REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

India

Revision

The following notification has been received from the delegation of India in response to the questionnaire on import licensing procedures annexed to L/5640. The present document replaces information previously contained in document L/5640/Add.7/Rev.1 of 9 October 1985.

1. Outline of systems

Imports into India unless otherwise exempted require import licences or a customs clearance permit. Imports of gold, silver, currency notes, bank notes and coins are controlled by the Reserve Bank of India under the Foreign Exchange Regulation Act. Import licences or customs clearance permits are issued by the Office of the Chief Controller of Imports and Exports, New Delhi and its regional offices in India. Import licences and customs clearance permits are issued on application to actual users, registered exporters etc. For the purpose of grant of licences for raw materials and components, preference is given to small-scale industries, and also to industries situated in backward areas or those set up by graduates in professional subjects, ex-service personnel and export-oriented industries. Imports of certain items is canalized through public sector agencies; and in respect of such items, the actual users have to obtain supplies from the canalizing agencies concerned. However, direct import of such canalized items is allowed in the case of licences issued to replenish the imported inputs used in exports. Imports of a large number of items is allowed to actual users under Open General Licence, i.e. without the requirement of specific import licences.

Except where bound by agreements and tied loans, no discrimination is exercised against any country in the matter of issue of import licences.

Purpose and coverage of the licensing

2. (i) Imports exempted from import control restrictions

Imports into India require import licences or a customs clearance permit unless otherwise exempted. The exempted category includes
imports on government account, imports under Open General Licences, relief supplies, passenger baggages etc. The products covered by such licensing are given in Schedule to the Imports (Control) Order, 1955.

(ii) **Open General Licence (OGL)**

Instead of specific licences, the Government of India sometimes gives general permission for importation of certain goods, subject to specific conditions. Such permission is known as Open General Licence. The list of such items are given in the Import Policy Book published from time to time. Import of items is allowed under Open General Licence for Actual Users as well as for stock and sale purposes. Import items such as a number of spare parts, raw materials, capital goods are allowed under Open General Licence by Actual Users. Research and development units, scientific and research laboratories, institutions of higher education and hospitals can also import their bona fide requirements under the Open General Licence. A number of items can also be imported under Open General Licence by all persons for stock and sale purposes. These are educational, scientific and technical books and journals, news magazines and newspapers, hides and skins, life-saving equipment, life-saving and anti-cancer drugs, homeopathic medicines, crude drugs for manufacture of Ayurvedic and Unani medicines, pulses, spices, dental materials etc.

(iii) **Licensing system to administer import restrictions**

Import of other items is allowed subject to licensing procedure. The policy and procedures governing import of various items is given in the Import Policy Book which is valid for a specified period. The Hand Book of Import-Export Procedures is also published as supplement to the import policy.

3. Generally licences can be used for imports from any country except South Africa and South West Africa. Licences issued against tied aid and foreign credits and from rupee payment area in specific cases are available only for imports from specified countries.

4. The main purpose of import licensing is to regulate and control imports in order to step up domestic production and eliminate non-essential imports.

5. The statutory authority on which the current import controls are based is the Imports and Exports (Control) Act, 1947. Under this Act, the Government of India has notified the Imports (Control) Order No. 17/55 dated 7 December 1955, for prohibiting, restricting or otherwise controlling imports. This order as amended from time to time continues to be in force.
The legislation leaves designation of products to be subjected to licensing to administrative discretion. It is not, however, possible for the Executive Branch to abolish the system without legislative approval.

Procedures

6. Imports into India are not restricted through maintenance of quotas. For the purposes of import licensing and control, items of raw materials, consumables, components and spares have been divided broadly as under:

(i) restricted items
(ii) banned items
(iii) items canalized through public sector undertakings
(iv) other items

Items of raw materials, consumables and components appearing in the Restricted List can be imported by actual users (industrial) through the system of supplementary licences.

Items appearing in the banned list are not allowed for import. However, the import of restricted items is allowed on a conservative basis in order to meet the essential requirements which cannot be met from indigenous sources. Such imports can be allowed against supplementary licences to the extent considered necessary in the interest of production.

Canalized items are supplied to actual users through the mechanism of allotments by designated canalizing agencies.

Items of raw materials, consumables and components which do not appear in the banned, restricted or canalized list can be imported by actual users under OGL for use in their manufacturing process.

For export production, import of banned items are allowed to replenish the imported inputs used in exports. Each export product indicates the types of items that would be permitted for import against these exports.

Detailed import policy to be followed for various categories of importers is announced at the beginning of the financial year in the form of a book known as Import & Export Policy (Volume I), which is valid for a specified period. The current policy is valid for a period of three years from April 1985 to March 1988. The Hand Book of Import-Export Procedures is also published simultaneously indicating in detail the procedures to be followed for making applications for import licences. Import & Export Policy and Hand Book of Import-Export Procedures are price publications.  

1Copies of these publications are available for consultation in the secretariat, room 1059.
The amounts of imports to be made from different countries are not published in the Import Policy Book and imports are allowed from all countries of the world except South Africa and South West Africa in terms of the policy indicated in the Import Policy Book.

(b) As already indicated, a quota system for restricting imports does not exist in India.

The import policy is valid for a specified period. Different criteria are followed in formulating the policy and determining eligibility for different categories of importers.

(c) This question is also relevant only in cases where a quota system is maintained and is not applicable to the system operative in India.

(d) As already indicated, a quota system for restricting imports is not maintained in India.

In the licensing system practised in India, import applications are submitted by different categories of importers on an annual basis as indicated in the Import Policy Book. A period of eight-and-a-half-months is available for actual users (industrial) for making applications for the import of their annual requirements of raw materials, components, consumables and spares. For new units the period allowed is eleven months instead of eight-and-a-half-months. Actual users (non-industrial) are given eleven months for making applications for their import requirements. Applicants are advised to submit applications well in advance of the last date, to allow adequate time to the authorities concerned to process it.

(e) Time-limits have been prescribed administratively for processing of import applications. If the application is complete in all respects, import licences can be granted immediately or within the shortest possible time.

(f) Import licences are issued with a specified period of validity for shipment of goods. It is up to the importer to import goods any time during the validity period of the import licence. Generally, the goods should be shipped from the exporting country, only after the import licence is issued, and licences cannot ordinarily be granted for the goods which have already arrived at the port.
(g) Import applications are submitted through the sponsoring authorities by the applicant, and, after scrutiny those applications sent by the sponsoring authority to the licensing authority for issue of licences. In some cases, consultation with the technical authorities concerned is also necessary.

(h) No quota system is maintained. Licences are granted to the actual users to the extent considered necessary. If the value of licence is subsequently found not sufficient to meet the requirements, actual users are entitled to make further applications. Import applications are considered in chronological order based on the date of receipt of the applications.

(i) At present, no imports into India are being made under bilateral quotas or export restraint arrangements.

(j) As stated in 6(i), no imports are made in India on the basis of export permits.

(k) Under the import policy for registered exporters, import licences are granted by way of replenishment of imported material required for the manufacture of the products already exported by the applicant. The products against the export of which replenishment is allowed, the percentage of import replenishment as well as materials allowed for import against each product are contained in the Annex to the Import Policy Book. These replenishment licences do not bear actual user condition and are freely transferable. Import replenishment licences issued against exports of some products allow imports duty-free.

Advance and imprest licences are also issued to supply imported inputs for export production and will bear a suitable obligation.

Sometimes import of goods free-of-cost is allowed for jobbing, repair, servicing, reconditioning or processing in India for re-export, subject to such conditions as may be laid down.

7. An importer must obtain import licence before shipment of the goods from the overseas country. However, in genuine cases goods shipped before issue of import licence but after submission of the connected import application, can be allowed to be cleared by the customs.

Licences are granted wherever it is due to the importer in terms of the import policy in force. Within the framework of the import policy, issue of a licence can be expedited to meet exigencies.
Applications for import licences are to be submitted within the dates prescribed in the import policy, as already indicated in paragraph 6(d).

8. The licensing authority may refuse to grant import licence:
   
   (i) if no foreign exchange is available for the purpose;
   
   (ii) if the grant of licence to an applicant is prejudicial to the interest of the State;
   
   (iii) if it has been decided to canalize imports and distribution thereof through special or specialized agencies or channels;
   
   (iv) if the applicant is a partner in a partnership firm, or a director of a private limited company which is for the time being subject to any action under clause 8, 8A or 8B of the Import (Control) Order, 1955;
   
   (v) if the applicant is for the time being subject to any action under clause 8, 8A or 8B of the Import (Control) Order, 1955;
   
   (vi) if the applicant is a partnership form or a limited company, any partner or whole-time director or managing director whereof as the case may be, is for the time being subject to any action under clause 8, 8A or 8B of the Import (Control) Order, 1955; and
   
   (vii) if any amount demanded from the applicant under the Customs Act, 1962 or any penalty imposed on him under the said Act has remained unpaid for a period of three months.

   The reasons for refusal are generally given to the applicant:

   Where person is not satisfied with the decision of the licensing authority, he can make an appeal or revision application in accordance with the prescribed procedure. Such appeal/revision application can be made within a period of forty-five days from the date of receipt of the order/decision appealed against and has to be accompanied by the prescribed appeal fee.

   Eligibility of importers to apply for licence

9. In the case of imports requiring licences, all eligible persons, firms, institutions can apply. The Import Policy Book gives details of the persons eligible to apply for each category of licence.
Documentational and other requirements for application of licence

10. A sample form for import of raw materials, components and spare parts is attached. This form indicates the type of information and the documents normally required for processing the application. These are published in the Handbook.

11. The documents required upon actual importation are, besides the import licence:

   (i) shipping documents,
   (ii) commercial invoices, and
   (iii) if required, certificates of origin.

12. Fees are charged on application for licences according to the value of imports to be made. The present rate is Re 1 for every Rs 1,000 or part thereof, up to a value of Re 1 crore, and 50 paise per additional thousand or part thereof above Re 1 crore subject to a minimum of Rs 50 and maximum of Rs 25,000. In the case of small-scale units the fee is Rs 0.50 only for an application not more than Re 1 lakh in value.

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

Conditions of licensing

14. Import licences are issued with a specified period of validity for shipment of goods. In the case of import licence for capital goods, the validity period is twenty-four months. In respect of licences for raw materials/components, consumables and spares, the validity is eighteen months. The period of validity of an emergency licence is twelve months. Licences issued against foreign credits are normally valid for twelve months or the terminal date of the credit. The validity of an import licence is not generally extended. However, in the case of licences granted for capital goods, the period of shipments can be extended by twelve months beyond the period set down in the licence, if the licensing authority is satisfied that the import could not be made within the initial validity for genuine reasons.

15. There is a provision for taking action for non-utilization or part-utilization of the import licence, but this provision is not normally invoked.

16. Import licences issued to actual users, including the imports under "Open General Licence" by actual user, carry a specific condition to the effect that the imported goods shall be used by the licence holder in the importer's factory, as the case may be, and for the purpose for which the import is allowed.
However, import licences issued by way of replenishment of imported material required for the manufacture of products already exported, are freely transferable and they do not bear actual user condition. An exception in this regard has been made in the case of additional replenishment licences issued to recognized export houses in relation to their past exports and used for importing OGL items for actual users. These are not transferable.

17. The following conditions are applicable to import licences:

(i) Import licences are not normally transferable, except (REP) licences.

(ii) The goods for the import of which a licence is granted shall be new goods, other than disposal goods unless otherwise stated in the licence.

(iii) Where an irrevocable letter of credit is opened by the holder of the licence to finance the import of goods covered thereby, the bank through whom the credit is opened shall be deemed to be a joint holder of the licence to the extent of the goods covered by the credit.

(iv) Payments authorized to be made against the licence shall not cover any commission, discount, or like rebates allowed by the foreign suppliers/manufacturers to the importers/agents.

(v) Actual users shall use the material imported against the import licence only for the purpose for which the licence has been issued.

(vi) The raw materials, components and spares imported shall be used only in the licence holder's factory. These may be processed in the factory of another manufacturing unit, but no portion thereof shall be sold to any party. The goods so processed shall be utilized in the manufacturing process undertaken by the licensee.

Other procedural requirements

18. No.

19. Import licence carries with it an exchange control copy in addition to the customs clearance copy. On the basis of the exchange control copy, the foreign exchange is provided by the banking authority after the licensee presents the exchange control copy to them. In respect of imports made under "Open General Licence", foreign exchange is provided by the bank on presentation of import documents.

Foreign exchange is always made available to cover licences issued.
APPENDIX V—D
FORM FOR ACTUAL USERS
FORM-A

(Application Form for Import of Raw Materials/Components/Consumables and Spares (Other Than Capital Goods) by All Actual Users and Public Sector Undertakings for Initial/Supplementary Licences)

Licensing Period ...........

PART 1

1. Name and address.
2. Address of factory/unit.
3. (a) Registration No. allotted by the sponsoring authority or number and date of industrial licence.
   (b) Date of establishment of the unit.
4. (a) Description of goods manufactured.
   (b) Book value of production in the previous financial year (i.e. ex-factory cost of products) less excise, if any.
5. C.I.F. value of the licence applied for
   (a) Iron and steel items.
   (b) Other items.
   (c) Spares (other than OGL).
   (d) Scientific & Measuring instruments.
6. Bank receipt/Demand Draft No. & date, as the case may be, attached in original, with the application.
7. Capital investment on machinery and equipment:
   (a) Imported machinery (C.I.F. value).
   (b) Indigenous machinery, having imported components (purchase price).
   (c) Other indigenous machinery (purchase price).
8. Number and value of (automatic and supplementary) import licence(s) issued for last two licensing periods.
9. In case of application for supplementary licence, the following should also be furnished:
   (i) Stocks in value and quantity of imported raw materials and components falling under restricted/limited permissible category in hand on the date of application.
   (ii) Stocks in value and quantity of imported raw materials and components falling under restricted/limited permissible category in the pipeline against import licence issued under the previous policies.
   (iii) Production programme/phased programme approved/assessed capacity.
   (iv) Licensed capacity/capacity covered by registration.

(v) Details of items applied for import indicating for each item, quantity required, C.I.F. value, Ex No. and Appendix No. under which the item is covered under current import policy (separate lists to be submitted for banned and restricted items).
(vi) Country of import.
(vii) Details of unutilised import licences in hand excluding material in pipeline covered at Sl. No. 9(ii).
(viii) Details of proposed utilisation of materials and licences as at 9(i), 9(ii) and 9(vii).
(ix) Full justification for claiming supplementary licences. If the application has been made on the basis of order book position, details of order received along with order-wise requirements of various items covered as 9(v) above to be indicated.
(x) In the case of Iron & Steel items please attach three copies or photocast copies of inquiries sent to indigenous manufacturers for supply of raw materials proposed to be imported under the supplementary licences and replies received thereto.

10. (a) Nature of the concern; whether Public Company or Private Company, partners or Hindu Undivided Family concern.
    (b) Names of the Directors, Partners, Proprietor or Khata as the case may be.
    (c) Details of branches or associate companies (names and locations):
        (i) in India
        (ii) abroad.

11. Do you require any subsidiary licences to be issued, if so, state the number of subsidiary licences and value thereof.
12. Are you actually adhering to the approved phased manufacturing programme?
13. Whether Industrial Licence/Registration Certificate is still valid.

PART II

INCOME-TAX DECLARATION

(From for income-tax-declaration has been given in App. I-I.)
APPENDIX V—D (Contd.)

PART III

STATEMENT SHOWING CONSUMPTION OF IMPORTED RAW MATERIALS, COMPONENTS AND CONSUMABLES

Name and address of the unit:

1. Product(s) manufactured:

I. F. value of consumption of imported raw materials, components and consumables during preceding 9 licensing years, in respect of:


(ii) Iron and Steel items mentioned in Appendix 3 Part-B of Import & Export Policy for 1985-88 Rs. 

Book value of production worked out during the period against consumption indicated against item 3 above. Rs. 

Reck-up of the total C. I. F. value of consumption into:

(i) Imported against applicant’s own actual User licences Rs...

(ii) Imported by the applicant under OGL (items which were earlier on OGL but are in Appendix 3 Part-A in 1985-88) Rs...

(iii) Procured by the applicant from other authorized sources Rs...

Capital investment on Machinery and equipment

- Imposted machinery (CIF) value Rs...

- Indigenous machinery having imported components. (Purchase Price Rs...) 

- Other - indigenous machinery. (Purchase Price Rs...) 

(1) I/We hereby declare that the consumption of raw materials/components and consumables shown above is in respect of only the items imported against our own licences and/or obtained from other authorized sources. I/We have not included in the consumption, the value of imported raw materials/components/consumables given to us by other units for intermediate processing on job basis. 

I/We have also not included in the consumption, the value of imported raw materials/consumables used by us for manufacture on behalf of ten licences under the Drugs & Cosmetics Act, 1940.

(2) I/We hereby declare that I/We obtained/did not obtain A.U. licences for raw materials, components and consumables for the preceding licensing years and my/our case falls/does not fall under para 92 of chapter V of Import/Export Policy, 1985-88.

(3) I/We hereby declare that the above statements and financial information are true and correct to the best of my/our knowledge and belief and nothing has been concealed; that all the register(s) and records prescribed have been maintained and that the financial information has been drawn up from and is in agreement with the register(s) and records so maintained.

(4) I further certify that I am authorised to verify and sign this statement.

(5) I/We fully understand that any information furnished in the above statement, if proved incorrect or false, will render me/us liable for any penal or other consequences as may be prescribed in law or otherwise warranted.

Signature

Name of the Exporter

Full official address

Place:

Date:

*If any records/register(s) have not been maintained, they may be specified below:

1. 

2. 

3. 

4. 

CERTIFICATE OF CHARTERED ACCOUNTANT/COST ACCOUNTANT/COMPANY SECRETARY/SPONSORING AUTHORITY

I/We hereby confirm that I/we have examined the prescribed register(s) and also the relevant records of the applicant company for the year ending———

for the period from———

and hereby certify that:

(i) M/s———have maintained a proper account consumption of imported raw materials components, spares, consumables, packing materials etc. as per Appendix V-C of Handbook of Import-Export Procedures;

(ii) the above firm/company has furnished to the sponsoring authority concerned their production returns for the preceding financial year as required under the relevant provisions of Industries (Development & Regulation) Act, 1951, the provisions of Import and Export Control Rules, Textile Control Order, etc.;

(iii) the following documents and records have been furnished by the applicant and had been examined and verified by me/us namely:

Import Contracts, Bills of Lading (and/or Airway Bills/PP Receipts), invoices, Bills of Entry, Delivery Vouchers, Receipt of goods, Consumption Registers maintained as per rules, evidence of foreign exchange payment made for imports, records for local supplies from authorised sources, namely Export/Trading House/Other Importers, connected invoices, relevant delivery vouchers/receipts of goods, payments made for such locally
APPENDIX V—D (concl.)

Nota 1.—All the pages of statement should be signed and stamped by the Chartered Accountant/Cost Accountant/Company Secretary/Sponsoring Authority.

2. In respect of the imported materials procured from authorised sources (other than those imported directly against licences issued to the applicant), the c.i.f. value to be given against column 3 of the statement will be assessed by the Chartered Accountant/Cost Accountant/Company Secretary/Sponsoring Authority, in its own best judgement.

3. Applicant should also enclose a statement duly signed in duplicate indicating the description of raw materials, components and spares with c.i.f. value imported under O.G.I during the preceding year.

4. In case of units which obtained no licence during the last two Licensing periods but procured the required materials from authorised sources, the details of purchases made i.e. name of the person from whom procured, the date of procurement and value of materials may be furnished.

5. Information in col 9 (iii), (iv), (v) and (vi) of Part—1 should also be furnished in respect of first application.

6. Consumption certificate need not be filled by proposed units and departmentally run units in the public sector.

7. Consumption in column 3 of consumption certificate should be in respect of the financial year i.e. from 1st April of the year to 31st March.

8. In the case of public sector undertakings, the statement may be certified by the Internal Auditor of the undertaking.

9. The Certificates at S. No. (iii), (vi), (vii) and (viii) are applicable only to Chartered Accountant/Cost Accountant/Company Secretary.

DOCUMENTS TO BE FURNISHED

(1) Application form should be in quadruplicate.

(2) Original Bank Receipt/Demand Draft for application fee to be enclosed.

(3) Consumption certificate should be duly certified by Chartered/Cost Accountant/Company Secretary in Quadruplicate.

(4) Seven copies of list of items to be imported. One copy should be certified by the sponsoring authority.

(5) Photostat Copy of Industrial Licence/Registration Certificate/Drugs Manufacturing licence.

(6) Any other document required in terms of the policy.

(7) Income-Tax declaration form as per Appendix-II-O.

*Note: For the import of Iron and Steel items, appearing in App. 2B and 3B to the Import and Export Policy 1985-88 (Vol. I) the details as in the Annexure 'B' to this form may also be furnished duly signed by the applicant and certified by a CA/Cost Accountant/Company Secretary.

1. 2. 3. 4.

procured imported goods and connected books of accounts/documents;**

(iv) the relevant register has been authenticated under my/our seal/signatures;

(v) the financial information given in the above statement is in agreement with the relevant register and records; the same has been incorporated in the books of accounts maintained by the exporter, and is also true and correct;

(vi) it has been ensured that the information furnished is true and correct in all respects; no part of it is false or misleading and no relevant information has been concealed or withheld;

(vii) neither I, nor any of my partners, is a partner, director or an employee of the above named entity or its associated concerns;

(viii) fully understand that any statement made in this certificate if proved incorrect or false, will render me/us liable for any penal or other consequences as may be prescribed in law or otherwise warranted.

(Signature and Stamp/Seal of the Signatory)

(Chartered Accountant/Cost Accountant/Company Secretary/Sponsoring Authority)

Name of the signatory__________________________________________

Place: ________________________________

Full Address__________________________________________________

Date: ________________

Membership No. ____________________

(In case of Chartered Accountant/Cost Accountant/Company Secretary)
## ANNEX A

*(For import of Non-Iron & Steel Items appearing in App. 2-D & 3-A of the Import Policy, 1985-86)*

### STATEMENT OF REQUIREMENT, PAST CONSUMPTION, STOCKS, ETC

<table>
<thead>
<tr>
<th>Description of the Items applied for (MT)</th>
<th>Quantity applied for Rs.</th>
<th>CIF</th>
<th>Past consumption (MT)</th>
<th>Stocks in Hand (MT)</th>
<th>Stocks in Pipeline (MT)</th>
<th>Un-utilized and valid Licence No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item No. &amp; App. applied by the Applicant</td>
<td>Item is covered.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Entry No.</th>
<th>Description of the Items applied for (MT)</th>
<th>Quantity applied for Rs.</th>
<th>CIF</th>
<th>Past consumption (MT)</th>
<th>Stocks in Hand (MT)</th>
<th>Stocks in Pipeline (MT)</th>
<th>Un-utilized and valid Licence No.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Item No. &amp; App. applied by the Applicant</td>
<td>Item is covered.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### NOTE:
1. Statement to be submitted in 6 copies.
2. Separate statements should be submitted for the Items appearing in App. 2-D & App. 3-A.
3. The statement should be signed by the Applicant and should be duly certified as correct by a Chartered Accountant/Cost Accountant/Company Secretary.
ANNEX B

(For Iron & Stool Items appearing in Appendices 2-U & 3-U, to the Import Policy, 1935-36)

STATEMENT OF IMPORT CONSUMPTION, STOCKS ETC.

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit Cons.</th>
<th>Stock</th>
<th>Utility</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NOTE:
1. Statement to be submitted in 6 copies.
2. Separate statement to be submitted for carbon steel (Prime), Carbon Steel (Seconds/defectives/waste), alloy steel (Prime) and alloy stools (Seconds/defectives/waste).
3. Past consumption is to be for the period April-March.