

IMPORT LICENSING SYSTEM OF INDIA

Questions to INDIA from TURKEY

The following communication, dated 3 October 2011, is being circulated at the request of the delegation of Turkey.

1. With its reserves of 3.8 billion cubic meters (m³) extractable marble, 2.7 billion m³ extractable travertine and 995 million m³ granite Turkey has a great potential in terms of natural stones and approximately 40 % of the world's natural stone reserves.

As the leading export item of the mining sector and a major source of employment, the significance of the natural stone sector in the nation's economy is quite large.

In the marble sector there are 2.100 marble mines, 1.500 small and medium scale plants and 7.500 workshops where nearly 250.000 individuals are employed. Almost all of the production is being done by the private sector. While the production of natural stone in Turkey in 2009 was nearly 4 million m³; in 2010 almost 5 million m³ production was carried out and the processing facilities have a total plate production capacity of 6.5 million m³. In 2009 Turkey ranked 3rd in the production of marble and travertine in the world.

Marble is exported either in blocks or cut and polished. The export potential of the sector is developing rapidly parallel to investments. In 2004-2010 Turkish exports of natural stone have increased by 154 per cent from 2.6 million tons to 6.6 million tons. Export income increased by 152 per cent from 621 million dollars to 1.568 million dollars. 53 per cent of the 2010 natural stone exports consist of processed products.

In 8th place just a few years ago in the world natural stone exportation, the Turkish natural stone sector has risen to the 5th place in 2006. Especially in the exports of marble and travertine, Turkey has left behind China, Italy and Spain in 2009 and became the biggest exporter in the world.

2. Turkey has substantial interest in trade with India regarding natural stones. India's share in Turkey's exports of natural stones has increased from 2.2 per cent in 2008 to 2.8 per cent in 2009 and 2010.

Turkey's exports of products subjected to quota and import licensing regime by India amounted to 2.93 million tons (424.8 million \$) in 2009, and its exports to India on the same products amounted to 111 thousand tons (36.8 million \$) in the same year; rendering Turkey's share in these products in Indian market 35 per cent.

In line with this strong interest and due to numerous reports from Istanbul Mineral and Metals Exporters' Association and Turkish exporters, Turkey closely follows India's import quota and licensing regime for marble and similar stones.

In its Replies to Questionnaire on Import Licensing Procedures (G/LIC/N/3/IND/12 dated 27 September 2011), India explained that, in pursuance of its Foreign Trade Policy 2009-2014, certain restricted items may be imported only with a specific import license or in accordance with the applicable Public Notices/Policy Circulars. These restricted items include marble and similar stones among others. In addition to the import licensing system, India also maintains an import quota on sandalwood, marble and similar stones.

India explained in the above-mentioned document that import restrictions are maintained on grounds of safety, security and the environment.

It is to our understanding that the latest Policy Circular for the issue of Rough Marble Blocks is 36/2009-2014 dated 31 March 2010 applicable for import for the financial year 2010-2011. This Policy Circular supersedes earlier Policy Guidelines for the issue of import licenses for rough marble blocks and lays down criteria for eligibility, entitlement and "floor price".

3. As a matter of fact, Turkey has serious concerns on many aspects of India's above-mentioned regime. First and foremost, Turkey expects from India a WTO-justified rationale for the measures being implemented rather than a broad reference to "safety, security and environment". Turkey's other concerns that need to be addressed are related to the scope and operation of this import licensing regime including the quota allocation procedures.

Specific questions of Turkey on these aspects have been brought up on many occasions with Indian officials, unfortunately to no avail.

4. Hence, below are Turkey's questions regarding India's import licensing and quota regime on marbles and similar stones:

- (a) In its notification G/LIC/N/IND/12, India indicates that "[a]n import quota is being maintained on products covered under ITC (HS) Code Nos. 25151100, 25151210, 25151220 and 25151290 (marble and similar stones)". The Policy Circular 36/2009-2014 on the other hand covers only HS Code Nos. 25151100 and 25151210. Are there other Policy Circulars regulating import of products under other 2 HS Codes, or are the products under HS Codes 25151220 and 25151290 excluded from the import quota and licensing regime?
- (b) Could India explain how the restriction on imports of marble and similar stones will alleviate concerns regarding "safety, security or the environment"? In what sense are the import licensing regime and import quota necessary for reasons of "safety, security or the environment"? Could India provide Turkey with reliable scientific data that imports of marble do create risks for environment and/or threaten human, animal or plant life or health?
- (c) Why is the eligibility of the units that may make applications for import licenses restricted in the manner set out in Policy Circular 36/2009-2014? Is it not the case that setting an eligibility criterion of 5 years long operation unfair for new operators?
- (d) Why does India impose a ceiling of 300.000 metric tons for the whole of the licensing year?

- (e) In its notification G/LIC/N/IND/12, India indicates there is no maximum limit to be allocated per applicant. However, in Policy Circular 36/2009-2014 it is stated that "eligible unit will be entitled for an import license on the basis of average indigenous sales turnover of processed marble slabs/tiles only, in the previous five financial years". Moreover, the quantity so calculated will be further subject to overall ceiling based on the number of marble gang saw machines the unit has. Could India explain this controversy?
 - (f) In its notification G/LIC/N/IND/12, India indicates that the applications are examined as soon as they are received. We, thus, understand that the applications are examined on a first come first served basis. Could India confirm that import licenses are provided on a first come first served basis? Could India further explain whether the DGFT HQ is required to process applications for import licenses within a particular time period? If so, could India please explain where such time periods are published?
 - (g) Is the "floor price" a license fee? if so, how is the price determined?
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