GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED
BOP/225
3 June 1982
Limited Distribution

Committee on Balance-of-Payments Restrictions

1982 CONSULTATION UNDER ARTICLE XVIII:12(b) WITH INDIA

Statement Submitted by India Under the Simplified Procedures for Consultation

I. Legal and administrative basis of the import restrictions

The Imports and Exports (Control) Act, 1947 empowers the Central Government to prohibit, restrict or otherwise control imports. In exercise of the powers conferred by this Act, the Import (Control) Order, 1955 has been issued. Schedule I to the said Order contains the list of articles of which import is controlled. The import of such items is prohibited except (i) under and in accordance with a licence or a Customs Clearance Permit issued under the said Order, or (ii) if it is covered by Open General Licence (subject to such conditions as may be stipulated), or (iii) they are covered by the Savings Clause II of the Import (Control) Order. Import of gold, silver, currency and currency notes, banknotes and coins is controlled by the Reserve Bank of India, under the Foreign Exchange Regulations Act. Imports from the Union of South Africa and South West Africa are prohibited.

The annual import policy in respect of various items is brought into effect by publication in the Gazette of India at the beginning of each licensing year (April to March). Any amendment to this policy which becomes necessary in the course of the year is notified by means of public notices issued by the Chief Controller of Imports and Exports, from time to time.

The Imports (Control) Order, 1955, contains provisions for collection of fees by the licensing authorities on applications for import licences. It also specifies the conditions governing the grant of licences, the transfer of licences and amendment, suspension or cancellation of licences.

The handbook of Import-Export Procedures is issued as a supplement to the import policy and contains relevant procedures and other details.

Import control is administered by the Import-Export Control Organisation of the Ministry of Commerce headed by the Chief Controller of Imports and Exports. Besides the main office at New Delhi, the organisation has regional offices in different parts of the country.

II. Methods used in restricting imports.

Restrictions on import are administered through import licensing. Items, import of which is allowed under Open General Licence are notified separately and these are also included in the actual Import Policy Book. The categories of imports exempted from import control restrictions are indicated in the Import (Control) Order, 1955. In the case of residual categories, import licences or Customs Clearance Permits are granted subject to the policy and procedure notified in the Import Policy and the Hand Book of Import-Export Procedures.

III. Treatment of imports from different sources including information on the use of bilateral agreements.

Licences for imports including Open General Licences are valid for import from any country having trade relations with India. The restrictions applied on balance-of-payments grounds are on non-discriminatory basis. The Government of India has also signed trade agreements with a number of foreign countries. These agreements do not involve specific commitments on

import of any goods, nor do they limit the imports either in terms of items or value; these merely indicate the commodities, the import or export of which the partner countries intend to facilitate. These bilateral agreements are thus of indicative nature, and not a binding commitment. The Government of India does not direct the importers to buy from any particular source. These agreements also generally provide that exchange of goods under the agreements are subject to the goods being competitive in relation to the world market prices, quality and other terms and conditions of delivery.

With certain countries, India has concluded special payments and trade arrangements which provide for payments for all commercial and non-commercial transactions in non-convertible Indian rupees through a central clearing account. The underlying principle in such bilateral arrangements is the balanced growth of trade with mutuality of benefits.

All these agreements, special payments and trade arrangements are based on Most Favoured Nation (MFN) treatment providing non-discriminatory treatment in all matters relating to trade. Expansion of these bilateral arrangements has not been at the expense of other countries with whom India conducts her trade on a multilateral basis.

IV. Commodities, or groups of commodities, affected by the various forms of import restrictions.

Imports of raw materials, components, consumables and spare parts for industry are classified into three categories: (i) Banned including "limited" permissible

items, (ii) Restricted, i.e. permissible items and (iii) Canalised. All items not included in these lists are freely available under Open General Licence (OGL). Licences to industry are issued automatically on the basis of annual requirements as determined by past consumption. An actual user (industrial) holding an automatic licence may import, upto a limit of 10 % of the value of the licence, such items in the "limited" permissible list as are needed for the manufacturing process. The value of a single item imported under this facility may not exceed Rs.100,000/- for each item, provided that the total of all items imported does not exceed 10 % of the value of the licence. Supplementary licences may be obtained in case of need. All licences to industry are issued against free foreign exchange. Specified capital goods are banned while other listed goods may be imported under Open General Licence, subject to certain conditions. For 13 industries and projects, capital goods may be imported on the basis of global tenders irrespective of whether the goods are manufactured in India or not. Registered exporters are permitted to obtain import replenishment (REP) licences which are valid for importation of banned items necessary for the production of the particular export products. In addition, REP licences may be utilized for direct imports of canalised items to the extent the licence permits, and also for imports of capital goods, subject to necessary clearances. The licences are issued to merchant-exporters, manufacturer-exporters, export houses and trading houses and are freely transferable. Small scale units are given especially liberal treatment in respect of import licences, and consortia of small scale industries may form export houses. Non-industrial actual users, such as research and development laboratories,

scientific or higher educational institutions, and hospitals are eligible to import their requirements of technical and professional equipment, raw materials, components, spare parts, or other items (excluding consumer goods) on Open General Licence.

V. State-trading.

Essential commodities like food grains, edible oils, fertilizers, cement and certain raw materials are imported directly by public sector agencies such as State Trading Corporation of India, Minerals and Metals Trading Corporation of India, etc. The concerned agencies import these commodities under Open General Licence, on the basis of the foreign exchange made available in their favour, for this purpose. The policy for canalisation of certain items through the designated public sector agencies has been evolved with a view to effecting economical imports for the Actual Users, particularly small users, securing most favourable terms of payment and improving the terms of trade. The list of items canalised for import through designated public sector agencies is given in Appendices 8 and 9 of the Import and Export Policy, 1982-83 (Vol.I). The policy of canalisation of import of the items is reviewed from time to time, and, if it is observed that the objectives of canalisation have not been achieved in the case of any item, its import is decanalised.

Purchase by the public sector agencies are guided by normal commercial considerations and are entirely non-discriminatory in nature. State trading is not used as a measure to restrict imports.

VI. Measures taken since the last consultations in relaxing or otherwise modifying import restrictions.

The Government of India has been progressively liberalising its import licensing policy, in accordance with the growing needs of the development plans and policies. A major attempt was made to liberalise the import policy during 1976-77. Following this, the import policy and procedures have been progressively liberalised over the years. The Import Policy for 1981-82 not only maintained the liberalisation achieved in earlier years but consolidated the same in accordance with India's national objectives as enshrined in the development plans.

1982-83

It is not worthy that despite a record trade deficit of nearly $ 6.5 billion last year and a steadily deterioriating balance of payments position, the new import regime announced by the Government of India in early April 1982 represents a significant step in achieving further liberalisation.

Highlights of 1982-83 policy

Amongst the highlights of the policy are the addition of 100 new items of raw material and components which have been allowed import under the Open General Licence. These include iodine, mercury, ivory unmanufactured, polypropylene film, DMT, Channel black, TV tuners, micro-wave components, telephone dials, transistor headers, and certain other electronic components, silver powder suspension, high speed steel of certain specifications,

copper berylium strips, zinc dust/granulations, nitric acid, geranium oil, calcium silicide, and certain other chemicals. In order to streamline procedures, importers have been allowed repeat operations on the basis of existing automatic licences. The value of automatic licences has also been increased in many cases. Special emphasis has been given to the requirement of export oriented units with special features for approved 100 % export oriented units who have been allowed to import all their requirements under the Open General Licence with the import licensing formalities having been dispensed with altogether.

A major feature of the new policy is the expansion of the Open General Licence for the import of capital goods. 85 new items of industrial machinery have been included covering items of machinery which include, amongst others, electronics, textiles, dairy, chemicals and printing. 14 new items of equipment required by the gem and jewellery industry have also been added to the OGL. 17 items required by cinematographic studios and film laboratories have also been added to the OGL.

There has also been considerable streamlining of procedures. For example, applications for import of machinery valued upto Rs.200,000 in each case would be cleared, without the recommendation of the sponsoring authority and without reference to the Capital Goods Committee. Import licences would be issued in such cases after obtaining the clearance of the Directorate General of Technical Development.

Another new feature in the policy is a separate chaper on Technology. Not only has the value limit, per unit, for imports to promote technological upgradation

and modernisation under the Technical Development Fund been doubled from US $ 250,000 to US $ 500,000 but there has also been a considerable liberalisation in the import rules for samples proto-types and sothe technological know-how.

Some of the important changes made in the Import Policy for 1982-83 are indicated below:

(1) The facility provided to the Actual Users (Industrial) for import of raw materials, components and consumables under Open General Licence has been further liberalised. Under this facility, imports of such items are allowed under OGL as are not listed in the Banned, Limited Permissible Restricted, i.e. Permissible or Canalised list. A new dimension has been given to the OGL policy by allowing import of certain OGL items not only to Actual Users but also to others for stock and sale, for more economic imports.

(2) The system of granting automatic licence to the Actual Users (Industrial) on the basis of past consumption of materials, components and consumables continues to be operative, and has been further liberalised.

(3) Actual Users whose previous year's Automatic licence does not exceed Rs.100,000/- in value can operate the same licence on repeat basis, without having to obtain a fresh licence in 1982-83. This facility of Repeat Operation has also been extended to the industrial units exporting select products to the extent of

25 % of their annual production subject to minimum of Rs.500,000/- or exporting such goods for at least one million rupees in value.

(4) In the case of 'Loan Licencees' approved under the Drugs and Cosmetics Act 1940, policy for procurement of imported inputs continues to be liberal; they have been treated on par with Actual Users (Industrial), in this regard.

(5) Actual Users (Industrial) continue to enjoy the facility of obtaining supplementary licences, on the recommendation of their sponsoring authorities, if the quantum of imports permitted to them under automatic licences is not sufficient to meet the requirement.

(6) Actual Users (Industrial) continue to get the facility for import of banned (now called "Limited" permissible) items upto 10 % of the value of their automatic licences. The value of a single item so imported has been raised from Rs.50,000 to Rs.100,000. Within the same 10 %, the Automatic licence has also been permitted to be used for import of canalised items (Appendix 8 of Policy) on the condition that a single item so imported shall not exceed Rs.25,000/- in value. Import of Banned and Limited Permissible items can also be allowed in their favour against supplementary licences granted to them on the recommendation of their sponsoring authorities.

(7) The policy for allowing import of permissible spares under Open General Licence by Actual

Users continues to be operative. In the case of non-permissible spares, licences are granted based on the value of the machinery installed. The policy for grant of licences for import of spares required for fulfilling warranty obligation or rendering after sale services continues to be liberal. The value of such licence will be determined at 1 % of the sale value of production during the last 3 years.

(8) A provision has been made to grant licences to the Indian agents of the foreign machinery/ instrument manufacturers to enable them to import spares for stock and sale. The value of such licences will be determined at 5 % (as against 2 % earlier) of the C.I.F. value of machinery/instruments imported by the agents themselves or imported through them during the previous 15 years (as against 5 years in earlier policy). Against such licences, import of each item of banned types of spares can be made upto Rs.100,000 and import of other items of spares will be permitted upto one million rupees per item.

(9) Provision has also been made for grant of licences for import of aircraft spares to the stocklists, for stock and sale purposes. A similar provision has been made for import of ship spares by approved stocklists. The value limit for import of spares under OGL by owners of imported vehicles and tractors is Rs.5,000/- per vehicle per year.

(10) Research and development units, scientific or research laboratories, institutions of higher education and hospitals recognised by the Central or a State Government can import under Open General Licence, the requirements of raw materials, components, consumables, machinery, equipment, instruments, accessories and spares.

(11) The facility for import of a number of items of Capital Goods under OGL by Actual Users continues to be operative. A number of machinery items required by the electronic industries and other industries has been included in the list of OGL items for Actual Users. Some of the items of Capital Goods have been taken out from the Banned List as their indigenous production could not meet full demand. These include certain textile machinery items. The policy for import of Capital Goods against licences granted to Registered Exporters has been further liberalised. For manufacturer-exporters having shown an export performance of a minimum prescribed level, the need for essentiality certificate and indigenous clearance has been dispensed with, for import of Capital Goods upto Rs.2 million annually.

(12) The facility for import of a large number of items under OGL, for stock and sale purposes, continues to be operative. The following additional items have also been permitted under OGL for stock and sale purposes:-

(i) Copper scrap.
(ii) Brass scrap.
(iii) Zinc scrap.
(iv) Aluminium scrap.
(v) Nickel scrap.
(vi) Photographic films (black and white other than 120 size rolls).
(vii) Wattle extracts.

(13) Registered Exporters continue to have the facility of getting import replenishment licences against export, for the import of relevant banned or canalised items and packing materials. Such REP licences are freely transferable, unless they are held by Export Houses/trading houses and used for import of OGL items for Actual Users. Direct import of canalised items can be made against such REP licences.

(14) In order to strengthen export-oriented units and make them more viable and economic in production, the import policy provides greater flexibility to the manufacturer exporters in the utilisation of REP licences, if they want to import the materials for their own use and not for sale. They will be allowed to import against their own REP licences, not only the items appearing in the shopping list, but any other items of raw materials, components, consumables, spares or packing materials required by them for use in their own factories.

In order to avoid the possibility of any undue imports of banned items, a monetary limit has, however, been imposed on the import of such items. Manufacturer-exporter willing to make use of this facility will be subject to "Actual User" condition and import licences in their case will not be transferable.

(15) The scheme of advance licences with benefit of customs duty exemption has been made more comprehensive, with further improvements so as to make the scheme more responsive to the needs of exporters.

(16) The scheme permitting duty-free imports against Replenishment licences has been further enlarged by including more export products.

(17) Export Houses and trading houses will continue to play an important role in export marketing and development. In the interest of promoting exports through this channel, the following changes have been introduced in the import policy applicable to them:

(i) They will be allowed to import machinery for setting up common servicing centres for their supporting manufacturers.

(ii) They will also be allowed to import non-OGL machinery upto Rs.2 million a year against their REP licences, for sale to Actual Users.

(iii) Net foreign exchange earned by Export Houses and Trading Houses by way of commission from

foreign buyers will also be taken into account as a part of qualifying exports, for the purpose of recognition. In each case, the amount of foreign exchange earning of this type will be accepted subject to a limit of 10 % of the minimum export performance level fixed for recognition.

(iv) In the case of Trading Houses, there is already a condition that the qualifying exports must be spread over three "product groups". It has now been provided that the value of the exports in each of the three groups should not be less than 10 % of the minimum prescribed export performance for receiving recognition.

(v) At the same time, it has also been provided that the condition regarding exports of Trading Houses being in three product groups, may be relaxed where the products exported technically happen to fall in the same product group, but they are distinctly different from each other from the point of view of raw materials used in their manufacture, their production process and technology and the international marketing pattern.

(vi) The maximum amount of foreign exchange to be allowed to Trading Houses under the import policy, for export promotion activities, has been raised from Rs.4 million to Rs.5 million.

(vii) Export Houses and Trading Houses have also been allowed to make bulk imports on behalf of their supporting manufacturers in the small scale sector, by obtaining consolidated import licences on their behalf.

(viii) Export Houses with an export turnover of at least Rs.50 million in a year, have been given certain additional facilities, as under:-

(a) The value of Rs.200,000 for import of specified spares against additional licences, has been raised in their case to Rs.500,000.

(b) The value of a single item for import against Additional licence has been raised in their case to Rs.500,000.

(c) The maximum amount of foreign exchange allocation made to them under the import policy for export promotion purpose has been raised from Rs.750,000 to Rs.1.5 million.

VII. Effects of import restrictions/liberalisation on trade.

India's balance of payments has been under considerable strain since 1979-80 principally due to the sharp deterioration on the external trade account. The trade deficit during 1980-81 reached a level of Rs.57,903 million which was well over five times the trade deficit of Rs.10,880 million in 1978-79.

This was the result of a steep rise in import bill, combined with only a modest increase in the value of exports reflecting partly the unfavourable world market conditions and partly also domestic supply constraints. According to the latest data available, the trade deficit, on a provisional basis, during the first three quarters (April-December) of 1981-82 amounted to Rs.41,091 million compared with Rs.38,068 million during the corresponding period of 1980-81. On present indications, the deficit for the year 1981-82 may exceed Rs.60,000 million.

The trends in India's overall imports, exports and balance of trade for the last few years is indicated below:-

India's Balance of Trade
(In Million Rupees)

Years	Imports	Exports	Balance of trade deficit.
1977-78	60,253	54,043	(-) 6,210
1978-79	68,143	57,263	(-) 10,880
1979-80	90,217	64,588	(-) 25,629
1980-81*	125,009	67,106	(-) 57,903
1981-82 (April-December) (Provisional)	94,261	53,170	(-) 41,091
1980-81 (April-December) (Provisional)	84,202	46,135	(-) 38,068

* Updated upto December 1981.

Despite the pressure of the widening trade gap on balance of payments, India continued its efforts towards liberalisation of imports, which is reflected in the substantial growth in imports over the past few years. Total imports which amounted to Rs.68,143 million in 1978-79 rose sharply to Rs.90,217 million in 1979-80 and further to Rs.125,009 million in 1980-81 recording an average annual growth rate of 35.5 % over the period of two years. Available data for April-December 1981 indicate that the value of imports during 1981-82 may record a further growth of 10-12 %. The overall growth in imports anticipated during 1981-82 in fact understates the effect of import liberalisation in imports of items other than POL. Thus, the growth in non-POL imports which averaged about 14 % during 1978-79 and 1979-80, rose to over 20 % in 1980-81 and to about 23 % in 1981-82. These imports consist mainly of capital goods, industrial raw materials and intermediate manufactures which are essential inputs into investment programmes and articles of mass consumption such as edible oils, the imports of which are meant to keep the price situation of essential commodities under control.

Import restrictions were gradually eased in the late 1970's, starting with a major liberalisation in 1978-79. Inspite of the deteriorating external position, this relatively liberal import policy has been maintained and extended. Positive steps have been taken in the past few years to liberalise the imports of raw materials and intermediate and capital goods. Steps have been taken to simplify and rationalise regulations and procedures governing import approval. The Government recognises the need to administer import policies flexibly, including policies relating to capital goods imports. Policies concerning foreign collaboration, involving outright purchase of technology, royalty payments and foreign participation in Indian companies are being applied more liberally.

The maintenance of a liberal import policy inspite of a severe deterioration in terms of trade in the past few years implies a large trade gap and a corresponding current account deficit. This deficit will have to be financed in the medium term while an adjustment programme is implemented aimed at bringing the deficit under control. In order to finance the deficit, the Government has entered into an extended arrangement under the IMF's Extended Fund Facility/ Enlarged Access Policy which enables India to purchase upto the equivalent of SDR 5 billion over a three-year period which spans fiscal years 1981-82 to 1984-85. The extended arrangement supports an adjustment programme aimed at strengthening the balance of payments position over the medium term. The adjustment programme outlined by the Government is an integral part of the Sixth Five Year Plan which lays special emphasis upon investment in energy and infrastructure which are critical for adjustment.

VIII. General policy in the use of restrictions for BOP reasons.

General policy in the use of restrictions for balance of payments reasons is to give priority to imports required for the development of the economy and for meeting essential consumer needs. Preference is, therefore, given to import of capital goods, industrial raw material and articles of mass consumption. Generally, import of luxury consumption goods are discouraged.

Our import policy has been guided by the need to provide a growing volume of imports to support increased private and public investment, rapid growth and improved economic efficiency. It needs to be emphasized that despite heavy deficits in balance of payments, there has been no intensification of quantitative import restrictions.

In the Import-Export Policy for 1982-83 announced by the Government recently, efforts have been made to ease access of exporters to imports. Efforts have also been made to improve the availability of imports in other areas where this is needed. The policy seeks to provide industries, especially in the small scale sector, easier and more regular access to their requirements of inputs in order to maximise their output and improve their productivity, to provide a stimulus to those engaged in exports and, in particular to manufacturing units contributing substantially to the export effort, to reduce or dispense with licensing formalities wherever possible and to further simplify and streamline procedures with accent on time-bound systems and to extend support to upgradation of technology, especially with a view to cost-reduction, energy-saving and maximum output.