

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

RESTRICTED
BOP/321
24 October 1994
Limited Distribution

(94-2151)

Committee on Balance-of-Payments Restrictions

Original: English

1994 CONSULTATION WITH INDIA UNDER
ARTICLE XVIII: 12 (b)

Statement by India under Simplified Procedures for Consultations

I. Legal and administrative basis of the import restrictions

1. "The Foreign Trade (Development and Regulation) Act 1992", empowers the Central Government to prohibit, restrict or otherwise regulate, in all cases or in specified classes of cases, the import or export of goods.

2. The Government is empowered under the Act to formulate and announce from time to time the export and import policy and also to amend that policy. The implementation of the policy is in accordance with the procedures laid down in the Handbook of Procedures which is published as a supplement to the Export-Import Policy. An Export-Import policy valid for five years, was announced in 1992. It has been amended from time to time to reflect the liberalization of the trade régime and other measures affecting trade.

3. The Government appoints a Director General of Foreign Trade for the purpose of the Act who advises the Government on the formulation of the Export-Import Policy and is responsible for carrying out that policy.

4. The import of gold, silver, currency bank notes is controlled by the Reserve Bank of India in accordance with the Foreign Exchange Regulation Act (FERA).

II. Methods used for restricted imports

5. Restrictions on imports are administered through licensing.

6. Under the current import policy, all capital goods, raw materials, intermediates, components, consumables, spare parts, accessories, instruments and other goods may be imported without restrictions except to the extent that such imports are regulated by the Negative List of Imports.

7. The Negative List of Imports is divided into the list of prohibited items; of restricted items; and of canalised items.

Prohibited items may not be imported.

Restricted items in the Negative List may be imported against a licence or in accordance with a Public Notice issued in this behalf.

8. A licence contains such terms and conditions as may be specified by the licensing authority and may include:

- (a) The quantity, description and value of the goods;
- (b) actual user condition, if any;
- (c) export obligation, if any;
- (d) the value addition to be achieved, if any; and
- (e) the minimum export price, if any.

9. Licences are normally valid for a period of twelve months.

10. Any goods, the import of which is canalised, may be imported by the specified canalising agency. The Director General of Foreign Trade may, however, grant a licence to any other person to import any canalised goods.

11. Inclusion of items in the Negative List is primarily on account of balance of payments though some items have been included on grounds of safety, security, protection of the environment etc.

12. Import licences are also used to regulate import of items required for export production. For instance an exporter may be issued duty free import licences under the Duty Exemption Scheme for importing inputs necessary for export production. Similarly under the Export Promotion Capital Goods (EPCG) Scheme, capital goods may be imported at a concessional rate of customs duty subject to the fulfilment of an export obligation over a certain period of time.

13. Exporters of specified Gem and Jewellery products are eligible for grant of Replenishment Licences at the rate and for the items mentioned which are in the Export and Import Policy, to import and replenish their inputs.

III. Treatment of imports from different sources including information on the use of Bilateral Agreements

14. Generally, licences for imports are valid for imports from any country having trade relations with India. The Government of India has signed trade agreements with a number of 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 bilateral agreements are MFN type and best endeavour in nature. The Government of India does not direct the importers to buy from any particular source. However, import licences are not issued for imports from countries facing UN mandated sanctions, at present Iraq, Fiji, Serbia and Montenegro. Further, licences issued for imports against tied aid and foreign credits are available for imports from specified countries only.

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

15. The Negative List of Imports consists of three prohibited items, 72 Restricted items and 7 canalised items (as on 1.4.1994).

16. Three items tallow, fat and/or oils, of animal origin, animal rennet; and wild animals including their parts and products and ivory are prohibited for import.

17. Consumer goods, unless specifically exempted, are restricted items of import. Apart from consumer goods, the list of restricted items under the Negative List includes specified precious, semi-precious and other stones; insecticides and pesticides; electronic items; items relating to the small

scale sector; certain miscellaneous items; and restricted items required for hotels, the tourism industry and sports bodies. The import of restricted items covered by the Negative List may be made against a licence or in accordance with a Public Notice issued in this behalf.

18. In the case of import of ships, trawlers and boats, aircraft and helicopters, automobiles vehicles and newsprint, no licence is required but the imports are allowed subject to certain conditions.

19. Import of second-hand capital goods is allowed against a licence. Import of second-hand goods (other than capital goods) is, however, allowed against a specific licence only.

20. Import of 67 specified restricted items (including certain consumer goods) is, however, permitted freely against freely transferable Special Import Licences granted to Export Houses, Trading Houses, Star Trading Houses or Super Star Trading Houses and manufacturers who have acquired prescribed quality certification on the basis of their foreign exchange earnings. One time facility for import of cars is also available to Export Houses, Star Trading Houses or Super Star Trading Houses.

21. Canalisation of imports has been substantially reduced and is confined only to certain petroleum products, certain fertilizers, oils and cereals. Canalised items may, however, be permitted to be imported by importers other than designated public sector agencies in accordance with a licence granted by the Director General of Foreign Trade. Recently, the import of vegetable palmolein oil has been decanalized.

V. State trading

22. With the reduction in the canalised items, the nature of State Trading has also undergone a change. State trading agencies now largely trade in competition with the rest of the trade. Essential commodities like cereals, oilseeds, edible oils, other than palmolein, some fertilizers and certain petroleum products are imported directly by public sector agencies such as the State Trading Corporation of India, Minerals and Metals Trading Corporation of India, etc. The concerned agencies import these commodities on the basis of the foreign exchange purchases made in the open market. The policy of canalization of certain items through the designated public sector agencies has been retained to obtain the best terms for purchases of mass consumption goods.

23. Transactions of State trading agencies are guided by normal commercial considerations.

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

24. India has taken a number of measures to liberalize the trade régime since July 1991. For the first time, a negative list of imports was introduced in February 1992 and except for this small negative list which basically covers consumer products all other goods were made freely importable. The exchange rate was unified and was made market determined in February 1993. Customs tariffs were brought down considerably and the peak tariff rate was reduced progressively from 300 per cent and above to 65 per cent in the latest budget. Capital goods and technology have been made freely importable and do not require a licence or any other governmental permission. The government announced its intention to move towards current account convertibility in the 1994-95 budget. Consequently, the Reserve Bank of India has announced liberalization of payments regulations relating to invisibles and services such as business and tourist travel, overseas education, remittances for donations and gifts abroad, employment of foreign nationals and for certain services rendered by overseas parties. The Reserve Bank of India announced on 20 August 1994 further measures to liberalize current account transactions making the Rupee fully convertible on current account. FERA has been revamped and most of the exchange controls lifted.

25. The Exim Policy for 1992-97 seeks to make the policy framework and associated procedures transparent and predictable and to facilitate the shift to a market oriented trading environment. Exports and imports are generally free of restrictions except for a small Negative List of items which is subject to regulation. Except for this limited regulation, capital goods, raw materials, intermediates, components, consumables, spare parts, accessories, instruments, and other goods may be imported freely.

26. Imports of certain consumer items in the Negative List have also been permitted through Special Import Licences issued to major exporters and also through baggage. Duties applicable to items classified as baggage have been reduced to 100 per cent from about 225 per cent earlier. Government is continuously reviewing the Negative List and it is being pruned from time to time.

VII. Current status of the Balance-of-Payments

27. In March 1992 when the last BOP consultations were held, India was going through an unprecedented external payments crisis. As a result of emergency measures, taken in 1991-92 and 1992-93 there was improvement in the country's BOP position. The balance-of-payments position improved further during 1993-94, as reflected in the build up of reserves to a level of US\$15.1 billion at the end of the year. The reasons for the improvement are the narrowing down of the trade deficit as a result of a greater increase in exports than in imports in 1993-94 as against 1992-93; increase in the inflow of foreign investment (US\$4.1 billion in 1993-94 as against US\$585 million in 1992-93); ability of Indian corporate entities to mobilise funds of about US\$ 1 billion through the issue of Foreign Currency Convertible Funds. This improvement in the situation is in comparison to the crisis situation in 1991 and does not imply that the economy has got out of its balance-of-payments difficulties.

28. The data on India's imports and exports and the balance-of-trade for the period 1989-90 to 1993-94 is as below:

India's balance of trade
(US\$ million)

Year	Imports	Variation (per cent)	Exports	Variation (per cent)	BOT (deficit)
1989-90	21,272	+9.1	16,626	+19.0	-4,643
1990-91	24,073	+13.2	18,143	+9.1	-5,930
1991-92	19,411	-19.4	17,865	-1.5	1,546
1992-93	21,882	+12.7	18,532	+3.8	-3,345
1993-94	23,212	+6.8	22,173	+20.4	-1,039

Source: DGCI & S, Calcutta.

29. The data shows that imports picked up sharply in the last few months of 1993-94, after registering a decline in the first trimester (-2.7 per cent) as compared to the same period of 1992-93. This trend has continued into 1994-95 with the growth in imports in April-June, being 7.1 per cent as compared to the previous year. The budget for 1994-95 is expected to trigger off industrial recovery resulting in a further increase in imports. The growth rate of imports is expected to be about 15 per cent.

30. Exports are also expected to grow at the rate of about 15 per cent which is lower than the growth rate achieved in 1993-94 i.e. 20 per cent on account of external and internal constraints. Among the major external constraints has been the increasing use of trade policy instruments for protectionist purposes by our major trading partners. Among the major internal constraints are the pressures on

the real effective exchange rate because of the domestic rate of inflation being much higher (9-10 per cent) than the international rate of inflation (3 per cent); infrastructural bottlenecks pertaining to power, supply, telecommunications, etc; and supply bottlenecks in agricultural goods. All these factors are likely to constrain our export efforts.

31. The debt service payment is expected to increase sharply in the current year to around US\$10.5 billion and will peak at US\$13 billion towards the end of the Eighth Plan (1996-97) when the India Investment Bonds become due for repayment along with interest. India had a large external debt of about US\$91 billion at the end of 1993-94 and this involves a large servicing obligation. Further remittances are likely to reach a plateau. Private transfers which were US\$2.8 billion in 1992-93 and peaked to US\$3.8 billion during 1993-94 are projected to be of the same order in 1994-95.

32. On the other hand, as a result of liberalization on the current account and amendments to FERA which have relaxed exchange restrictions, higher outflows of foreign exchange are expected in invisibles like travel, education, health, royalty and fees, non-factor income etc. Overall, the current account deficit is likely to widen during 1994-95.

33. Much of the build up of foreign exchange reserves is accounted for by foreign investment inflows. The bulk of foreign investment inflows, in turn, are on account of portfolio investment which is volatile in nature. These investments can be withdrawn suddenly with the slightest erosion of confidence.

34. Also, net commercial borrowing which stood at US\$2.2 billion during 1990-91 have dwindled in recent years. The flows on this account have become negative to the extent of US\$452 million during 1992-93 and are projected to be at a level of US\$370 million in 1994-95.

35. On the account of efforts at reducing the volatile short term debt, the net inflow of NRI deposits is expected to decline by about US\$1 billion during 1994-95.

CONCLUSION

36. Thus the balance of payments situation is expected to be under pressure in the near future. This improvement in the balance of payments situation cannot yet be treated as a trend especially given that the bulk of the reserves are on account of portfolio investment. The deficit in the balance of trade also does not indicate a clear trend as yet. Hence, in order to enable India to dispense with the remaining trade restrictions, there need to be a sustained improvement in the balance of payments for at least 3-4 years. India is already taking liberalization and structural reforms measures. It is important that these proceed at a pace which is suited to Indian conditions.