

NOTIFICATION OF REPLIES TO THE QUESTIONNAIRE ON IMPORT LICENSING
PROCEDURES UNDER ARTICLE 7.3 OF THE AGREEMENT¹

Replies of INDIA to Questions from the UNITED STATES²

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

Question

With reference to question 8 on "Procedures", in what cases would India not provide reasons for refusal of an application? Do they have the right of appeal? To whom?

Reply

In accordance with paragraph 2 of Section 9 of the Foreign Trade (Development and Regulation) Act 1992, the Director General of Foreign Trade (DGFT) or an officer authorized by him may refuse to grant or renew a licence to import or export on an application, after recording in writing his reasons for such a refusal. An appeal against the refusal may be made to the Central Government, where the decision or the order has been made by the DGFT, or to the Adjudicating Authority authorized by the DGFT in other cases. The provisions for appeal and revision of any decision or order are set out in Section 15 of the said Act.

Question

With reference to question 9 on "Eligibility of Importers to Apply for Licence", please explain who is eligible to apply for an import licence.

Reply

All persons who import or intend to import, for purposes other than for stock and sale, and hold an Importer-Exporter Code (IEC) Number are eligible to apply for an import licence. (Refer to Section 7 of the Foreign Trade (Development and Regulation) Act, 1992). No import or export shall be made by any person not granted an IEC Number unless specifically exempted under any other provision of the Policy. The policy provisions and procedures for the grant of the IEC Number are given in paragraphs 7 to 12A of Volume I of the Handbook of Procedures.

¹G/LIC/N/3/IND/1.

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

Question

With reference to the Special Import Licence (SIL):

- (i) who is eligible?
- (ii) what specific requirements must be met in order to obtain a SIL? Are these restrictions applied to the type of imports that meet these requirements?
- (iii) when were these measures instituted?
- (iv) what is the stated use/purpose?

The eligibility for Special Import Licences is as follows:

- (a) Export Houses, Trading Houses, Star Trading Houses and Super Star Trading Houses.
- (b) Exporters of telecommunication and electronic goods and services.
- (c) Export Oriented Units and Units in the Export Processing Zones which have acquired the ISO 9000 (Series) or IS/ISO 9000 (Series) or any other similar internationally recognized certification of quality as may be notified by the Government of India from time to time.
- (d) Manufacturers or processors that have acquired the quality status of ISO 9000 (Series) or any other similar internationally recognized certification of quality as may be notified by the Government of India from time to time.
- (e) Manufacturers and suppliers of goods that qualify as deemed exports.

The details of the policy and procedures for each of the above categories of eligibility for the grant of Special Import Licences are given in paragraphs 108, 122, 132B, 142 and 153 of the Export and Import Policy, 1 April 1992-31 March 1997 (incorporating amendments made up to 25 March 1996), and in Volume I of the accompanying Handbook of Procedures. The holders of Special Import Licences are eligible for the import of items listed in Appendix XXXV of Volume I of the Handbook of Procedures. The description of the products which can be imported against Special Import Licences is as indicated in columns 3 to 5 of the book "ITC (HS) Classifications of Export and Import Items" published and notified by the DGFT.

The Special Import Licence System was instituted in 1992. The scope has been progressively enlarged since then with the objective, *inter alia*, of imparting simplicity, transparency and automaticity in the import policy provisions and towards the elimination or minimization of licensing and other discretionary controls.

Question

While this measure (SIL) has been notified for some items to the BOP Committee, India's 10/95 Publication of the Export and Import Policy 1992-97 (aligned on ITC (HS) Classification) shows a number of licensing restrictions that do not invoke the consumer goods/BOP justification. These restrictions permit imports only against specific import licences or in accordance with a Public Notice issued for this purpose.

- (i) What are the WTO justifications for these barriers? India's 1994 response to the GATT Questionnaire on Import Licensing Procedures notes that import restrictions are employed for BOP, safety, security, environment, employment and the like reasons. The 1995 response omits the last two justifications. What has changed in the interim?

Reply

Refer to the notification mentioned in the reply to Question 6 above.

Question

(ii) Who is eligible to import goods under these as well as the BOP-justified restrictions, i.e. what is the definition of "eligible persons, firms and institutions" that are eligible to apply for an import licence?

Reply

Goods in respect of which the policy is that they may be imported against a freely transferable Special Import Licence shall be imported only against such licences and not otherwise, unless their import is permitted under any other scheme or licence or permission as provided in the policy. Eligibility has been elaborated in the replies to Questions 10 and 11.

Question

(iii) What happens after an eligible entity applies for an import licence, BOP-justified or not?

Reply

Refer to replies to Questions 1 and 9.

Question

(iv) When were these restrictions implemented and when were they first notified to the GATT and WTO?

Reply

The restrictions on imports have been maintained in independent India under the Imports and Exports (Control) Act, 1947, which has been replaced by the Foreign Trade (Development and Regulation) Act, 1992 and the Rules enunciated thereunder. The restrictions on imports have been reviewed periodically and announced through the Export and Import Policy in March every year or through Public Notices issued in this behalf. India has consulted regularly with the CONTRACTING PARTIES on its balance-of-payments restrictions, initially under Article XII, and since 1960, under Article XVIII:B of GATT. Refer also to the reply to Question 6.