

Approved
by the Order of the President of Ukraine
No. 478 of June 27, 1996

REGULATION
on the procedure for applying import restrictions in conformity with the rules and disciplines of the GATT/WTO

This Regulation shall define the procedure for applying import restrictions in respect of a certain product (regardless of the country of its origin) on the territory of Ukraine in the event of a considerable imbalance in Ukraine's internal market between a domestically produced product and the relevant imported product.

2. The terms used in this Regulation shall have the following meaning:

domestic industry - all domestic producers of a certain product or those among them who collectively account for a major share in the production of this product in Ukraine;

serious injury - a considerable overall weakening in Ukraine's internal market of a domestic industry in regard of the production of a certain product;

threat of serious injury - impendence of a serious injury which inevitably follows from the situation in Ukraine's internal market;

restrictions on imports of a certain product - tariff or non-tariff (quantitative) measures applied according to the prescribed procedure with respect to imports of a certain product provided that this product is imported into Ukraine in volumes increasing in terms of absolute figures or in relation to the volume of production of this product in Ukraine, which leads or may lead to serious injury to the domestic industry;

tariff restrictions on imports of a certain product - measures related to the application of an import duty on products imported into Ukraine;

non-tariff (quantitative) restrictions on imports of a certain product - measures which limit the volume of products imported into Ukraine over a designated period of time;

short-term import restrictions - import restrictions for a period of up to 180 days;

temporary import restrictions - tariff restrictions on import for a period of up to 200 days which are applied according to the prescribed procedure only under extraordinary circumstances provided there are grounds to believe that the growth of imports of a particular product may cause serious injury which will be difficult to eliminate.

3. Import restrictions shall be applied for a term necessary to prevent or eliminate serious injury to the domestic industry.

Restrictions on imports of a certain product shall be applied so that as a result of their application the estimated volume of imports of this product is at least as high as average import levels of this product calculated over the last three years for which statistical data are available. In exceptional cases more severe import restrictions shall be permitted, provided the introduction of these restrictions to prevent or eliminate serious injury is justified.

Import restrictions on products originating from a developing country shall not be applied, provided imports of these products from such country to Ukraine do not exceed three per cent of total exports of these products with the proviso that total imports of these products from developing countries to Ukraine do not exceed nine per cent of total imports of these products to Ukraine.

Import restrictions shall be applied for a term of up to 4 years and if, due to the deterioration of a domestic industry, further application of import restrictions is needed for the prevention or elimination of serious injury, this term may be extended to eight years as provided by this Regulation. The term for which import restrictions are imposed shall include the term during which temporary import restrictions, if any, have been in effect.

If import restrictions for a particular product are applied for more than one year, a gradual liberalization of these restrictions shall be implemented at equal periods of time.

If import restrictions for a particular product are applied for more than three years, they may be canceled or liberalized as soon as half this term has expired.

Import restrictions which have been extended under the first paragraph of this section shall not be more severe than those preceding this extension and shall be subject to review and liberalization in accordance with the basic procedure.

Subsequent restrictions on imports of a certain product may be introduced upon the expiration of a term equal to the term during which the previous restriction was in effect from the moment this previous restriction ceased but not earlier than in two years' time.

In the event of a short-term import restriction, the subsequent short-term restriction shall be applied provided that over the last five years before the introduction of a short-term import restriction not more than two restrictions of this kind had been applied and if since the introduction of the previous short-term import restriction one year has passed.

Decisions on the imposition of tariff import restrictions, exclusive of tariff restrictions on products liable to an excise duty, shall be adopted by the Cabinet of Ministers of Ukraine by report of the Intersectoral Committee on Import Regulation (hereinafter - Committee) and upon prior consideration and approval by the Customs and Tariff Council of Ukraine of proposals submitted by the Committee. If the Committee submits a recommendation to introduce tariff restrictions on imports of products liable to an excise duty, the Cabinet of Ministers shall file appropriate proposals to the Supreme Rada of Ukraine to solve this issue in the prescribed manner.

Decisions on the imposition of non-tariff (quantitative) import restrictions on a certain product shall be adopted by Cabinet of Ministers of Ukraine by report of the Ministry of Economy of Ukraine which shall contain the distribution of the maximum import levels of this product permitted into Ukraine over a designated period of time among countries importing this product into Ukraine. The above report of the Ministry of Economy of Ukraine shall be prepared on the basis of the Committee's decision. The break-down of maximum import levels of the appropriate product by countries-importers shall be drawn up on the basis of the Committee's proposals.

A decision of the Cabinet of Ministers of Ukraine on the imposition of tariff or non-tariff (quantitative) import restrictions shall take effect upon the expiration of 6 days after its publication in the newspaper "Uryadovy Kuryer".

The Committee shall consider the imposition of import restrictions on the basis of a written appeal from the interested ministries, central state executive bodies, unions of goods producers and individual

agents of economic activity of Ukraine.

The appeal shall contain the following data:

volume of imports of a certain product, ratio of its import levels to its production and consumption levels in Ukraine over the last three years;

prices for an imported product over the last three years in case there has been a considerable reduction of such prices as compared to the price for the same product produced in Ukraine;

state of a domestic industry over the last three years for which the following data are available: production capacity ratio, production levels, product stocks, quantity of products sold, market share engaged in this production, product price, profits, returns on investments, degree of liquidity of a product, percentage of population engaged in the production of a product.

Upon receipt of the above data, the Committee chairman shall announce consultations among Committee members, which shall be conducted within 10 days of such announcement.

If the Committee chairman deems it appropriate, the consultations may be conducted in written form in which case upon the expiration of 8 days after the Committee chairman announces such consultations the Committee members shall file their conclusions with the Committee secretariat.

During consultations the Committee members shall consider if there is any evidence confirming serious injury or threat of serious injury to a domestic industry and shall propose necessary measures to eliminate or prevent serious injury to a domestic industry.

On the basis of the results achieved during such consultations among the Committee members and taking into account their proposals, the Committee shall issue a decision to institute an investigation of any possible cause-and-effect relationship between increasing import levels and serious injury to a domestic industry or the existence of threat of serious injury (hereinafter - investigation), or to dispense with such investigation due to absence of any serious injury or threat of it.

The Committee's decision shall be published in the newspaper "Uryadovy Kuryer".

All interested parties as well as representatives of countries-importers shall have the right to participate in the investigation, to supply the Committee in written or any other form with data, documents and materials subject to consideration by the Committee as well as to obtain from the Committee at their written request information necessary to defend their interests, except for information defined as classified by laws of Ukraine.

During the investigation the Committee shall examine available information, documents and materials focusing on the factors which affect the state of a domestic industry and that of Ukraine's domestic market in respect of the product under consideration, notably:

rate and level of increases in imports of this product in terms of absolute figures or in relation to the volume of production of this product in Ukraine;

changes in the pattern of the domestic product market due to increases in imports of the product;

change in the ratio of the volume of production of the product in Ukraine to product sales and, as a result of this, a change of production capacity ratio in the domestic industry;

change in the ratio between income and inputs in the process of manufacturing given product in Ukraine;

employment problems due to increases in imports of the product and ensuing decline in production of this product in Ukraine;

export potential of the country of origin of the imported product or that of the country importing it

into Ukraine.

The investigation shall last for nine months. If necessary, this term may be prolonged by the Committee's decision, but not more than for two months.

On the basis of the results of the investigation and within the period prescribed by Section 14 of this Regulation, the Committee shall conduct a meeting where it shall pass a decision which will either confirm or disprove cause-and-effect relationship between increases in import levels and serious injury to the domestic industry or threat of such injury and will also contain measures necessary for the introduction of tariff and non-tariff (quantitative) import restrictions. The Committee shall file its decision to the appropriate agency as provided in Section 7 of this Regulation.

The Committee's decisions shall be published in the newspaper "Uryadovy Kurier".

When the Committee passes a decision on the introduction of non-tariff (quantitative) restrictions on the imports of a certain product, it shall prepare proposals on the break-down by countries-importers of maximum import levels of this product, permitted into Ukraine over a designated time period. In doing so the Committee shall reach arrangements on the distribution of quotas among such countries. In absence of such arrangements the proposals shall be based on the proportional distribution among appropriate countries depending on volumes and cost of their imports over the preceding period.

In those cases when there are grounds to believe that increases in imports of a certain product may inflict serious injury, which will be hard to remedy, the Committee shall present to the Cabinet of Ministers of Ukraine a proposal to introduce temporary restrictions on imports of this product.

The proposals, mentioned in the first paragraph of this section, shall be submitted by the Committee either at its own initiative or upon receipt by the Committee of an appeal under Section 8 of this Regulation and shall be based on consultations conducted in the prescribed manner.

When submitting proposals at its own initiative, the Committee shall simultaneously initiate an investigation which shall be carried out in the manner provided in this Regulation; The term of an investigation shall not exceed that of the imposed temporary import restriction.

On the basis of its findings, the Committee shall make proposals to revise the decision on the introduction of a temporary restriction on imports of the product under consideration.

In the event of imposing import restrictions for more than one year, on the Committee's recommendation the Cabinet of Ministers may pass a decision on the liberalization of import restrictions which are in effect or may submit appropriate proposals in respect of products subject to an excise duty to the Supreme Rada of Ukraine.

The Committee shall develop proposals for a gradual liberalization of an import restriction imposed for more than one year.

If import restrictions have been imposed for more than three years, before half this term expires, the Committee shall consider the possibility of lifting or liberalizing these import restrictions ahead of schedule. If the Committee comes to the conclusion that current import restrictions should be lifted or liberalized, it shall submit a report to the Cabinet of Ministers of Ukraine which may adopt an appropriate decision or submit appropriate proposals in regard of products which are subject to an excise duty to the Supreme Rada of Ukraine.

In the event of application or extension of import restrictions, the Cabinet of Ministers of Ukraine shall ensure the creation of the system of equivalent concessions and trade compensation for harmful impact on the countries whose imports have been restrained. The Committee shall prepare a package of measures which will constitute this system.

Head of Administration of the President
of Ukraine

D.Tabachnik