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Draft



THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF AFGHANISTAN

**DRAFT REGULATIONS ON IMPORT AND EXPORT
LICENSING OF 2013 (1391)**

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Draft Regulations on Import and Export Licensing

Objectives

Article 1

The objectives of this Regulation are:

1. to regulate the rules and procedures governing automatic and non-automatic licensing with respect to imports and exports,
2. such rules and procedures shall be in accordance with Afghanistan's international agreements, international best practices and;
- 3.

- 3.2 The applicant for a license shall in each case apply to (the Competent Authority). Where necessary, the Competent Authority shall coordinate with other relevant ministries or state bodies to secure approval of licenses. The applicant, however, shall only have to approach the Competent Authority in order to obtain the license.
- 3.3 The Competent Authority shall be the sole authority to decide upon applications for Import and Export licenses.
- 3.4 The procedures and requirements for applying and obtaining licenses shall be the same for all eligible persons. They shall moreover be neutral in application and must be administered in a fair and equitable manner.
- 3.5 A single license may be obtained for one or more good(s) and/or category(ies) of goods.
- 3.6 Application forms, including any renewal forms shall be as simple as possible. Only documentation and information that is strictly necessary for the proper functioning of the licensing regime may be included in application forms.
- 3.7 No license application shall be refused for minor documentation errors which do not alter basic data contained therein. No penalty greater than necessary to serve merely as a warning shall be imposed in cases where there is an omission or error with respect to documentation or procedures, where such mistake is clearly made without fraudulent intent or gross negligence.
- 3.8 Any refusal to issue a license or to honor a license must be provided to the applicant in writing if the applicant so requests.
- 3.9 The Competent Authority shall have the right to cancel an import license in any of the following justifiable cases:
 1. A decision was made to prohibit the Import or Export of goods subject to such license, in accordance with the provisions of this Regulation, after the license has been issued;
 2. A license holder violates the conditions of a license;
 3. A license was issued in contradiction to this Regulation or other relevant legislation; or
 4. A decision was based on incorrect information or was obtained by dishonesty or deceit.
- 3.10 In cases referred to in Article 3.9(1), the license shall not be cancelled for quantities of goods that have been paid for but not delivered, except in the case of urgent circumstances or *force majeure*.
- 3.11 In case of cancellation, the Competent Authority shall not refund the license fee to the importer or exporter.

- 3.12 The applicant shall have the right to appeal to the Commercial Court or other appropriate court in cases where the Competent Authority refuses to issue a license, or when there has been a premature unjustifiable cancellation of an import license.
- 3.13 The same provisions for obtaining a license shall apply for its renewal.
- 3.14 Licenses are transferable with the approval of the issuing Competent Authority.

Automatic Licensing
Article 4

In addition to Article 3, the following shall govern automatic import and export licenses:

- 4.1 Automatic licensing shall only be maintained for as long as the circumstances which gave rise to its introduction continue to exist and for as long as its administrative purposes cannot be achieved without the licensing.

5.4 Where an international agreement so requires, and subject to any additional or different rules therein, the following measure shall be taken:

- a. In the case of quotas allocated among supplying countries, interested countries having an interest in supplying the good concerned shall be promptly informed of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and this information shall be published 21 days prior to the effective date of implementation in the

- 5.9 When issuing licenses, the Competent Authority shall take into account the desirability of issuing licenses for goods in economically viable quantities.
- 5.10 In allocating licenses, the Competent Authority shall consider the import performance of the applicant. In this regard, the Competent Authority shall take into account whether licenses issued to applicants in the past have been fully utilized during a recent representative period. In cases where licenses have not been fully utilized, the reasons for this shall be examined and shall be taken into consideration when allocating new licenses. Consideration shall also be given to ensure a reasonable distribution of licenses to new importers, taking into account the desirability of issuing licenses for goods in economically viable quantities.
- 5.11 In the case of quotas administrated through licenses which are not allocated among supplying countries, license holders shall be free to choose the sources of imports. In