

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES¹

Notification under Article 7.3 of the
Agreement on Import Licensing Procedures

INDIA

The following communication dated, 18 September 2008, is being circulated at the request of the Delegation of India

Outline of system

1. The principal objectives of the present five-year Foreign Trade Policy of the Government of India are as follows:

Trade is not an end in itself, but a means to economic growth and national development. The primary purpose is not the mere earning of foreign exchange, but the stimulation of greater economic activity. The Foreign Trade Policy is rooted in this belief and built around two major objectives. These are:

- (i) To double India's percentage share of global merchandise trade within the next five years; and
- (ii) To act as an effective instrument of economic growth by giving a thrust to employment generation.

The Policy is operative from 1 September, 2004 to 31 March 2009. As part of this policy, India has already removed all the quantitative restrictions on imports being earlier maintained on account of balance of payment reasons. Apart from this, India has also reviewed the position of quantitative restrictions on Non-BOP items.

The restricted category of imports consists of:- (i) prohibited items, import of which are normally not allowed and (ii) restricted items, imports of which are allowed against a licence or in accordance with a public notice which indicates the conditions under which the items can be imported.

Purpose and coverage of licensing

2. All items may be imported without any restriction except for the restrictions indicated in the book titled ITC (HS) Classifications of Export and Import Items, 2004-2009 or any other provisions

¹ See document G/LIC/3, Annex, for the Questionnaire.

or law in force. To facilitate the importation of the restricted items, an import licensing system has been adopted.

The policy and procedures governing imports of various items is given in the Foreign Trade Policy which is valid for a specified period. The Handbook of Import-Export Procedures is also published to supplement the Foreign Trade Policy. In terms of Foreign Trade Policy (2004-2009), imports of all items, other than restricted items, are allowed without any restriction. The restricted items are imported against specific import licences or in accordance with Public Notices/ Policy Circulars issued for this purpose.

Importability of an individual item can be determined as per the policy indicated against such items in the ITC(HS) Classifications of Export and Import Items, 2004-2009. This compilation adopts the internationally accepted Harmonized System (HS) of Commodity Classifications as adopted by the Customs Cooperation Council (CCC), Brussels. The code classification adopted is the eight-digit level so as to provide a distinct existence to certain products. For the purposes of distinct identity, these codes are called Exim Codes indicating import policy of the goods against such codes/products. This publication is considered to be helpful in ascertaining the import policy of various products as covered by the respective Exim Codes in different Chapters.

The items presently under restriction include live animals, including fish, planting material (seeds), stones, metal waste, radio active material, psychotropic drugs, ozone depleting substances, arms and ammunition, explosives, plastic waste, sandalwood, security printing paper, nuclear reactors and parts thereof, radio and television broadcast transmitters, communication jamming equipment, aircraft, including helicopters and items covered under CITES or other similar domestic/international legislation.

Main licensing systems:

Grant of import licence for restricted items: An application for import of such items may be made to the Directorate General of Foreign Trade (DGFT) or any other licensing authority authorized by him on his behalf. The licensing authority may take the assistance and advice of a licensing committee. The licensing committee will consist of representatives of technical authorities.

3. All of India's trading partners receive MFN treatment in the issue of import licences.
4. The restrictions on imports are maintained only on grounds of safety, security and the environment. In respect of certain items, the conditions for import have been specified in a general way in public notices issued for this purpose and the need for licensing in individual cases has been eliminated.
5. The Foreign Trade (Development and Regulation) Act, 1992 and Foreign Trade (Regulation) Rules, 1993 provide statutory authority for administering import licensing. Section 3 of the Foreign Trade (Development and Regulation) Act, 1992 empowers the Central Government to make provisions on imports and exports.

Licensing is not a statutory requirement. However, imports of any restricted item is possible either through an import licence or in accordance with any public notice issued for this purpose. The relevant legislation provides full authority to the Government for this purpose. The Government can abolish the licensing system without legislative approval.

Procedures

6. I. A quota system is generally not adopted by the Government of India. However, wherever quotas are maintained, they are on MFN basis. The quantity and value of imports to be made from different countries are not published as all countries receive MFN status. Unless otherwise specially provided, import/export will be valid from/to any country. However, import/export of arms and related material from/to Iraq is prohibited. Import/export prohibitions on Iran and the Democratic People's Republic of Korea are applicable as per the relevant UN Security Council Resolutions. An import quota of 2.8 lakh MT for the year 2008-09 is being maintained on products covered under ITC (HS) Code Nos. 25151100, 25151210, 25151220 and 25151290 (marble and similar stones). A quota of 4,795 metric tonnes is being maintained on imports of sandalwood under ITC (HS) Code No. 44039922. However, import licensing is maintained for the smooth operation of the imports of restricted items. The requirements for filing applications for imports are published in the Handbook of Procedures, Vol. 1. These are publications, which are available for sale and also available on the website: <http://dgft.gov.in>. Wide publicity is also given to the Foreign Trade Policy through the media.

The Foreign Trade Policy remains valid for a specified period. The current Policy is valid for five years from 1 September 2004 to 31 March 2009. The Handbook of Procedures is also published simultaneously, indicating in detail the procedures to be followed for making applications for import licences.

II. Imports into India are generally not restricted through maintenance of quotas. The periodicity of quotas for the two items mentioned above is annual.

III. This question is relevant only in cases where a quota system is maintained. A quota system is generally not operative in India. The restricted items (other than those for which imports are prohibited) may be allowed against Specific Import Licences or in accordance with the Public Notices issued for this purpose. Such items are subject to Actual User Conditions unless this condition is specifically dispensed with. The names of the licence holders can be made available to the Government and export promotion bodies of the exporting countries upon request.

IV. As already stated, India normally does not apply quota restrictions on imports.

V. The application for specific licences mentioned in paragraph 2 above are processed after clearance by the Exim Facilitation Committee as per the prescribed time schedule for disposal.

VI. Import licences, wherever required, are issued within a specified period of validity, currently 24 months for shipment of goods. It is up to the importer to import goods at any time during the validity period of the import licence. Import licences are valid for the already shipped/arrived goods, provided customs duties have not been paid and the goods have not been cleared by customs.

VII. Import applications are submitted to the Office of the DGFT, New Delhi or its regional offices, as the case may be. The practice of routing licence applications through the sponsoring authorities has been dispensed with. Such applications are now considered by an Exim Facilitation Committee, wherever necessary, constituted for this purpose. There is a single administrative organ for considering these applications.

VIII. A quota system is normally not maintained in India. The import of restricted list items is allowed on technical criteria fixed by the Licensing Committee. There is no maximum limit to be allocated per applicant. The applications are examined as soon as they are received.

IX. At present, no imports into India are being made under bilateral quotas or export restraint arrangements.

X. As stated in reply 6.IX, no imports are made into India on the basis of export permits.

XI. The licences mentioned in paragraph 2 above are issued either with Actual User Condition or on freely transferable condition. However, these licences do not bear the condition that imported goods should be exported and not sold in the domestic market.

7.(a) The licences are valid for goods already shipped/arrived at the customs' ports but not already cleared by customs.

(b) Yes, if the applicant fulfils the legal requirements.

(c) No.

(d) The importer has to approach the DGFT for an import licence. The applicants need not approach other authorities for a visa note or approval. Only single administrative clearance is required.

8. The licensing authority may refuse to grant an import licence:

(i) if the applicant has contravened any law relating to customs or foreign exchange;

(ii) if it has been decided by the Central Government to import through State Trading Enterprises and distribution thereof through special or specialized agencies;

(iii) if any action against the applicant is pending under the Foreign Trade (Development and Regulation) Act, 1992, or rules and orders made thereunder;

(iv) if the applicant fails to pay any penalty imposed on him under the said Act; and

(v) if the applicant is not eligible for a licence in accordance with any provisions of the Export and Import Policy.

Eligibility of importers to apply for licence

9. All eligible persons, firms and institutions can apply for a licence provided they hold a valid importer/exporter code number (IEC).

Documentational and other requirements for application for licence

10. The application form indicates the type of information and the documents normally required for processing the application. The application format for import of restricted items is given in Aayaat- Niryaat Form (Import-Export Form) of the Handbook of Procedures, Vol.1, 2004-2009. This form is also available on the DGFT website: <http://dgft.gov.in>

11. The documents required upon actual importation are, besides the import licence, shipping documents and commercial invoices. Pre-shipment Inspection Certificate, Phyto-sanitary Certificate and Certificate of Origin are to be submitted on importation if the import policy mandates so.

12. Fees are charged on applications for licences according to the value of imports to be made.
 13. There is no deposit or advance payment requirement associated with the issue of import licences.
 14. An import licence shall normally be endorsed with a period of validity of 24 months. The licence may be revalidated for a period of six months by the licensing authority on merit.
 - 15-16. No.
 17. Licences are only required to import restricted items mentioned in paragraph 2 above. These licences are issued with Actual User Condition unless Actual User Condition is specifically dispensed with.
 18. No.
 19. Yes. Foreign exchange is provided by the authorized dealers for the import of goods. However, for the import of items appearing in the restricted category, an import licence is required. Normal banking procedures apply for obtaining foreign exchange.
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