

MEASURES FOR THE ADMINISTRATION OF AUTOMATIC IMPORT LICENSE OF GOODS

the Ministry of Commerce, the General Administration of Customs

Order of the Ministry of Commerce and the General Administration of Customs

No. 26

The Measures for the Administration of Automatic Import License of Goods, which were adopted at the 17th executive meeting of the Ministry of Commerce on December 9, 2004, are hereby promulgated and shall go into effect as of January 1, 2005.

the Minister of the Ministry of Commerce Bo Xilai

the Director of the General Administration of Customs Mu Xincheng

December 10, 2004

Measures for the Administration of Automatic Import License of Goods

Article 1

With a view to effectively supervising the import of some goods and regulating the administration of automatic import license of goods, the present Measures are formulated according to the relevant provisions of the Foreign Trade Law of the People's Republic of China and the Ordinance of the People's Republic of China on the Administration of Import and Export of Goods.

Article 2

The present Measures shall apply to the import of goods as stipulated in the Catalogue of Goods Subject to the Automatic Import License Administration into the territory of the People's Republic of China by the foreign trade operators that undertake the import of goods and other entities.

Article 3

The Ministry of Commerce of the People's Republic of China (hereinafter referred to as the Ministry of Commerce) shall, on the basis of the needs on supervising the import of goods, administer the automatic import license to the import of some goods and promulgate the catalogue at least 21 days before the execution. The present Catalogue of Goods Subject to the Automatic Import License Administration is attached behind (see Attachment I).

Article 4

The catalogue of goods subject to the automatic import license administration, including the

names and customs commodity codes of specific goods, shall be determined and adjusted by the Ministry of Commerce together with the General Administration of Customs and other relevant departments. This catalogue shall be promulgated by the Ministry of Commerce in the form of public announcement.

Article 5

The administration on automatic import license and the issuance of Automatic Import Licenses shall be undertaken by the Quota License Affairs Offices, the local special commissioner's offices under the Ministry of Commerce, the competent departments of commerce (foreign trade and economic cooperation) of all provinces, autonomous regions, municipalities directly under the Central Government and cities specifically designated in the state plan as well as the departmental and local organs of the import and export of mechanical and electrical products (hereinafter referred to as the license issuing organs) upon authorization by the Ministry of Commerce. The Name List of Graded License Issuing Organs of Automatic Import Licenses is attached behind (see Attachment II).

Article 6

The Automatic Import Licenses (see Attachment III for the sample form) and the special seals for the automatic import licenses (see Attachment IV for the sample seal) shall be uniformly supervised and issued to the license issuing organs by the Ministry of Commerce. And every license issuing organ shall appoint a special person to keep the licenses and the seals and use them for special purposes.

Article 7

A consignee (including the importer and the import user) shall, when importing goods subject to the automatic import license administration, submit an application for automatic import license to the local or corresponding license issuing organ and obtain an Automatic Import License before it makes customs declaration.

A consignee, who applies for importing goods subject to the bid-invitation procurement, shall invite public bidding according to law.

The customs shall go through the inspection and release formalities upon the strength of Automatic Import Licenses affixed with the special seals for automatic import licensing. The bank shall go through the formalities of selling and paying foreign exchanges upon the strength of Automatic Import Licenses.

Article 8

When applying for an automatic import license, a consignee shall submit the following materials:

(1)

a qualification certificate for the consignee to engage in the import and export of goods, archival filing and registration documents or the approval certificate in the case of a foreign-

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invested enterprise (the said certificates and documents shall be submitted only by an applicant for its first application during a Gregorian calendar year);

(2)

an application form for the automatic import license (see Attachment V for the sample form);

(3)

a contract on the import of goods;

(4)

an (original) agreement on the import by an agency if the import is carried out by an agency;

(5)

materials proving that the uses of imported goods or the final users conform to the state provisions if there are special provisions thereon;

(6)

materials as listed in the Catalogue to be submitted for various goods; and

(7)

other necessary materials to be submitted as prescribed by the Ministry of Commerce.

A consignee shall be responsible for the authenticity of the submitted materials and ensure that its relevant operations accord with the state laws.

Article 9

The consignee may file an application for the Automatic Import License directly to the license issuing organ in written form or via the internet.

In the case of an application in written form, the consignee can obtain an Application Form for Automatic Import License (it can be photocopied) and other relevant materials from the license issuing organ or download them through related websites, faithfully fill in and submit them to the license issuing organ by way of sending, posting or any other proper means and together with other materials as provided for in this Measures.

In the case of an application via the internet, the consignee shall firstly apply to the license issuing organ for an electronic key for identifying the enterprise identification. For the said application, the consignee shall log in a relevant website, enter into a relevant application system and faithfully fill in an Application Form for Automatic Import License and other materials online according to the requirements, and submit the relevant materials as provided

for in this Measures to the license issuing organ.

Article 10

For any application for license with correct contents and a complete form, the license issuing organ shall, within 10 working days after the receipt of such an application, issue an Automatic Import License.

Article 11

Any consignee, who conforms to the requirements in laws and regulations of the state on engaging in the import of goods subject to the automatic import license, may apply for and acquire an Automatic Import License.

Article 12

Whoever imports goods subject to the automatic import licensing in the following manners does not need to obtain an Automatic Import License:

(1)

the import of goods under the processing trade for re-export (with the exception of the crude oil and finished oil);

(2)

the import of goods within the investment amount by a foreign-invested enterprise for the investment or for its self-use;

(3)

the import of sample goods for advertisement and products for experiment, with each batch being not more than 5,000 yuan;

(4)

the temporary import of goods under the customs supervision; and

(5)

other manners stipulated in any state law or regulation, for which the Automatic Import License is not required.

Article 13

The present Measures shall not apply to the goods subject to the automatic import license administration that enter such areas under special customs supervision as the bonded zones or export processing zones of the People's Republic of China, as well as the bonded storehouses

and bonded logistics centers. In the case of any import of goods subject to the automatic import license administration from such areas under special customs supervision as the bonded zones and export processing zones, as well as the bonded storehouses and bonded logistics centers, the Automatic Import Licenses shall still be obtained besides the circumstances as provided for in Article 10 of the present Measures.

Article 14

Where the goods subject to the automatic import license administration are imported for processing trade, they shall be re-exported according to the relevant provisions. If the said goods cannot be re-exported and are to be sold instead inside the country due to special circumstances, it shall apply for an Automatic Import License according to the present examination and approval procedures on processing trade for the domestic market. The detailed rules for applying for and obtaining licenses of all goods shall be found in the Catalogue of Goods Subject to the Automatic Import License Administration.

Article 15

Where the State adopts temporary prohibitive measures on import or temporary restrictive measures on the quantity of import for those goods subject to the automatic import license administration, the issuance of such automatic import licenses for those goods shall be ceased as of the date when the temporary measures come into force.

Article 16

Where a consignee does not use the obtained Automatic Import License, it shall return it to the original license issuing organ within the period of validity and give the reasons. The license issuing organ shall revoke the Automatic Import Licenses returned by the consignee.

If an Automatic Import License has been lost, the consignee shall immediately report the loss in written form to the original license issuing organ and the customs at the import port as indicated in the face of the automatic import license. The license issuing organ shall re-issue an license after verifying that there is no bad consequence upon receipt of the report for loss.

Any Automatic Import License that fails to be obtained within one month after the issuing day may be withdrawn and removed by the license issuing organ.

Article 17

The customs may inspect and release the bulk cargo with the amount of overload or short load being within 5 percent of the total amount of goods without a license. For such four kinds of large bulk cargoes as the crude oil, processed oil, chemical fertilizers and steel products, they may be inspected and released without a license if the amount of overload or short load is within 3 percent of the total amount of goods.

Article 18

The Ministry of Commerce shall in general exercise administration of "one license for one batch" for goods under the Automatic Import License and may carry out the administration of

"one license not for one batch" for some goods.

The "one license for one batch" means that the same Automatic Import License shall not be used in accumulative customs declaration in batches. The consignee may apply for obtaining several Automatic Import Licenses for items under the same contract of import.

The "one license not for one batch" means that the same Automatic Import License can be used in accumulative customs declaration by different batches within the valid period, but not more than six times. And the customs shall keep the photocopy each time after it indorses in the "endorsement column of customs inspection and release" of the original Automatic Import License, and preserve the original for the last time.

For the large bulk cargo subject to the automatic import license administration and the "one license not for one batch" administration, the customs shall deduct an amount within the quota of the automatic import license pursuant to the actually imported amount; for the import of last batch, the overload shall be calculated according to the actual remaining amount of the said automatic import license and within the permissible upper limit of overload.

Article 19

The availability of an Automatic Import License shall be within a Gregorian calendar year and the period of validity shall be six months.

Article 20

Where an Automatic Import License needs to be extended concerning its valid period or to be modified, it shall be re-handled in the original license issuing organ. The previous license shall be simultaneously cancelled and its license number shall be indicated in the remarks column of the new license.

Where an Automatic Import License carrying out the "one license not for one batch" administration needs to be extended concerning its valid period or to be modified, the new license shall be issued on the basis of the residual amount after the declared amount of the previous license is deducted.

Article 21

Anyone, who illegally imports the goods subject to the automatic import license administration without obtaining an Automatic Import License, shall be treated and punished by the customs according to relevant provisions of laws or administrative regulations; if a crime is constituted, he shall be subject to criminal liabilities.

Article 22

Anyone, who forges, alters, buys or sells the Automatic Import License or obtains the Automatic Import License by deception or other unfair means, shall be punished according to the relevant provisions of laws or administrative regulations; if a crime is constituted, he

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shall be subject to criminal liabilities.

Article 23

The detailed rules for implementing the administration on issuing automatic import licenses shall be separately enacted by the Ministry of Commerce according to the present Measures.

Article 24

The power to interpret the present Measures shall remain with the Ministry of Commerce and the General Administration of Customs.

Article 25

The present Measures shall go into effect as of January 1, 2005. In case any previous provision on the administration is inconsistent with the present Measures, the latter shall prevail.

Attachment I:

the Catalogue of Goods Subject to the Automatic Import License Administration (omitted)

(Attachments II, III, IV and V are omitted)

the Ministry of Commerce, the General Administration of Customs 2004-11-10