

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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## 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 COM/IND/W/55/Add.71-COM/AG/W/72/Add.71 of 5 December 1980 as amended.

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1. Outline of systems:

Imports into India unless otherwise exempted require import licences or a customs clearance permit. Import of gold, silver, currency notes, bank notes and coins is 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 graduate in professional subjects, ex-service personnel and export-oriented industries. Imports of certain items is canalised through public sector agencies; and in respect of such items the actual users have to obtain supplies from the canalising agencies concerned. However, direct import of such canalised items is allowed in the case of licenses 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 licenses.

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 7.12.1955, 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 canalised 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 allowed for import on 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.

Canalised items are supplied to Actual Users through the mechanism of allotments by designated canalising agencies.

Items of raw materials consumables and components which do not appear in the banned, restricted or canalised list can be imported by actual users under OGL for use in their manufacturing process. In the case of spares, OGL imports are allowed even in respect of those items appearing in the restricted list.

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. 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 priced publications<sup>1</sup>.

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 in terms of the policy indicated in the Import Policy Book.

6(b). As already indicated, 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.

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

6(d). As already indicated, 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 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 11 months instead of eight and half months. Actual Users (Non-Industrial) are given 11 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.

6(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.

6(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. There is also system of granting revalidation of licences.

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<sup>1</sup>Copies of these publications are available for consultation in the secretariat, room 1059.

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6(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 consultation with the technical authorities concerned is also necessary.

6(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.

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

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

6(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 canalise imports and distribution thereof through special or specialised 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 firm 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 45 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 Import Policy Book every year.

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 rupee 1 for every Rs.1000 or part thereof, up to a value of Rs.1 crore, and 50 paise per additional thousand or part thereof above Rs.1 crore subject to a minimum of Rs. 50 and maximum of Rs.25000/-. In the case of small-scale units the fee is Rs.50 only for an application not more than Rs. 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 24 months. In respect of licences for raw materials/components, consumables and spares, the validity is 18 months. The period of validity of an Emergency Licence is 12 months. Licences issued against foreign credits are normally valid for 12 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 12 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-utilisation or part-utilisation 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 importer's factory, as the case may be, and for the purpose for which the import is allowed.

However, import licence 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 recognised 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 authorised 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 utilised 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.

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APPENDIX 11  
FORM FOR ACTUAL USERS  
FORM-A

[APPLICATION FORM FOR IMPORT OF RAW MATERIALS/COMPONENTS/CONSUMABLES AND SPARES (OTHER THAN C. G. GOODS) BY ALL ACTUAL USERS AND PUBLIC SECTOR UNDERTAKINGS FOR INITIAL/AUTOMATIC/SUPPLEMENTARY LICENCES] LICENSING PERIOD

PART I

- (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	Rs. ....
(b) Other items	Rs. ....
(c) Spares (other than on OGL)	Rs. ....
(d) Scientific & Measuring instruments	Rs. ....
- (6) Bank receipt/Demand draft No. & date, as the case may be, to 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) Number, date and c.i.f. value of automatic licence for raw materials and components applied for same licensing period.
  - (ii) Stocks in value and quantity of imported raw materials and components in hand on the date of application.
  - (iii) Stocks in value and quantity of imported raw materials and components in the pipeline against import licence issued under the previous policies.
  - (iv) Production programme/phased programme approved/assessed capacity.
  - (v) Licensed capacity/capacity covered by registration.
  - (vi) Details of items applied for import indicating for each item, quantity required, c.i.f. value, S. No. and appendix No. under which the item is covered under current import policy (separate lists to be submitted for banned and restricted items).
  - (vii) Country of import.
  - (viii) Details of unutilised import licences in hand excluding material in pipeline covered at S. No. 9(iii).
  - (ix) Details of proposed utilisation of materials and licences as at 9(ii), 9(iii), and 9(viii) and automatic licences for the current licensing period.
  - (x) Full justification for claiming supplementary licences. If the application has been made on the basis of order book position, details of orders received alongwith order-wise requirements of various items covered at 9(vi) above to be indicated.
  - (xi) In the case of Iron & Steel items please attach attested true copies or photostat copies of enquiries 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, partnership or Hindu Undivided family concern.  
(b) Names of the Directors, Partner's, Proprietor or Karta 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 the value thereof.
- (12) Are you actually adhering to the approved phased manufacturing programme?
- (13) Whether Industrial Licence/Registration Certificates is still valid.

PART II

INCOME-TAX DECLARATION

- A. In cases of persons not having taxable income*  
I/We hereby solemnly declare that I/We are not liable to pay any income-tax including advance tax as the income earned by me/us during the current accounting year and the last four accounting years has been below the maximum limit not chargeable to tax.
- B. In cases of persons having taxable income*  
I/We hereby solemnly declare that :—
- (i) I/We have furnished to the Income-tax Department the return(s) of income due from me/us till date.
  - (ii) I/We have paid all taxes including advance tax due from me/us under the Income-tax Act other than the tax demand which has been stayed by the competent authority.
  - (iii) I/We have not been penalised\*/convicted for concealment of income/wealth during the last three calendar years.
  - (iv) (a) I/We hereby solemnly declare that the above declaration also applies in the case of companies in which I/We am/are having substantial interest\*\* or the firms or associations of persons in which I/We am/are partner or member respectively;  
OR  
(b) the above declaration is applicable in case of the persons having substantial interest\*\* in the applicant company or members of the applicant association or partner of the applicant firm.

Signature.....  
Address.....  
Permanent Account Number.....  
Designation of the ITD  
with whom assessed/assessable

Place .....  
Date .....

\*If an appeal has been filed against the levy of penalty and the appeal is pending before the Appellate Assistant Commissioner of Income-tax or the Income-tax Appellate Tribunal, such penalty need not be taken note of for the purposes of this declaration.

\*\*The words "substantial interest" shall have the same meaning as in the explanation to Section 40(A) (2) of the Income-tax Act, 1961.

**PART III**  
**STATEMENT SHOWING CONSUMPTION OF**  
**IMPORTED RAW MATERIALS, COMPONENTS AND CONSUMABLES**

1. Name and address of the unit.
2. End-product(s) manufactured.
3. C.I.F. value of consumption of imported raw materials, components and consumables during the period 1981-82 or 1982-83 in respect of:—
  - (i) Iron and Steel items mentioned in Appendix 7 of Import Export Policy Book for 1983-84. Rs. ....
  - (ii) Other raw materials, components and consumables covered by Appendix 5 of Import-Export Policy Book for 1983-84 Rs. ....
  - (iii) Book value of production turned out during the period of consumption indicated against item 3 above. Rs. ....
4. Break-up of the total C.I.F. value of consumption into:—
  - (i) Imported against applicants own actual User licences Rs. ....
  - (ii) Imported by the applicant under OGL (items which were earlier on OGL but are in Appendix 5 and in 1983-84) Rs. .... 11
  - (iii) Provided by the applicant from other authorised sources. RS. .. 11
5. Capital investment on machinery and equipment
  - (a) Imported machinery (CIF value Rs. ....)
  - (b) Indigenous machinery having imported components. (Purchase Price Rs. ....)
  - (c) 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 authorised sources. I/We have not included in the consumption, the value of imported raw materials/components/consumable 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 loan licensees under the Drugs & Cosmetics Act, 1940.

(2) I/We hereby declare that the information given in the statement is correct. I/We fully understand that any licence issued on the basis of this information will be liable for cancellation, in addition to any other action that may be taken in this behalf, if it is found that any part of the information furnished is incorrect, false or misleading.

(3) I/We hereby declare that I/We obtained/did not obtain A.U./licence for raw materials, components and consumables for both 1981-82 and 1982-83 licensing periods, and my/our case falls/does not fall under para 44 of chapter 6 of Import/Export Policy, 1983-84.

(4) I/We hereby declare that I/We obtained both automatic & supplementary licences for the period 1982-83, and during 1983-84 our requirements of imported inputs will be more than what we can get against automatic licence for 1983-84, but we shall not apply for supplementary licence for 1983-84 if the automatic licence for 1983-84 is issued to me/us for a c.i.f. value 20% higher than actual consumption vide para 30(d) of Import-Export Policy, 1983-84.

(5) I/We hereby declare that the level of our export performance falls under Sub-para 30(c) of the Import-Export Policy, 1983-84 and we have obtained export performance certificate from C.C.I. & E., New Delhi, a copy of which is enclosed.

(Strike off declaration (4) and/or (5) if not applicable)

Signature of the applicant .....  
Designation.....  
Dated.....  
Full address.....

**CERTIFICATE BY THE CHARTERED ACCOUNTANT/  
COST ACCOUNTANT COMPANY SECRETARY OR  
SPONSORING AUTHORITY**

I/We have verified that the applicant unit has duly furnished to the D.G.T.D., Department of Electronics, Textile commissioner or other sponsoring authorities concerned, its production returns for the year 1982-83 and other prescribed returns/statments for the same year, as it was required to furnish under the provisions of Imports and Exports Control Rules, Industrial (Development and Regulation) Act, Textile Control order etc.

2. I/We do hereby certify that consumption as certified in the statement has been verified from the books maintained by M/s. .... and found the same as correct. I/We have also put my/our office seal and signature on the book from which the information has been verified.

3. I/We also certify that the applicant unit has been maintaining proper account of consumption in the prescribed form as indicated in the and Book of Import-Export Procedures, 1982-83.

4. I am not a partner, a Director or an employee of the applicant firm or its associates.

5. I have been duly appointed for purpose by the Board of Directors of the Company or Management, as the case may be. (In the case of Chartered/Cost Accountant).

Signature and seal of  
Chartered Accountant/Cost Accountant  
Company Secretary/or Sponsoring Authority.  
Name of the Sponsoring Authority.....  
Name of the signatory .....  
Full Address .....  
Membership No. ....  
Date .....

SEAL

Note 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 material 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 his 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 OGL during 1982-83.

4. It should be noted that the applicant and the certifying authority found responsible for any wrong information included in the statement will be liable to action under the law.

**DECLARATIONS**

I/We hereby declare that the statements made by me/us in the application are true and correct to the best of my/our knowledge and belief. I/We fully understand that any licence granted to me/us on the basis of the statement furnished is liable to cancellation or being made ineffective in addition to any other penalty that the Government may impose or any other action that may be taken having regard to the circumstances of the case if it is found that any of the statements or facts therein are incorrect or false.

(Signature with full name)

Designation.....

Relationship.....

Full address .....

Place .....

Date .....

**NOTES**

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

2. All the pages of the statement of consumption should be signed and stamped by the Chartered Accountant/Sponsoring Authority.

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

\*4. (a) For the purpose of income tax declaration if an appeal has been filed against the levy of penalty and the appeal is pending before the Appellate Assistant Commissioner of Income-tax or the Income-tax Appellate Tribunal, such penalty need not be taken note of for the purpose of this declaration.

(b) \*\*The words "substantial interest" shall have the same meaning as in the explanation to Section 40(A)(2) of the Income-tax Act, 1961.

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

**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 (except automatic licences). 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.