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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

Revision

The following communication, dated 23 September 2013, for the year 2012 and 2013, is being circulated at the request of the delegation of India.

Outline of system

1. The current Foreign Trade Policy is for five years i.e. for a period 2009-2014. The category of imports under the current Foreign Trade Policy consists of: (i) prohibited items, import of which are normally not allowed, (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 items can be imported, (iii) those under state trading enterprises (STE) policy - the imports of which are permitted only through the designated STEs, and (iv) those which can be freely imported.

Purpose and coverage of licensing

2. All items may be imported without any restriction except for the restrictions indicated in the book titled ITC (HS) Classifications of Export and Import Items, or any other provisions or law in force as amended from time to time. To facilitate the importation of the restricted items, an import licensing system has been adopted.

The policy and procedures governing imports 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 (2009-2014), imports of all items, other than the prohibited and restricted items, are allowed without any restriction. The restricted items are imported against specific import licences or in accordance with Public Notices/ Policy Circulars issued 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. 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 the 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 very helpful in ascertaining the import policy of various products as covered by the respective Exim Codes in different Chapters.

Some of the items presently under restriction include live animals, including fish, planting material (seeds), stones, metal waste, radioactive material, psychotropic drugs, ozone depleting

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

substances, arms and ammunition, explosives, plastic waste, sandalwood, security printing paper, nuclear reactors and parts thereof, radio and television broadcast transmitters, communication jamming equipment, aircraft, including helicopters and items covered under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Chemical Weapons Convention (CWC) or other similar domestic/international legislation.

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 protection of human health or safety; animal or plant life or health; security and the 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 the Foreign Trade (Development and Regulation) Act, 1992 empowers the Central Government to make provisions on imports and exports. An amendment was done by the Foreign Trade (Development and Regulation) Amendment Act, 2010, which came into force w.e.f. 27 August 2010.

Licensing is not a statutory requirement. However, imports of any restricted item is possible either through an import licence or in accordance with the conditions specified in any public notice issued for this purpose. The relevant legislation provides 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 generally not adopted by the Government of India. However, wherever quotas are maintained, they are on MFN basis. 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 is prohibited. Import or export prohibitions on Iran, the Democratic People's Republic of Korea and Côte d'Ivoire are applicable as per the relevant UN Security Council Resolutions. The import/export of rough diamond (HS Code 710210, 710221 or 710231) from/to Venezuela is prohibited in view of voluntary separation of Venezuela from the Kimberley Process Certification Scheme (KPCS). An import quota is being maintained on products covered under ITC (HS) Code Nos. 25151100, 25151210, 25151220 and 25151290 (marble and similar stones). A quota is also being maintained on imports of sandalwood under ITC (HS) Code No. 44039922. However, import licensing is maintained for the smooth operation of the imports of restricted items. The requirements for filing applications for imports are published in the Handbook of Procedures, Vol. 1. These are publications, which are available for sale and also available on the website: <http://dgft.gov.in>. Wide publicity is also given to the Foreign Trade Policy through the media.

The Foreign Trade Policy remains valid for a specified period. The current Policy is valid for five years from 27 August 2009 to 31 March 2014. 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 generally not restricted through maintenance of quotas. The periodicity of quotas for the two items mentioned above is annual.

III. This question is relevant only in cases where a quota system is maintained. A quota system is generally not operative in India. The restricted items (other than those for which imports

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 governments and export promotion bodies of the exporting countries upon request.

- IV. As already stated, India normally does not apply quota restrictions on imports.
 - V. The application for specific licences mentioned in paragraph 2 above are processed after clearance by the Exim Facilitation Committee as per the prescribed time schedule for disposal.
 - VI. Import licences, wherever required, are issued within a specified period of validity, currently 18 months for shipment of goods. It is up to the importer to import goods at any time during the validity period of the import licence.
 - 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. A quota system is normally not maintained in India. The import of restricted list items is allowed on technical criteria fixed by Exim facilitation Committee. There is no maximum limit to be allocated per applicant. 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 on 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 are valid for goods already shipped/arrived at the customs' ports but not already cleared by customs.
 - b. Yes, if the applicant fulfills 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 a 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.

Paragraph 2.9 of the Foreign Trade Policy (FTP) (2009-2014) clearly mentions that no person may claim an Authorisation as a right and the DGFT or its Regional Authorities have the power to refuse to grant or renew the same. However, as per paragraph 2.49 of the FTP the DGFT has a Citizen's Charter and also a Grievance Redressal Committee to address the grievances of exporters and importers. The details are available at DGFT's website <http://dgft.gov.in>.

Eligibility of importers to apply for a licence

9. All eligible persons, firms and institutions can apply for a licence provided they hold a valid importer/exporter code number (IEC).

Documentation and other requirements for application for license

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 Aayaat-Niryaat Form (Import-Export Form) of the Handbook of Procedures, Vol.1. This form is also available on the DGFT website: <http://dgft.gov.in>.

11. The documents required upon actual importation are, besides the import licence, shipping documents and commercial invoices. Pre-shipment Inspection Certificate, Phyto-sanitary Certificate and Certificate of Origin are to be submitted on importation if the import policy mandates so.

12. Details of fee are given in Appendix 21-B of Hand Book of Procedures Vol-1 which is available at DGFT's website <http://dgft.gov.in>. There are also fiscal incentives for EDI based application (paragraph 2.70.3 of the Hand Book of Procedure Vol 1).

13. There is no deposit or advance payment requirement associated with the issue of import licences.

Conditions of licensing

14. As per paragraph 2.21 of the Handbook of Procedures (Vol.I), an import licence shall normally be endorsed with a period of validity of 18 months. The licence may be revalidated for a period of six months by the licensing authority on merit.

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 Actual User Condition is specifically dispensed with.

Other procedural requirement

18. No.

19. Yes. Foreign exchange is provided by the authorized dealers for the import of goods. However, for the import of items appearing in the restricted category, an import licence is required. Normal banking procedures apply for obtaining foreign exchange.
