

# WORLD TRADE ORGANIZATION

RESTRICTED

**G/LIC/Q/IND/2**

21 January 1997

(97-0206)

---

**Committee on Import Licensing**

Original: English

## NOTIFICATION OF REPLIES TO THE QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES UNDER ARTICLE 7.3 OF THE AGREEMENT<sup>1</sup>

### Replies of INDIA to Questions from the EUROPEAN COMMUNITIES<sup>2</sup>

The following communication, dated 5 August 1996, has been received from the Permanent Mission of India.

---

#### Question

India has indicated that items appearing in the Negative List (other than those imports which are prohibited or canalised) may be imported against Specific Licences or in accordance with the Public Notice issued for this purpose (page 6, under VIII). How are such Specific Licences issued, and what is the allocation method used? Are there general rules to which these Notices refer?

#### Reply

Applications for import of restricted items are invited by the Director General of Foreign Trade (DGFT), Ministry of Commerce, Government of India, in the format prescribed in Appendix VII of Volume I of the Handbook of Procedures that accompanies the Export and Import Policy, 1 April 1992 to 31 March 1997 (incorporating amendments made up to 25 March 1996). An import licence may be granted by the DGFT or any other licensing authority authorised by him in this behalf. The licensing authority may take the assistance and advice of a Special Licensing Committee which is headed by the DGFT and consists of representatives of technical authorities and Department(s) with administrative responsibility for the item under consideration. Applications for the granting of import licences are considered on merit. General rules, where applicable, are prescribed in a Public Notice.

#### Question

If India enacts a Safeguards Legislation, by which legislation will the possible quota resulting from the safeguards measure be governed?

./.

---

<sup>1</sup>G/LIC/N/3/IND/1.

<sup>2</sup>See Understanding reached by the Committee on Import Licensing (G/LIC/M/4, paragraphs 5, 6, 9 and 10).

Reply

India does not maintain quota restrictions under the existing policy provisions. The issue will be addressed at the appropriate time.

Question

In the case of automatic licensing, why must an importer obtain an import licence before shipment of the goods from the overseas country (page 7, under 7)? Is this requirement in conformity with Article 2(2)(a)(ii) of the WTO Agreement, which provides that application for licences may be submitted on any working day prior to the customs clearance of the goods?

- In the case of automatic licensing, are licences granted immediately, within ten working days, or more?

Reply

It has generally been prescribed that an importer must obtain an import licence before shipment of the goods from the overseas country. However, in genuine cases, goods shipped before the issue of an import licence but after the submission of the connected import application can be allowed to be cleared by the Customs. In the case of imports of restricted items subject to automatic licensing, the licence issued shall be deemed to be valid for goods shipped before the issue of an import licence provided customs duty has not been paid and the goods have not been cleared, as has been provided, for instance, in paragraphs 43 and 43A of the Export and Import Policy for the procedure for application under the Export Promotion Capital Goods Scheme. This rule is in conformity with Article 2(2)(a)(ii) of the WTO Agreement on Import Licensing Procedures. Applications for imports of restricted items subject to automatic licensing are considered within ten working days, or as administratively feasible.

Question

India has indicated that imports of second-hand goods and machinery are permitted freely by actual users (page 2, under 6.I). How is this rule implemented? What are "actual users"? What is the regime for other importers?

Reply

The policy and procedures regarding the import of second-hand goods and second-hand capital goods are given in paragraphs 25 and 29 of the Export and Import Policy read along with paragraphs 27, 41 and 41A of Volume I of the Handbook of Procedures. "Actual users" have been defined in paragraphs 7(3), 7(4) and 7(5) of the Policy.