

DECISION OF THE GOVERNMENT OF THE RUSSIAN FEDERATION NO. 1299 OF OCTOBER 31, 1996 ON THE PROCEDURE FOR HOLDING TENDERS AND AUCTIONS FOR SALES OF QUOTAS WHEN QUANTITATIVE LIMITATIONS AND LICENSING OF EXPORT AND IMPORT OF GOODS (WORK, SERVICES) ARE INTRODUCED IN THE RUSSIAN FEDERATION (with the Amendments and Additions of January 28, 1997, February 2, March 14, December 29, 1998, October 12, December 15, 2000, July 26, 2004, February 4, June 9, 2005)

For the purpose of implementing the Federal Law on the State Regulation of Foreign Trade Activities the Government of the Russian Federation hereby resolves:

1. To approve the attached Regulations on the Procedure for Holding Tenders and Auctions for Sales of Export and Import Quotas when Quantitative Limitations are Introduced by the Government of the Russian Federation and Regulations on the Procedure for licensing export and import of goods (work, services) in the Russian Federation.

2. Abolished.

3. Abolished.

4. To deem invalid Item 1 of the Decision of the Government of the Russian Federation No. 854 of November 6, 1992 on the Licensing and Allocation of Quotas for Export and Import of Goods (Work, Services) on the Territory of the Russian Federation (Collection of Acts of the President and the Government of the Russian Federation, article 1589, No. 19, 1992) as far as it extends to the approval of the Regulations on the Procedure for Licensing and Allocation of Quotas for Export and Import of Goods (Work, Services) in the Russian Federation.

Chairman of the Government
of the Russian Federation

V. Chernomyrdin

Appendix

REGULATIONS ON THE PROCEDURE FOR HOLDING TENDERS AND AUCTIONS FOR SALES OF EXPORT AND IMPORT QUOTAS WHEN QUANTITATIVE LIMITATIONS ARE INTRODUCED BY THE GOVERNMENT OF THE RUSSIAN FEDERATION (Approved by the Decision of the Government of the Russian Federation No. 1299 of October 31, 1996)

Section I.	General provisions	(Items 1 - 5)
Section II.	Tenders	(Items 6 - 40)
Section III.	Auctions	(Items 41 - 61)

I. General provisions

1. The present Regulations determine the procedure for holding the tenders and auctions for sales of export and import quotas within the limits of the general quota introduced in accordance with the established procedure by the Government of the Russian Federation.

2. The purpose of the present Regulations is to organize coordinated activities of the Federal executive authority organs for the implementation of the decisions of the Government of the Russian Federation for the introduction of quantitative limitations on export and import as well as ensuring equality among the foreign trade agents, protecting their rights and legal interests when the tenders and auctions are held for the sales of export and import quotas.

3. The notions used in the present Regulations shall have the following meaning:

"Commission" - The Inter-Departmental Commission for the Organization of Tenders and Auctions for Sales of Export and Import Quotas;

"General quota" - The quantitative limitations of export and import introduced by the Government of the Russian Federation;

"Quota" - A part of the general quota determined by the Ministry of Economics of the Russian Federation on the approval of the Federal executive authority organs concerned and forwarded to the Commission for the purpose of placement and sale at a tender or auction. The quota volumes for the goods placed for tender or auction shall be fixed by the Commission;

"Foreign economic agents" - The Russian foreign economic agents with no regard to the property form, registration location and market position which expressed in writing their consent to take part in the tender or auction on the proposed terms and conditions;

"Preliminary qualification" - Selection of bidders for the participation in the open tender having a practical working experience and possibilities for effective export or import of the goods offered for the open tender. The preliminary qualification shall be conducted in accordance with the regulations approved by the Commission;

"Consultant" - An organization and/or experts enlisted by the Commission for the methodical support of a tender or auction, preparation of the tender documentation, systematization and preliminary analysis of the tender proposals;

"Open tender" - A tender in which any foreign trade agents may take part. By the Commission's decision the open tender may be held with the preliminary qualification;

"Close tender" - A tender in which solely the Russian foreign economic agents may take part which received an official invitation from the Commission;

"Certificate" - A document granting to the winner in the auction the right to receive the license for export or import of the goods subject to quotas or licensing.

4. The method of placement (tender or auction) of export or import quotas shall be determined by the Government of the Russian Federation while taking the decision on the introduction of quantitative limitations on export and import.

5. The Commission shall be charged with the responsibility to organize the tenders and auctions in accordance with the Regulations on the Commission.

II. Tenders

6. Decisions concerning the form whereby the tender is held shall be taken by the Commission.

7. The organization and procedure for holding the tender shall include the following phases:

setting the subject of the tender;

setting the form of the tender (open, close);

preparation and publication in mass media of an announcement of the tender;

determination of potential bidders of the close tender and mailing invitations to them;

compilation of instructive materials aimed at holding the preliminary qualification of the bidders to be admitted to take part in the open tender;

preparation of tender documentation using the services of consultants and spreading thereof among the bidders on commercial terms;

collection of bids from the bidders;

effecting the preliminary qualification;

evaluation of the bids received and determination who the winner of the tender is;

signing of an agreement with the winner of the tender about the terms and conditions as well as the procedure for the implementation of the quota.

8. Tender timetable, goods nomenclature and quota volumes shall be determined by the Commission.

9. Announcements about the tender shall be published by the Commission in mass media at least 30 days prior to the date of the tender.

10. Should the close tender be held, official invitations shall be sent to the potential bidders by mail or fax.

11. Announcement about the tender shall comprise the following information:

time, location, form, subject and procedure of the tender;

term and conditions as well as the procedure for the implementation of the quota;

dates for the acceptance of the bids and of the preliminary qualification (if any);

address, fax number and contact phone number of the Commission;

closing date for receipt of the bids.

12. The tender documentation shall include:

instruction for holding the tender;

technical part of the documentation;

commercial part of the documentation;

model agreement between the Ministry of Foreign Economic Relations of the Russian Federation and the winner of a tender on the terms and conditions as well as the procedure for the implementation of the quota.

13. The instruction for holding the tender shall provide the procedure for the preparation and acceptance of the bids, evaluation thereof, receiving the tender documentation, opening of the envelopes, announcement of the tender results and holding negotiations with the winner of the tender.

14. The technical part of the tender documentation shall be specification of the goods for which the quota is offered to the bidders in the tender.

15. The commercial part of the tender documentation shall include information in respect to the following:

price of the goods and the pricing procedure;

delivery terms and conditions;
payment terms and conditions as well as the payment schedule;
transaction funding sources;
amount of deductions to the Federal budget.

16. Apart from the tender documentation the bids shall include the following documents and information about the bidder in the tender:

 requisite information of the bidder in the tender (legal address, phone number, telex number, fax number, bank account number);

 copies of the constituent and registration documents;

 production and financial indices for the preceding year;

 letter of the authorized bank about the solvency of the bidder in the tender;

 names of persons authorized to act on behalf of the bidder in the tender and having the right to sign documents on behalf thereof;

 copy of the balance sheet of the bidder in the tender as of the date preceding the date of the tender;

 certificate about the contracts executed for the last 12 months (by the goods or goods groups) including the indication of the major terms and conditions as well as the foreign counterparts.

17. The bid shall be accompanied by an effective bank guarantee or a payment document confirming the payment by the bidder of unconditional irrevocable earnest money to the special account of the Ministry of Foreign Economic Relations of the Russian Federation as a testimony of serious intention of the bidder in respect to the participation in the tender and as a fulfillment of the terms and conditions of the tender. The sum of the earnest money shall be fixed by the Commission on the proposal of the Ministry of Foreign Economic Relations of the Russian Federation approved by the Ministry of Finance of the Russian Federation.

18. The following bidders shall not be admitted to take part in the tender:

 being in the process of re-organization, liquidation or bankruptcy;

 having submitted untrustworthy information about themselves;

 being in default on the production of the bank guarantee or the payment document specified in Item 17 of the present Regulations.

The decision to deny a bidder access to the participation in the tender shall be taken by the Commission.

19. The date of the tender shall be deemed the date indicated in the announcement published by the Commission in mass media (for the open tender) or the date indicated in the official invitation mailed or faxed to a bidder in the tender (for the close tender).

20. The Commission may adopt a decision to prolong the term for the submittal of the bids which shall extend to all the bidders.

21. The bids shall be accepted solely in sealed double envelopes. The outer envelope shall contain an accompanying letter with the bank guarantee or the payment document attached as specified in Item 17 of the present Regulations. The inner envelope shall contain the bid. The name and address of the Commission shall be written on the outer envelope. The envelopes shall be opened at the meeting of the Commission.

The bids shall be kept in a special safe box. The outer envelope shall be registered by the Commission and the date and time of receipt thereof shall be indicated.

22. No bids received after the opening of the tender shall be accepted for consideration. The bidders on their own initiative may not introduce amendments in the bids submitted by them or withdraw the bids at the latest 3 days prior to the commencement of the Commission's deliberations.

23. The term for the consideration of the bids shall be set by the Commission as of the moment of opening the envelopes. While considering the bids, the conformity thereof with the tender documentation requirements shall be determined, the availability of the necessary documents and correctness of the execution thereof shall be verified.

24. Assessment of the bids shall be made within the term fixed by the Commission. The bidders or representatives thereof may not be in attendance when the bid assessment is being performed. In the course of the assessment the Commission has the right to invite the bidders to produce explanations, demand additional information and confirmation.

25. The Commission may invite consultants to take part in the assessment of the bids.

26. The information relating to the consideration and assessment of the bids shall not be conveyed to the persons not concerned with the assessment procedure. The members of the Commission and the consultants shall be liable for disclosure of such information.

27. According to the results of the consideration of the submitted bids the preference shall be given to the foreign trade agents capable of implementing the quota on the economic terms and conditions most profitable for the Russian Federation. As a result of the assessment the Commission shall arrange the bidders according to the degree of conformity of their bids to the criteria set forth in the

tender documentation and shall determine who the winner is. The decision of the Commission shall be made in the form of a protocol.

The protocol shall comprise:

name of the winner in the tender;

composition of the Commission;

results of the voting;

joint table of the offers contained in the bids;

terms for the signing of the agreement with the winner of the tender.

The protocol shall be subject to endorsement by the Chairman of the Commission.

28. The major selection criteria for the consideration of the bids shall be as follows:

terms of payment and the sum of the revenue and payments to the Federal budget;

lack of arrears in respect to the Federal budget;

guarantees for the observance of the terms and conditions of the tender;

practical foreign trade experience of the bidder with given goods.

29. The Commission shall not return the earnest money to the winner in the event the winner refuses to sign the agreement on the terms and conditions set forth in the tender proposal.

30. The organization and operating costs for the tender as well as the services of the consultants shall be paid from the resources paid by the bidders for the acquired tender documentation.

31. The tender shall be deemed accomplished, should:

less than 2 bids were received;

the submitted bids not contain the bank guarantees or the payment documents specified in Item 17 of the present Regulations and not meet the requirements to the budgetary efficiency of export or import of the goods;

the information comprised in the documents submitted by the bidders be untrustworthy.

32. The Commission shall not accept complaints from the bidders and shall not be liable or legally responsible before them, should the tender be declared accomplished. In such a case the earnest money shall be returned to the bidders.

33. Should in the course of the negotiations of the Commission with the winner of the tender, the winner of the tender put forward unacceptable conditions, the Commission shall have the right to begin negotiations with the second-in-the-arrangement bidder.

34. An abstract from the protocol on the winner of the tender shall be the document confirming the rights thereof to the issuance of the license in accordance with the established procedure.

35. The Commission shall not provide reasons for the selection to the bidders.

36. The Commission shall at the latest 5 days from the date of the determination of the winner of the tender forward a notification being an official invitation to the signing of the agreement between the bidder and the Ministry of Foreign Economic Relations of the Russian Federation.

37. Upon the completion of the tender the Commission shall return the earnest money to the bidders (excluding the winner). The earnest money shall be returned within the term set by the Commission from the moment of the announcement of the winner of the tender but not exceeding 5 banking days.

38. The earnest money of the winner of the tender shall be accepted to offset the performance of the obligations under the agreement on the terms and conditions for the implementation of the quota concluded between the winner and the Ministry of Foreign Economic Relations of the Russian Federation.

39. The Commission shall not return the earnest money to the bidder, should the bidder withdraw its bid after the expiration of the term for the acceptance of the bids or amend the bid in the course of the tender.

40. Should the tender be accomplished as a result of untrustworthy information comprised in the documents submitted by the bidders, the Commission may repeat holding the tender for the placement of the same quotas.

III. Auctions

41. Auction sale of quotas shall be performed by the Russian commodity exchanges (hereinafter referred to as "the exchanges") on the basis of an agreement on the interaction between these exchanges and the Ministry of Foreign Economic Relations of the Russian Federation. The Commission shall inform the exchanges of the general quotas established by the Government of the Russian Federation and put on sale.

42. Announcement of the auction shall be made by the exchange at the latest 30 days prior to the holding of the auction.

43. When auctions are organized and held:

the exchanges shall be prohibited to perform co-ordination between the bidders in the auction which has or may have as its result the curtailment of competition;

all bidders in the auction shall be familiarized with the rules for the auction within an acceptable term prior to the holding of the auction;

dismissal from the set of persons/entities entitled to take part in the auction may be effected solely in the event of them being in breach of the rules established for the auction;

neither of the bidders in the auction may be given preferential treatment including access to confidential information and reduction of the sum paid for the participation in the auction;

at least 3 persons/entities and/or groups of persons/entities shall take part in the auction;

one person/entity (group of persons/entities) may acquire more than 35 per cent of the quota volume put on sale in the course of a single auction;

the exchanges shall:

- not disclose commercial secrets of the bidders in the auction;
- forward to the Commission and provide to the bidders in the auction trustworthy information on the conduct of the auction;
- prior to the trading endorse the rules for holding the auction and forward them to the Commission.

Breach of the rules established by the present Item shall be deemed grounds for the recognition of the auction as unaccomplished. The quotas sold at the auction which has been recognized by the Commission as unaccomplished shall be deemed unused and shall be subsequently put on sale.

44. The Commission, proceeding from the nature of specific goods, put on sale at the auction and the special export or import terms (international obligations of the Russian Federation and other similar reasons) may determine the circle of the foreign economic agents to which access to the auction is granted.

45. On the basis of the submitted bids and the assessment of the efficiency of the auctions held by the exchanges earlier the Commission shall set up the quota volumes for auction sale at the exchanges, establish the start-up price for the lots, inform the exchanges concerned of the quotas allocated to them for sale and at the same time bring this information to the notice of the authorized representatives of the Ministry of Foreign Economic Relations of the Russian Federation in respective regions.

46. Auction sales of the quotas shall be effected within the term indicated by the Commission while informing the exchanges of the quotas.

47. While organizing and holding the auctions the exchanges shall submit to the Commission a timetable for holding the auctions and the protocols on the results thereof which shall also be forwarded to the Ministry of Foreign Economic Relations of the Russian Federation and the State Customs Committee of the Russian Federation.

48. Should the lots placed in the auction fail to be sold, the Commission jointly with the exchange at the latest 1 month prior to the expiration of the effective quota term analyze the causes of such a situation and shall take a decision aimed at rectifying the situation.

49. On the day of the auction the highest bidder at the auction and the management of the exchange shall sign a protocol on the results thereof which shall have the effect of an agreement. The highest bidder of the auction sale of quotas shall be issued a certificate by the Ministry of Foreign Economic Relations of the Russian Federation through its authorized representative in the respective region, the certificate being issued on the basis of a banking confirmation of the payment of the auction value of the lot within 10 banking days from the date of the trading. Upon the expiration of this term the lot shall be put on sale in the auction again.

50. The effective term of the certificates issued to the highest bidders in the auction may not exceed the effective term of the quota and may not be extended.

Should a repeated auction sale occur, the effective term of the certificate shall not be changed.

51. Should the certificates be lost, no duplicates shall be issued.

52. The owner of the certificate has the right to transfer it for a repeated auction sale by means of delivering it to the organizer of the auction at which it has been acquired.

53. Control of the correctness of holding a repeated auction sale of the certificates shall be the responsibility of the exchanges which notify the Commission of the repeated placement of the quotas.

54. The issuance of the license to the highest bidder in the auction shall be effected by the Ministry of Foreign Economic Relations of the Russian Federation on the basis of the certificate received by the highest bidder and the application filed by the exporter or importer for one kind of goods in accordance with the foreign economic activities nomenclature. The licenses issued shall not be assigned to other persons.

55. Should the license be made for a part of the quota acquired at the auction, the owner of the certificate shall be deprived of the right to auction sale of the remaining part thereof which shall be brought by the Ministry of Foreign Economic Relations of the Russian Federation to the Commission for repeated auction sale thereof.

56. The funds received from the auction sale of the quotas shall be remitted to the Federal budget. When a repeated auction sale of the certificate is effected the funds so received (provided their sum being lower or not exceeding the original sum) shall be credited to the seller's account.

57. The work relating to the keeping of the Federal data bank, paperwork, repeated paperwork (according to the results of a repeated sale) and the issuance of the certificates shall be performed at a charge. The rate and procedure of the charge shall be determined by the Commission as approved by the Ministry of Finance of the Russian Federation. The payment shall be effected on the current account of the Ministry of Foreign Economic Relations of the Russian Federation.

58. Should the highest bidder fail to implement within the established term the export or import quotas acquired by it at the auction, the resources remitted to the Federal budget or the settlements accounts of the owners of the certificates (in the event of a repeated sale) shall not be subject to reimbursement.

59. Copies of the certificates and licenses shall be delivered to the Federal data bank of the Ministry of Foreign Economic Relations of the Russian Federation and the State Customs Committee of the Russian Federation within 10 days after the execution of the certificates and licenses.

60. The Commission may recommend the terms and conditions for the implementation of export or import transactions in respect to the quotas sold at the auction.

61. For breach of the present Regulations the bidders in the auction shall be liable in accordance with the effective legislation.

REGULATIONS ON THE PROCEDURE FOR LICENSING EXPORT AND IMPORT OF GOODS (WORK, SERVICES) IN THE RUSSIAN FEDERATION (Approved by the Decision of the Government of the Russian Federation No. 1299 of October 31, 1996) (with the Amendments and Additions of January 28, 1997, February 2, March 14, December 29, 1998, October 12, December 15, 2000, July 26, 2004, February 4, 2005)

Decision of the Government of the Russian Federation No. 364 of June 9, 2005 recognized as having lost force in one month after its official publication Item 1 of the present Decision as concerns the approval of the present Regulations.

~~REGULATIONS ON THE INTER-DEPARTMENTAL COMMISSION FOR THE ORGANIZATION OF TENDERS AND AUCTIONS FOR SALES OF EXPORT AND IMPORT QUOTAS (Approved by the Decision of the Government of the Russian Federation No. 1299 of October 31, 1996)~~

~~1. The Inter-Departmental Commission for the Organization of Tenders and Auctions for Sales of Export and Import Quotas (hereinafter referred to as "the Commission") shall be set up to ensure coordinated activities of the Federal executive authority organs in implementing the decisions of the Government of the Russian Federation to introduce quantitative export and import limitations in accordance with the established procedure.~~

~~2. The Commission shall pursue its activities in keeping with the Constitution of the Russian Federation, Federal laws, decrees and directions of the President of the Russian Federation, decisions and directions of the Government of the Russian Federation, international treaties of the Russian Federation and the present Regulations.~~

~~3. The major task for the Commission's activities shall be optimal placement of export and import quotas by means of holding tenders or auctions among the Russian foreign trade agents while observing the principles of transparency, objectivity of assessment, uniformity of requirements and equal competition opportunities.~~

~~4. For the purpose of implementing its tasks the Commission shall:~~
~~publish announcements about the forthcoming tenders and auctions;~~
~~elaborate and endorse the rules for holding the tenders and monitor the implementation thereof;~~
~~analyze and generalize the bids in the tenders and auctions;~~
~~form up a data bank comprising data on the bidders in the tenders and auctions;~~
~~set the quota volumes for the auction sales at the exchanges and the start-up price of the lots;~~
~~keep a register of the bidders in the tenders and auctions;~~
~~keep record of the goods sold within the quotas placed at the tenders and auctions;~~
~~generalize and analyze the results of the tenders and auctions held;~~
~~effect if necessary re-distribution of the quotas or splitting them up into separate parts to be put on sale at several tenders or auctions;~~
~~determine on approval of the Ministry of Finance of the Russian Federation the rate and procedure for collecting the payment from the bidders in the tenders and auctions;~~
~~perform preliminary selection of the bidders for participation in the tender (preliminary qualification);~~
~~elaborate the tender documentation and distribute it among the contenders on commercial terms;~~
~~perform assessment of the bids and determine the winner in the tender;~~

hold if necessary negotiations with the winner in the tender for the purpose of concluding an agreement about the terms and conditions as well as the implementation of the quota between the winner in the tender and the Ministry of Foreign Economic Relations of the Russian Federation;

preserve confidential nature of the information comprised in the bids and the whole set of documents relating to the tender activities of the Commission;

inform the Russian commodity exchanges concerned about the allocated quotas and at the same time bring this information to the notice of the authorized representatives of the Ministry of Foreign Economic Relations of the Russian Federation in the regions;

consider the conflict situations that may occur as a result of holding the tenders and auctions.

5. The Commission has the right to:

inquire and receive from the Federal executive authority organs, enterprises and organizations of the Russian Federation materials, offers and statements on the issues within the competence of the Commission;

elaborate on its own and endorse the standing orders for its own deliberations, set up the working groups of the Commission;

bring for consideration of the Government of the Russian Federation in accordance with the established procedure proposals on the issues for which its decision is required;

determine the timetable and the form of the tenders;

elaborate the criteria for selection of the winner in the tender;

elaborate and endorse the tender documentation;

determine the sum of the earnest money and the price of the tender documentation;

determine the quota volumes for the auction sales;

set the start-up price of the lots;

determine the dates for holding the auction sales of the quotas;

take other decision within its competence on the issues of organizing and holding of the tenders and auctions.

6. The Commission shall:

exercise operative control of the observance of the established rules for organizing and holding the tenders and auctions;

endorse the results of the tender held;

timely inform the bidders of the changes in the terms and conditions of the tender and of the results of the tender;

keep records of the results of the tenders;

control the submittal by the winners of the tenders or auctions of bank guarantees or the payment documents confirming the payment of the earnest money serving as guarantee for the observance of the terms and conditions in respect to proper implementation of the quotas received by them.

7. The Commission shall be headed by the Chairman appointed by the Government of the Russian Federation.

The Chairman of the Commission shall be one of the top officials of the Ministry of Foreign Economic Relations of the Russian Federation.

The composition of the Commission shall be approved by the Government of the Russian Federation on the proposal of the Chairman of the Commission.

8. The responsible secretary of the Commission shall be appointed from among the officials of the Ministry of Economic Development and Trade of the Russian Federation.

9. The procedure for the deliberations of the Commission shall be determined by the standing orders thereof endorsed by the Chairman of the Commission.

10. The decisions adopted by the Commission within its competence shall be binding on all the executive authority organs represented in the Commission as well as for the Russian-foreign trade agents.

11. Depending on the nomenclature of the goods under consideration for which quotas are allocated the Commission's meeting may be attended by representatives of the Federal executive authority organs concerned.

12. Maintenance of the Commission shall be the responsibility of the Ministry of Economic Development and Trade of the Russian Federation.