

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Balance-of-Payments Restrictions

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1984 CONSULTATION WITH INDIA

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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 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 11 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.

1. Imports of raw materials, components, consumables and spare parts for industry are classified into four categories: (i) Restricted items, (ii) "Limited" permissible items, (iii) Automatic permissible items and (iv) Canalised items. Imports of fats/oils etc. of animal origin is banned. 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.200,000/- 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.

2. Registered exporters are permitted to obtain import replenishment (REP) licences which are valid for importation of restricted & limited permissible 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.

3. Small scale units are given especially liberal treatment in respect of import licences, and consortia of small scale industries may form export houses.

4. Specified capital goods are restricted 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.

5. 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.

5. 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 Appendix 5 of the Import and Export Policy, 1984-85 (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.

Purchases 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 1983-84 not only maintained the liberalisation achieved in earlier years but further consolidated the same in accordance with India's national objectives as enshrined in the development plans.

1984-85

It is noteworthy that despite a trade deficit of

nearly \$ 5.5 billion in 1982-83 and a very large deficit estimated for 1983-84 and a difficult balance of payments position, the new import regime announced by the Government of India in early April, 1984 represents a significant step in maintaining continuity and stability in the already liberal Import Policy and, in some areas, achieving further liberalisation.

Highlights of the 1984-85 Policy.

The general liberal structure of the Import & Export Policy has been maintained in the interests of continuity and stability.

2. For speedy implementation of programmes and to accelerate production, 96 new items of industrial machinery have been included for import under Open General Licence. The industries for which these items of machinery are meant include electronics, eggs and poultry processing, lamp manufacture, cinematographic equipment, garments, hosiery and made-ups.

3. Facility for import of machinery by registered exporters against their own and acquired import replenishment (REP) licences, without the recommendation of the sponsoring authorities and without clearance from the indigenous angle has been continued. New capital goods can be imported by them upto a value of Rs.7.5 million as against the earlier limit of Rs.5.0 million, depending upon the level of exports.

4. The general structure of the Open General Licence list for import of raw materials, components and consumables has been retained and new items have been allowed for import under Open General Licence to Actual Users (Industrial). Value limits for import of single items of raw material and spares have been raised from Rs.150,000 to Rs.200,000 and from Rs.100,000 to Rs.150,000 respectively. The facility of "repeat operation" and "repeat issue" of Automatic Licences, available to Actual Users and exporters will continue to be available.

5. While maintaining the liberal provisions for import of technology as in the earlier policy, it is proposed to identify a list of industries where the import of technology would be permitted under Open General Licence. Import of drawings and designs for technological upgradation and the simplified procedure can now be made upto Rs.2.5 million, as against the limit of Rs. 1 million hitherto applicable. The value limit for import of prototypes/samples against Automatic Licences has been raised from Rs.20,000 to Rs.50,000.

6. A special provision has been made for meeting import requirements for technology development in some priority areas, viz., export production, environment, agriculture (including dryland farming), optimum use of water resources, increased production of pulses and oilseeds, provision for drinking water in rural areas, improvement of nutrition, rapid reduction in the incidence of blindness, eradication of major communicable diseases, population stabilisation, low-cost housing, and development and use of renewable non-conventional sources of energy.

7. A new scheme has been introduced which would enable exporters of computer soft-ware to import computer systems, data preparation systems related hardware, software and peripherals.

Some of the important changes made in the Import Policy for 1984-85 are indicated below:

- (1) The Liberal facility provided to the Actual Users (Industrial) for import of raw materials, components and consumables under Open General Licence has been retained and some more items have been added to the list. Under this facility, imports of such items are allowed under OGL as are not listed in the Restricted, Limited Permissible or Automatic permissible or Canalised lists. The facility for import of raw materials for stock and sale has been retained and new items have been added to the list.

- (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. The maximum value which for grant or licence for new units in the small scale sector and those set up in the backward districts now stands raised at Rs.750,000/- as against Rs.500,000 in 1982-83.
- (3) Actual users whose previous year's Automatic licence does not exceed Rs.200,000/- in value can operate the same licence on repeat basis, without having to obtain a fresh licence in 1984-85. This facility of Repeat Operation continues to be available 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) 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.
- (5) Actual Users(Industrial) continue to get the facility for import of '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.150,000 to Rs.200,000. Within the same 10%, the Automatic licence has also been permitted to be used for import of canalised items (Appendix 5 Part A of Policy) on the condition that single items so imported shall not exceed Rs.25,000/- in value. Import of Restricted and Limited Permissible items can also be allowed in their favour against supplementary licences granted to them on the recommendation of their sponsoring authorities.

- (6) 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 value limit of Rs.100,000/- for import of a single item has been revised to Rs.150,000/-. The policy for grant of licences for import of spares required for fulfilling warranty obligation or rendering after sales 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. The list of industries for which this facility was available has been enlarged.
- (7) A provision continues to be available for the grant of 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 3% (as against 2% earlier) of the C.I.F. value of related machinery/instruments imported by the agents themselves or imported through them during the previous 10 years. Against such licences, import of each item of restricted spares can be made upto Rs.150,000 and import of other items of spares will be permitted upto one million rupees per item.
- (8) Provision for grant of licences for import of aircraft spares to the stockists, for stock and sale purposes continues. A similar provision for import of ship spares by approved stockists also continues. The value limit for import of spares under OGL by owners of imported vehicles and tractors is Rs.5,000/- per vehicle per year.

- (9) 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.
- (10) The facility for import of a number of items of Capital Goods under OGL by Actual Users continues to be operative. As many as 96 new items of machinery required by the electronics, hosiery, cinematographic equipment, garments etc. industry have been included in the list of OGL items for Actual Users. The policy for import of Capital Goods against licences granted to Registered Exporters has been further liberalised. Now, manufacturer-exporters would be able to import capital equipments upto a maximum value of Rs.7.5 million, as against earlier maximum value limit of Rs.5 million.
- (11) The period of initial validity of import licences has been increased from 12 months to 18 months.
- (12) The provision for supply of material by canalising Agencies has been rationalised. In case the Agency is not able to supply material within a specified period, the Actual Users will have the option to effect direct imports.
- (13) Registered Exporters continue to have the facility of getting import replenishment licences against export, for the import of relevant restricted or canalised items and packing materials.
- (14) In order to strengthen export-oriented units and make them more viable and economic in production, the new 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. The value limit imposed on the import of such items has, in fact, been raised in some cases to 100% in respect of certain category of such exporters. 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 to issue of advance licences with benefit of customs duty exemption has been continued with some further rationalisation.
- (16) The scheme permitting duty-free imports against the Replenishment licences has also been continued.
- (17) Import replenishment rates below 10% have been raised by one percentage point in order to provide additional access to imported inputs.
- (18) The category of manufacturer-exporters has been given the facility of importing items required for export production against their own as well as against acquired import replenishment (REP) licences.
- (19) A new scheme has been introduced for providing Additional Licences with effect from 1.4.1985 to a special category of Entrepreneur-Merchant-Exporters.
- (20) Export Houses and Trading Houses will continue to play an important role in export marketing and development.
- (21) The qualifying thresholds for Export Houses and Trading Houses have been revised upwards. The system of calculation of eligibility of Additional Licences earned on exports effected during 1984-85 has been rationalised.

- (22) A scheme has been introduced for providing Additional Licences at a higher rate to Trading Houses which undertake to have a long-term relationship with their associate manufacturers. This scheme is intended to create linkages between production and international marketing and to provide such associate manufacturers with improved access to imported raw materials.
- (23) In the case of Trading Houses, there is already a condition that the qualifying exports must be spread over "three product groups". The value of exports in each of these three groups should not be less than 15% of the minimum prescribed export performance for receiving recognition.
- (24) Trading Houses which export products in atleast 5 product Groups with minimum exports in each Product Group being atleast 15% of the total exports, have been given improved access to imported raw materials in terms of increased flexibility.
- (25) Export Houses Trading Houses will be allowed to import machinery for setting up common servicing centres for their supporting manufacturers.
- (26) 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.
- (27) A Gold Jewellery Replenishment and Export Promotion Scheme has been introduced which would enable exporters of gold jewellery to speedily replenish their requirement of gold for export of such jewellery.

VII. Effects of import restriction/liberalisation on trade.

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

India's Balance of Trade

(in Million Rupees)

<u>Years</u>	<u>Imports</u>	<u>% variation</u>	<u>Exports</u>	<u>% variation</u>	<u>Balance of Trade deficit</u>
1978-79	68,106	+ 13.1	57,261	+ 5.9	- 10,846
1979-80	91,426	+ 34.2	64,184	+ 12.1	- 27,242
1980-81	125,492	+ 37.3	67,107	+ 4.6	- 58,385
1981-82	136,076	+ 8.4	78,059	+ 16.3	- 58,017
*1982-83	143,600	+ 5.5	88,342	+ 13.2	- 55,258
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1983-84 (April-December) (Provisional)	104,165	+ 2.3	68,583	+ 12.1	- 35,582
1982-83 (April-December) (Provisional)	101,783		61,184		- 40,599

*Updated till December, 1983.

Despite a persistent pressure of large trade gap on balance of payments, India continued its efforts towards liberalisation of imports, which is reflected in the sizeable growth in imports over the past few years. Total imports which amounted to Rs.68,106 million in 1978-79 rose sharply to Rs.91,426 million in 1979-80 and further to Rs.125,492 million in 1980-81 recording an average annual growth rate of 35.7% over the period of two years. Over and above such a high growth rate, imports continued to rise and amounted to Rs.136,076 million in 1981-82 and to Rs.143,600 million in 1982-83, with growth rates of 8.4% and 5.5% respectively. During the first three quarters of 1983-84, imports provisionally totalled Rs.104,165 million, a rise of 2.3%

over the corresponding period of the previous year. It is significant that during this period non-POL imports registered a growth rate of about 20%. While imports of petroleum & petroleum products though of late on decline due to improved domestic crude oil production, imports of machinery & transport equipment, the second largest item after POL have tended to show continuous increase in the recent years. During 1982-83 imports of machinery & transport equipment increased by 12.7% and during the first half of 1983-84, based on provisional data, the increase was as much as by 35.8%. The non POL imports consisted largely of capital goods, industrial raw materials and intermediates manufactures, which are essential inputs into investment and production programmes. Imports of certain essential consumption items such as edible oils and cereals are also being effected to build up buffer stock and combat pressure on domestic prices.

Indian economy has started picking up after the onslaught of 1982-83 drought. With a view to maintaining stability and continuity for the growth and development of economy, the pragmatic and liberal structure of the Import & Export Policy has been maintained and even further strengthened in the new policy for 1984-85. It is expected that our imports, particularly in the developmental sector would continue to grow during 1984-85.

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 1984-85 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. 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 maximising output.