

WORLD TRADE ORGANIZATION

G/LIC/N/3/IND/5
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Committee on Import Licensing

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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES¹

Notification under Article 7.3 of the Agreement on Import Licensing Procedures

INDIA

The following notification, dated 15 March 2002, has been received from the Permanent Mission of India.

Outline of the system

1. One of the main objectives of the present five-year trade policy of the Government of India is to phase out the quantitative restrictions regulating India's foreign trade. The policy is operative from 31 March 1997 to March 2002. 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.

The restricted category of imports consists of (i) prohibited items, import of which is not allowed under any circumstances and (ii) restricted items, imports of which are allowed against Specific Import Licences or in accordance with a public notice which indicates the conditions under which the item can be imported 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 except to the extent that such imports are regulated by the restrictions indicated in the book titled ITC(HS) Classifications of Export and Import Items, 1997-2002 or any other provisions or law in force. However, to facilitate the importation of the restricted items, 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 Procedures is also published to supplement the Exim Policy. In terms of Export and Import Policy, 1997-2002, import of all items other than those restricted indicated in the book titled ITC(HS) Classifications of Export and Import Items, 1997-2002 is allowed without any restriction. The restricted items are imported against specific import licences or in accordance with Public Notices for this purpose.

However, 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, 1997-2002. 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.

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

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.

However, to facilitate import of the restricted items the import licensing system has been adopted. Importers who are willing to avail themselves of these facilities are subject to licensing.

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. Almost all of India's trading partners receive MFN treatment in the issue of import licences. The exception to this is Iraq (on account of UN sanctions) in case of which import licences cannot be used or issued.

4. The restrictions on imports are maintained only on grounds of safety, security and environment protection policies and ensuring adherence to international agreements. 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 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, import of any restricted item is possible either through an import licence or in accordance with any public notice issued for this purpose. Legislation has given 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 not adopted by the Government of India. However, import licensing is maintained for smooth operation of the import of restricted items. Formalities for filing applications for imports are published in the Handbook of Procedures, Vol. I. These are editions, which are available for sale and also available on, website: <http://www.nic.in/eximpol>. Wide publicity is also given to the Export and Import Policy through the media. A quota system is not maintained so the question of allocating a quota amount to each country does not arise. However, the quantity and value of imports to be made from different countries are not published as all countries receive MFN status; the only exception is Iraq on account of UN sanctions.

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 Procedures is also published simultaneously indicating in detail the procedures to be followed for making applications for import licences.

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

6.III. This question is relevant only in cases where a quota system is maintained and a quota system is not operative in India. The restrictive items (other than those imports of which 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.

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

6.V. The application for special licences mentioned in Para 2.4 above are processed within five days after clearance by the committee.

6.VI. Import licences, wherever required, are issued within a specified period of validity for shipment of goods. 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 provided customs duties have not been paid and the goods have not been cleared by customs.

6.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 a Licensing Committee, wherever necessary, constituted for this purpose. There is a single administrative organ for considering these applications.

6.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 basis by the licensing Committee. 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.

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

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

6.XI. The licences mentioned in paragraph 2 above are issued either with Actual User Condition or 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 shall be valid for goods already shipped/arrived at the port of licence.
- (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 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 there under;

- (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.

The aggrieved importer can file a representation with the Office of the DGFT. The representation is treated as an appeal by the DGFT.

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 items is given in Appendix 8 of the Handbook of Procedures, Vol.I, 1997-2002.

11. The documents required upon actual importation are, besides the import licence: shipping documents; commercial invoices; and certificates of origin, if required.

12. Fees are charged on application for licences according to the value of imports to be made. The present rates are: Rs. 200/- where the value does not exceed Rs. 50,000/-, and Rs. 2/- for every Rs. 1000/- or part thereof, subject to a maximum of Rs. 1.5 lakh (where the value exceeds Rs. 1 crore).

13. There is no deposit or advance payment requirements 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 period as the licensing authority may deem fit.

15-16. No.

17. Licences are only required to import restricted items mentioned in Paragraph 2.4 above. These licences are issued with actual user condition unless it is dispensed with.

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 category, an import licence is required. Foreign exchange is made available to cover imports. Normal banking procedures apply for obtaining foreign exchange.
