

AGREEMENT ON IMPORT LICENSING PROCEDURES

Notification under Articles 1.4(a), 8.2(b), 5 and 7.3 of the
Agreement on Import Licensing Procedures

INDIA

The following communication, dated 2 June 2005, is being circulated at the request of the Delegation of India.

Outline of system

1. The principal objectives of the present five-year Export and Import 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, 2004-31 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 is not allowed under any circumstances 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 item can be imported.

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, 2004-2009 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 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 import of all items other than restricted item is allowed without any restriction. The restricted items are imported against specific import licences or in accordance with Public Notices 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 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.

However, to facilitate import of the restricted items the import licensing system has been adopted. Importers who are willing to avail 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. 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 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 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. 1. 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. Unless otherwise specially provided, import/export will be valid from/to any country. However, import/export of arms and related material from/to Iraq shall be prohibited.

The Foreign Trade Policy remains valid for a specified period. The current Policy is valid for five years from 1 September 2004-31 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 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. 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.

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

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

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.

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. 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.

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 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 customs' port but not already cleared by the 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 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 Appendix 8 of the Handbook of Procedures, Vol.1, 2004-2009.
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.
13. There is no deposit or advance payment requirements associated with the issue of import licences.
14. An import licence shall normally be endorsed with a period of validity of 24months. 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 above. These licences are issued with Actual User Condition unless it is dispensed with.
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. Normal banking procedures apply for obtaining foreign exchange.
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