

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES¹

Notification under Article 7.3 of the Agreement
on Import Licensing Procedures

INDIA

The following notification², dated 14 October 1999, has been received from the Permanent Mission of India.

Outline of the system

1. One of the main objectives of the present trade policy of the Government of India is to phase out quantitative and licensing controls regulating India's foreign trade. Keeping this objective in view, the current Export and Import Policy (Exim Policy) (valid for a period of five years from April 1997 to March 2002) has been announced by the Government on 31 March 1997. Revised edition of Exim Policy has been brought out on 1 April 1999 incorporating amendments made up to 31 March 1999.

In terms of Export and Import Policy for 1997-2002³, all capital goods, raw materials, intermediates, components, consumables, spares, parts, accessories, instruments and other goods may be imported without any restriction except to the extent such imports are regulated by the book titled "ITC (HS) Classification of Export and Import Items"³ or any other provision of this policy or any other law for the time being in force.

As per the ITC (HS) Classification book, items of import can be broadly classified into the following three categories:

- (i) Prohibited items, imports of which are not allowed under any circumstances;
- (ii) Canalised items, which can be normally imported through the designated canalising agencies;
- (iii) Restricted items, imports of which are allowed against specific import licence called Restricted Import Licence (RIL) or in accordance with a Public Notice, which indicates the conditions under which the item can be imported with or without a licence.

Purpose and coverage of licensing

2. Capital goods, raw materials, components, consumables, spares, intermediates, packing material, parts, accessories, instruments and other goods may be imported without any restriction

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

² Contains information on import licensing procedures as at 1 April 1999.

³ Available for consultation in the Secretariat (Market Access Division).

except to the extent that such imports are regulated by the book entitled "ITC (HS) Classification of Export and Import Items" or any other provision of this policy or any other law for the time being in force. For all the items falling in the restricted category an import licensing system has been adopted.

The policy and procedures governing import of various items is given in the Exim Policy which is valid for a specified period. The Handbook of Import-Export Procedures⁴ is also published to supplement the Exim Policy. Importability of an individual item is determined as per the policy indicated against such items in the ITC (HS) classifications of Export and Import Items. This compilation adopts the internationally accepted Harmonized System (HS) of Commodity Classifications as adopted by the Customs Cooperation Council (CCC), Brussels. Some of the codes have been created even at a ten-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.

Main licensing systems

(i) Special Import Licence (SIL): It is an entitlement which accrues to exporters and which is freely traded in the market. These licences are not item specific and any item falling under SIL list as per ITC (HS) Classification can be imported by the holders of these licences without any further permission or intimation to the authorities.

(ii) Restricted Import Licence (RIL): Paragraph 4.5 of the Exim Policy states that any goods import of which is restricted under ITC (HS) Classification of Export and Import items may be imported only in accordance with the licence issued in this behalf. Application in this regard may be made to the Director-General of Foreign Trade. An import licence may be granted by the Director-General of Foreign Trade or any other licensing authority authorized by him in this behalf. The licensing authority may take assistance and advice of an inter-ministerial licensing committee which consists of representatives from different administrative Ministries and technical authorities. These licences are non-transferable with Actual Users condition.

3. With the exception of Iraq all of India's trading partners receive m.f.n. treatment in the issuance of import licences.

4. The restrictions on imports of items under Restricted List and SIL List are maintained mainly on account of balance-of-payments problems (Article XVIII:B of GATT), on grounds of safety, security and environment protection policies (Article XX of GATT) and for fulfilling commitments under various international agreements. In respect of certain items, the conditions for import have been specified in Public Notices thereby eliminating the need for applying for licences.

5. The foreign Trade (Development and Regulation) Act, 1992 and the 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. Thus licensing is a requirement under these provisions which have a statutory backing. Import of any restricted item is possible either through an import licence or in accordance with any Public Notice issued on their behalf. Legislature has given full authority to the Government for this purpose. Legislative approval is not required for abolishing the system.

⁴ Available for consultation in the Secretariat (Market Access Division).

Procedures

6. I. A quota system is not adopted by the Government of India. Policy and procedure for import of restricted items is laid down in the Policy and Handbook of Procedure and also available on the website: <http://www.nic.in/eximpol>. Wide publicity is also given to the Export and Import policy through the media. No quota system is maintained so the question of allocating a quota amount to each country does not arise. Hence, the quantity and value of imports to be made from different countries are not published as all countries receive m.f.n. status with the only exception of Iraq.

The Export and Import policy is announced at the beginning of the financial year and remains valid for a specified period. The current policy is valid for five years from April 1997 to March 2002. The Handbook of Procedure is also published simultaneously indicating in detail the procedures to be followed for making applications for import licences.

II. Imports into India are not restricted through maintenance of quotas.

III. This question is relevant only in cases where a quota system is maintained and a quota system is not operative in India.

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

V. As per policy, a limit of seven working days has been prescribed for issuing of SIL whereas requests for RIL are processed within a time-period of three weeks since the applications are considered simultaneously by the Special Licensing Committee. The time-limit for processing SIL applications is five working days. However, applications for special licences mentioned in Paragraph 2(ii) above are also processed within five days after clearance by a special licence committee.

VI. Import licences are issued with a 12-month validity period. It is up to the importer to import goods any time during the validity period of the import licence. Import licences are valid for the already shipped/arrived goods upon making a special request.

VII. Import applications are submitted to the Office of the Director-General of Foreign Trade, 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 a Special Licensing Committee, wherever necessary, constituted for this purpose. There is a single administrative organ for considering these applications.

VIII. No quota system is maintained in India. The import of restricted list items is allowed on a first-come, first-served basis and past-performance is taken into consideration by the licensing committee in issuing licences. There is no maximum limit to be allocated per applicant. The track record and financial position of new importers is kept in mind while issuing the licences. The applications are examined as soon as they are received.

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

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

XI. Licences are issued with Actual User condition and do not bear the condition that imported goods should be exported and not sold in the domestic market.

7. (a) The licences are made valid for goods already shipped/arrived at the port of clearance on the request of applicant.

- (b) Yes, if the applicant fulfils the legal requirements.
- (c) No, there is no limitation for maximum number of applications for obtaining import licences.
- (d) The importer has to approach the Director General of Foreign Trade for an import licence. The applicants need not approach other authorities for 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 canalise imports 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;
- (v) if the applicant is not eligible for a licence in accordance with any provisions of the Export and Import Policy; and
- (vi) if no foreign exchange is available for the purpose.

The reasons for refusal are generally communicated to the applicant.

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). There is no system of registration of persons or firms permitted to engage in importation.

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 list items is given in Appendix 8 of the Handbook of Export and Import Procedures, 1997-2002.

11. The documents required upon actual importation besides the import licence are:

- shipping documents;
- commercial invoices; and
- certificates of origin, if required.

12. Fees are charged on the basis of CIF value of import licence application. The fees are: Rs 200 where the value does not exceed Rs 50,000, and Rs 2 for every Rs 1,000 or part thereof, subject to a minimum of Rs 200 and a maximum of Rs 150,000 (where the CIF value in the application exceeds Rs 50,000).

13. There is no deposit or advance payment requirement associated with the issue of import licences.

Conditions of licensing

14. An import licence shall normally be endorsed with a period of validity of 12 months. The licence may be revalidated on merits for such periods as the licensing authority may deem fit.

15. No.

16. Import Licences are issued with Actual User condition and are non-transferable.

17. Licences for items in the restricted list are issued with Actual User condition unless it is specifically dispensed with. No other conditions are attached to these licences.

Other procedural requirements

18. No.

19. Yes. Foreign exchange is provided by the authorized dealers in foreign exchange for import of goods. However, for import of items appearing in the Restricted List of Imports, an import licence is required. Foreign exchange is made available to cover imports. Normal banking procedures apply for obtaining foreign exchange.
