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Committee on Import Licensing

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## REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES<sup>1</sup>

### NOTIFICATION UNDER ARTICLE 7.3 OF THE AGREEMENT ON IMPORT LICENSING PROCEDURES (2021)

#### INDIA

The following communication, dated 17 January 2022, is being circulated at the request of the delegation of India.

#### Outline of systems

1. Import licensing regime in India is administered by Directorate General of Foreign Trade under the Ministry of Commerce and Industry, Government of India. The Foreign Trade Policy 2015-2020 was notified in the Gazette of India vide Notification No. 01/2015-2020 dated 1 April 2015 and subsequently revised and notified vide Notification No. 41/2015-2020 dated 5 December 2017. 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 an authorisation 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.

#### *Main licensing systems:*

Grant of import authorisation for Restricted items: An application for import of such items may be made online on the Directorate General of Foreign Trade (DGFT) website. Import authorizations for restricted items are issued after due consideration of the Exim Facilitation Committee (EFC) which is constituted by members from concerned authorities of the Government of India.

Grant of registration number under IMS: The given systems are automatic registration systems wherein an importer is required to provide import item details and a prescribed registration fee for obtaining the registration number. Thereafter, the Importer is required to provide the Registration Number when filing the Bill of Entry to enable Customs to clear the consignment. The said processes are automatic import licencing procedures in accordance with Article 2 of the Agreement on Import Licensing Procedures.

#### Purpose and coverage of licensing

2. Import restrictions, where imposed are indicated in the book titled ITC (HS) Classifications of Export and Import Items, or as indicated by 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.

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<sup>1</sup> See G/LIC/3, Annex, for the questionnaire.

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 Procedures is also published to supplement the Foreign Trade Policy.

Importability of an individual item can be determined as per the policy indicated against such item 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 at the eight-digit level to provide a distinct existence to certain 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), Peas (*Pisumsativum*) including Yellow peas, Green peas, Dun Peas and Kaspas, melon seeds, stones, metal waste, radioactive material, psychotropic drugs, ozone depleting substances, arms and ammunition, bio-fuels, mercury, explosives, plastic waste, certain new pneumatic tyres, sandalwood, security printing paper, nuclear reactors and parts thereof, radio and television broadcast transmitters, agarbatti, palm oil, power tiller and components, colour television sets, gold in any form, other than monetary gold and silver in any form, 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.

Import of certain items has been made subject to compulsory registration under Import Monitoring Systems (IMS). Some of the items covered under IMS are steel under Steel Import Monitoring System (SIMS), Copper and Aluminium under Non-ferrous Import Monitoring System (NFMIMS), Coal under Coal Import Monitoring System (CIMS) and Integrated circuits under Chip Import Monitoring System (CHIMS)

3. All of India's trading partners receive equal treatment in the issue of import authorisations.
4. The restrictions on imports are maintained on grounds as notified in Paragraph 2.07 of Foreign Trade Policy. In respect of certain items, the conditions for import have been specified in a general way in public notices issued for this purpose.
5. The Foreign Trade (Development and Regulation) Act, 1992, as amended and Foreign Trade (Regulation) Rules, 1993 provide statutory authority for administering import licensing. Section 3 of the Foreign Trade (Development and Regulation) Act, 1992, as amended empowers the Central Government to make provisions for development and regulation of foreign trade and Section 5 of the Act provides for formulating and announcing the Foreign Trade policy and amend the same from time to time.

Licensing is not a statutory requirement. However, import of any restricted item is possible either through an import authorisation or in accordance with the conditions specified in any public notice issued for this purpose. The relevant legislation provides full authority to the Central Government for this purpose.

## Procedures

- 6.I. A quota system is generally not adopted. 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. A ceiling is being maintained on imports of sandalwood under ITC (HS) Code No. 44039922. The import of maize (feed grade) is subject to a TRQ allocated to eligible STEs as per para 2.61 HBP 2015-20. [DGFT Trade Notice No. 25 of 9 July 2019; DGFT Trade Notice No. 33/2019-2020 of 19 September 2019]. The import of Pigeon Peas (*Cajanus Cajan*)/Toor Dal against HS Code 07136000 was restricted to total imports of 400,000 MT for the year 2020-21. This restriction was not to apply to Government's import commitments under any bilateral/regional Agreement/MoU. Similarly, import of Urad dal, against HS Code 07133110 were restricted to an annual (fiscal year) quota of 400,000 MTs for the year 2020-21. This restriction was not to apply to Government's import commitments under any bilateral/regional Agreement/MoU. During the fiscal year 2020-2021, 200,000 MTs of pulses are being imported from Mozambique under the MoU signed between

the two Countries. A statement, indicating the quota allocated for import of Toor, Moong, Urad and Peas for the fiscal year 2020-21 and actual imports, is given below:

Item	Quantity in Metric Tonnes	
	2020-21	
	Allocation	Actual Import
Toor	400,000	442,623
Moong	150,000	81,990
Urad	400,000	334,791
*Yellow Peas	00	33,832
Green Peas	75,000	0
Other	75,000	12,500

\* Though the annual quota for Yellow Peas for the financial year 2020-21 was nil, the actual imports of Yellow Peas during the financial year 2020-21 were 33,832 MTs, because of Court cases where importers have been given relief by various Courts of India.

- II. For any Imports of "restricted" items into India, where there is a fixed quota to be allotted, periodicity of such quotas is mentioned in the Notification itself or an annual basis.
- III. This question is partly relevant only in cases where a quota system is maintained as in paragraph 6.I. Otherwise, import of "restricted" items (other than those for which imports are prohibited) is allowed against specific Import Authorisations 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 authorisation holders can be made available to governments and export promotion bodies of the exporting countries upon request.
- IV. Where the quotas are to be allotted, detailed procedure and timelines is laid out in the relevant Notification/Public Notices issued.
- V. The application for specific authorisations mentioned in paragraph 2 above are processed after clearance by the Exim Facilitation Committee as per the prescribed time schedule mentioned in the relevant Notification/Public Notices issued.
- VI. Import authorisations, wherever required are issued with a specified period of validity, generally 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 authorisation.
- VII. There is a single administrative organ for considering these applications. Import authorisation applications may be submitted online through the Directorate General of Foreign Trade (DGFT) Website. The applications are now considered by an Exim Facilitation Committee, wherever necessary, constituted for this purpose.
- VIII. The import of restricted list items is allowed on technical criteria fixed by the Exim Facilitation Committee. There is no maximum limit to be allocated per applicant.
- IX. Applications for import of items under Preferential or MFN Tariff Rate Quota (TRQ) scheme shall be submitted online through e-Tariff Rate Quota process under the Import Management System, on the DGFT website. The online procedure for applications of TRQ imports has been notified vide DGFT Trade Notice No.40/2020-2021 dated 4 February 2021. The request for TRQs is invited vide specific Trade Notices published on the DGFT Website from time to time. The allocation made is published on the DGFT website.
- X. Import of specified capital goods, raw materials and components from United States of America (USA) is subject to US Export Control Regulation, and US suppliers of such items are required to obtain an export authorization based on import certificate issued in India.
- XI. The authorisations mentioned in paragraph 6.II above are issued with Actual User Conditions, where applicable. Where authorisation is subject to Actual User Conditions, the goods imported cannot be sold in domestic market except, as per the provisions of FTP, 2015-2020.

- 7.(a) The authorisations are valid for goods already shipped/arrived at the customs' ports but not already cleared by customs.
- (b) Yes, if the applicant fulfils the legal requirements.
- (c) No.
- (d) The importer has to approach the DGFT for an import authorisation. 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 authorisation:
- 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 under the said Act; and
  - v. if the applicant is not eligible for an authorisation in accordance with any provisions of the Foreign Trade Policy.

Paragraph 2.14 of the Foreign Trade Policy (FTP) (2015-2020) 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 2.59 of the FTP, the DGFT has a Citizen's Charter and also a Grievance Redressal Mechanism to address the grievances of exporters and importers. The details are available on the DGFT website: <https://dgft.gov.in>.

#### **Eligibility of importers to apply for a licence**

9. All eligible persons, firms and institutions can apply for an authorisation 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 required for processing the application. The application format for import of restricted items is given in Aayaat-Niryat Form (Import-Export Form) of the Handbook of Procedures, Vol.1. This form is also available on the DGFT website: <https://dgft.gov.in>.

11. The documents required upon actual importation are:

- Import authorisation
- Shipping documents
- Commercial invoices
- Pre-shipment Inspection Certificate if the import policy mandates so
- Phyto-sanitary Certificate if the import policy mandates so
- Certificate of Origin if the import policy mandates so.

12. Details of fee are given in Appendix 2-K of Foreign Trade Policy which is available at DGFT's website (<https://dgft.gov.in>).

13. There is no deposit or advance payment requirement associated with the issuance of import authorisations.

#### **Conditions of licensing**

14. As per paragraph 2.16 of the Handbook of Procedures, 2015-2020, an import authorisation shall normally be endorsed with a period of validity of 18 months. The authorisation may be revalidated for a period of six months by the regional authority on merit.

15.-16. No.

17. Authorisations are only required to import restricted items mentioned in paragraph 2 above.

**Other procedural requirements**

18. No.

19. Yes. There is no restriction on foreign exchange for import. 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 authorisation is required. Normal banking procedures apply for obtaining foreign exchange.

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