones are issued at the same time.

In the event of a negative answer or in the case of the non-resolving of the application within the legal term, the way of attack of the decision of the licenses department is the one of a common law namely an action in the administrative contentious.

Specification

If previous approvals from other public authorities are necessary for the obtaining of a license, the provisions of these approvals shall be compulsory taken into account at the license issuance.

3. Licenses validity

The validity of the licenses must be considered by taking into account three main aspects:

a) temporal aspect;

From the temporal point of view, the licenses are issued, as a rule, with the validity until the end of the calendar year in which these were issued. There are certain exceptions like in the case in which the validity terms are directly written on the license. The validity term that expires at the end of the calendar year may only be extended for a specified period, through Government decision.

b) spatial aspect;

Under the spatial aspect, the licenses are issued for each country and for each external partner.

c) material aspect;

From the material point of view, licenses are limited to only one commodity or to only one class of commodities that has to be precisely determined under many aspects. Firstly, integration must be performed from the tariff position point of view at the level of eight figures. Secondly, the commodities must be determined from the quantity or value point of view.

4. Licenses amendment

License may only be amended by the Ministry of Trade and Economy, based on the written request of the license holder. From the request the reason of the amendment, the elements from the license to be modified and the new elements to replace the previous ones, must result clearly.

A license may be amended only within its validity term.

5. Licenses replacement

Partial or total replacement of a license may be performed by the Ministry of Trade and Economy upon written request of the license holder. It should include the motivations for replacement, the elements to be replaced and the stage of license execution. The first two counterparts of the license to be replaced and the license application or applications to replace the previous should be attached to the letter.

A license may be replaced only within its validity term.

6. Licenses suspension

In case an external agreement has been concluded based on a license, the relevant license may only be suspended by order of the trade and economy minister.

7. Licenses annulment

Only the Ministry of Trade and Economy shall annul the license based on the written request of the license holder, in which he has to mention the reason as well as the fact that he has never used the license proposed for annulment.

A license may be annulled only within its validity term.

IV. Restrictions

For the insuring and maintaining the general or the local balance of the internal market, of the general security, of the protection of the cultural and artistic patrimony, as well as preserving the natural resources that may become exhausted, the Ministry of External Affairs may subject certain export commodities to certain temporary quantitative restrictions, to control or prohibition.

At the same time, certain quantitative restrictions on import may be established.

Situations in which quantitative restrictions on import are established are mentioned in the Art. 5 of the Government decisions no. 215/1992;

- a) when the imminent risk appears of an imbalance of the external payments balance or for the purpose of creating certain normal currency reserves;
- b) when certain imports, by quantity or conditions of execution, produce or only threaten to produce a serious prejudice to the national producers of certain similar products or in direct competition.

The setting up of import quantitative restrictions may only be made temporary, and only at the substantiated request of the National Bank of Romania or of the national economic entities or of the associations of interested national entities. The relevant restrictions apply only until the elimination of the negative influences that have been taken into consideration at their setting up.

Another way of imposing restrictions is the subjecting of certain import commodities to control and even to import prohibition, for reasons of public morality, of health and person's life, of environment and national security.

The setting up of quantitative import and export restrictions, the subjecting of export and import commodities to control and prohibition, the list of the earmarked products, as well as the enforcement period of these measures are made public. The export and import licenses for the commodities subject of quantitative restrictions are issued for a period which to avoid the blocking of use of relevant contingents.

V. Responsibility

The full responsibility regarding the external trade, its efficiency, the performing conditions, the compliance with the national regulations is due to the license applicant. Implicitly, the license applicant is responsible for the accuracy of all data mentioned in the application. Also, the license holder is responsible for the license use according to the conditions established at its issuance.

The non-observance of the import or export license regime involves the suspension of the relevant license and, as the case may be, the responsibility of the economic entity according to the legal provisions in force.