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REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

INDIA

The following notification has been received from the delegation of India in response to the questionnaire on import licensing procedures annexed to document L/5640/Rev.4. The present document updates and replaces information previously contained in documents L/5640/Add.7/Rev.2 and Corr.1 of 10 October 1986 and 15 January 1988 respectively.

1. Outline of systems

Imports into India unless otherwise exempted require import licences or a customs clearance permit. Imports of gold, silver, currency notes, bank notes and coins are controlled by the Reserve Bank of India under the Foreign Exchange Regulation Act. Import licences or customs clearance permits are issued by the Office of the Chief Controller of Imports and Exports, New Delhi and its regional offices in India. Import licences and customs clearance permits are issued on application to actual users, registered exporters etc. Imports of certain items are canalized through public sector agencies; and in respect of such items, the actual users have to obtain supplies from the canalizing agencies concerned. However, direct import of such canalized items is allowed in the case of licences issued to replenish the imported inputs used in exports. Imports of a large number of items are allowed to actual users under Open General Licence, i.e. without the requirement of specific import licences.

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

Purpose and coverage of 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 the 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 is 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, 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 Handbook of Import-Export Procedures is also published as a supplement to the import policy.

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

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

5. The statutory authority on which the current import controls are based is the Imports and Exports (Control) Act, 1947. Under this Act, the Government of India has notified the Imports (Control) Order No. 17/55 dated 7 December 1955, for prohibiting, restricting or otherwise controlling imports. This order as amended from time to time continues to be in force.

The legislation leaves designation of products to be subjected to licensing to administrative discretion. It is not, however, possible for the Executive Branch to abolish the system without legislative approval.

Procedures

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

- (i) restricted items;
- (ii) banned items;
- (iii) limited permissible items;
- (iv) items canalized through public sector undertakings;
- (v) other items.

Items of raw materials, components, consumables and spares appearing in the restricted list and limited permissible list can be imported by actual users (both industrial and non-industrial) under the supplementary licensing procedure.

Items appearing in the banned list are not allowed for import. The import of restricted items is allowed to the extent the requirements cannot be met from indigenous sources. Import of limited permissible items is allowed against the supplementary licences to the extent considered necessary in the interest of production and requirements cannot be met from indigenous sources.

Canalized items are supplied to actual users through the mechanism of allotment by designated canalizing agencies. The Government may also permit import of canalized items by trading houses. Import is also permissible to a limited extent against Replenishment/Additional. Licences granted to registered exporters and export houses/trading houses.

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

For export production, import of all items excepting banned items is 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 and Export Policy (Volume I), which is valid for a specified period. The current policy is valid for a period of three years from April 1988 to March 1991. The Handbook of Procedures is also published simultaneously indicating in detail the procedures to be followed for making applications for import licences. Import and Export Policy and the Handbook of Procedures are priced publications.

The amounts of imports to be made from different countries are not published in the Import Policy Book and imports are allowed from all countries of the world except South Africa, South West Africa and Fiji in terms of the policy indicated in the Import Policy Book.

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

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

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

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 ten months is available for actual users (industrial) for making applications for the import of their annual requirements of raw materials, components, consumables and spares. For new units the period allowed is eleven months instead of ten months. Actual users (non-industrial) are given eleven months for making applications for their import requirements. Applicants are advised to submit applications well in advance of the last date, to allow adequate time for the authorities concerned to process it.

- (d) Keeping in view that import policy for April-March 1988-1991 is for a three-year period, actual users are permitted to submit applications for supplementary licence up to the end of the licensing year i.e. 31 January. They are also permitted to submit applications for the next licensing year in advance. However, for the year 1990-1991, the last date will be 15 December 1990 as to enable processing of all applications before the new policy comes into force in April 1991. There is no last date for submission of applications for import of capital goods and import replenishment licences.
- (e) 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.
- (f) 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 the issue of licences. In some cases, consultation with the technical authorities concerned is also necessary.

- (g) No quota system is maintained. Licences are granted to the actual users to the extent considered necessary. If the value of the 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.
- (h) At present, no imports into India are being made under bilateral quotas or export restraint arrangements.
- (i) As stated in 6(h), no imports are made in India on the basis of export permits.
- (j) 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 conditions and are freely transferable.

Advance and Import-Export Passbook 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 an import licence before shipment of the goods from the overseas country. However, in genuine cases goods shipped before the issue of an 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, the 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 5(d).

8. The licensing authority may refuse to grant an import licence:
- (i) if no foreign exchange is available for the purpose;
 - (ii) if the grant of a licence to an applicant is prejudicial to the interest of the State;
 - (iii) if it has been decided to canalize imports and distribution thereof through special or specialized agencies or channels;

- (iv) if the applicant is a partner in a partnership firm, or a director of a private limited company which is for the time being subject to any action under clause 8, 8A or 8B of the Import (Control) Order, 1955;
- (v) if the applicant is for the time being subject to any action under clause 8, 8A or 8B of the Import (Control) Order, 1955;
- (vi) if the applicant is a partnership firm or a limited company, any partner or whole-time director or managing director thereof 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 a person is not satisfied with the decision of the licensing authority, he can make an appeal or revision application in accordance with the prescribed procedure. Such appeal/revision application can be made within a period of forty-five days from the date of receipt of the order/decision appealed against and has to be accompanied by the prescribed appeal fee.

Eligibility of importers to apply for a 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.

Documentation and other requirements for application of a licence

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

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

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

12. Fees are charged on application for licences according to the value of imports to be made. The present rate, Rs 75 where the value does not exceed Rs 50,000, is Re 1 and 50 paise for every Rs 1,000 or part thereof,

subject to a maximum of Rs 1 lakh. In the case of small-scale units the fee is Rs 75 only for an application not more than Re 1 lakh in value.

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

Conditions of licensing

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

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

16. Import licences issued to actual users, including the imports under "Open General Licence" by actual user, carry a specific condition to the effect that the imported goods shall be used by the licence holder in the importer's factory, as the case may be, and for the purpose for which the import is allowed.

However, import licences issued by way of replenishment of imported material required for the manufacture of products already exported, are freely transferable and they do not bear actual user conditions. Additional licences issued to export houses in relation to their past export and used for importing OGL items, limited permissible and canalized items are also now freely transferable.

17. The following conditions are applicable to import licences:

- (i) import licences are not normally transferable, except (Replenishment) and Additional 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 which the credit is opened shall be deemed to be a joint holder of the licence to the extent of the goods covered by the credit;

- (iv) payments authorized to be made against the licence shall not cover any commission, discount, or like rebates allowed by the foreign suppliers/manufacturers to the importers/agents;
- (v) actual users shall use the material imported against the import licence only for the purpose for which the licence has been issued;
- (vi) the raw materials, components and spares imported shall be used only in the licence holder's factory. These may be processed in the factory of another manufacturing unit, but no portion thereof shall be sold to any party. The goods so processed shall be utilized in the manufacturing process undertaken by the licensee.

Other procedural requirements

18. No.

19. An 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 an "Open General Licence", foreign exchange is provided by the bank on presentation of import documents.

Foreign exchange is always made available to cover licences issued.

APPENDIX V--A
FORM FOR ACTUAL USERS

FORM--A

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

LICENSING PERIOD.....

PART--I

1. Name of the Applicant _____ IEC _____

2. Address of the applicant _____

Pin code : _____

3. Address of Factory/Unit _____

Pin code : _____

4. (a) Date of the establishment of the unit DD MM YY

(b) Registration Number allotted by the sponsoring authority Number _____ Date _____

Number and Date of industrial licence Number _____ Date _____

(c) Whether industrial licence/registration certificate is still valid Y N

5. (a) End products for which registered with the registering authority :

SL. NO.	DESCRIPTION OF THE ITEM

(b) Book Value of production of the unit in the preceding two financial years (i.e. ex-factory cost of products) less excise, if any :

Year	Value (in Rs.)
(i).....
(ii).....

(c) C.I.F. Value of the licence applied for :

(a) Iron and Steel items Rs.

(b) Other items Rs.

(c) Spares (other than OGL) Rs.

(d) Scientific and Measuring instruments Rs.

6. PARTICULARS OF FEES PAID

(i) Bank receipt/Demand Draft No. _____

(ii) Date of issue : _____ DD MM YY

(iii) Amount (in Rs.).....

(iv) Branch of issue.....

APPENDIX V—A (contd.)

7. Capital investment on machinery and equipment as on 1st April of the current year :

- (a) Imported machinery (cif value) Rs.
 - (b) Indigenous machinery having imported components (purchase Price) Rs.
 - (c) Other indigenous machinery Rs.
- Total : Rs.

8. Number and value of (supplementary) import licence(s) issued for last two licensing periods :

Sl. No.	Licence Number	Date of Issue	Value of Licence Rs.

9. In case of application for Supplementary licence, the following should also be furnished :

- (i) Stocks in value and quantity of imported raw materials and components falling under restricted/limited permissible category in hand on the date of application.
- (ii) Stocks in value and quantity of imported raw materials and components falling under restricted/limited permissible category in the pipeline against import licence issued under the previous policies.
- (iii) Production programme/phased programme approved/assessed capacity.
- (iv) Licensed Capacity/Capacity covered by registration :

Sl. No.	Item Name	Item Code	Limited Capacity	
			Quantity	Unit of Measurement

- (v) Details of items applied for import indicating for each item, quantity required, cif Value, Sl. No. and Appendix No. under which the item is covered under current Import Policy (separate lists to be submitted for banned and restricted items)

NOTE :

- (1) For the import of Non-Iron & steel items appearing in Appendices 2B and 3A to the Import & Export Policy, 1988—91 (Vol. I), the details as in Annex A to this form may also be furnished duly signed by the applicant and certified by a Chartered Accountant/Cost Accountant/Company Secretary
- (2) For the import of Iron & Steel items, appearing in Appendices 2B and 3B of the Import & Export Policy 1988—91 (Vol. I) the details as in Annex B to this form may be furnished duly signed by the applicant and certified by a Chartered Accountant/Cost Accountant/Company Secretary.
- (3) Country of import:

APPENDIX V-A—(Contd.)

(vii) Details of unutilised import licences in hand excluding material in pipelines covered at Sl- No. 10 (ii).

Sl. No.	LICENCE No.	DATE OF ISSUE	VALUE OF LICENCE (Rs)

(viii) Details of proposed utilisation of materials and licences as at 10(i), 10(ii) and 10 (vii)

(ix) Full justification for claiming Supplementary Licences. If the application has been made on the basis of order book position, details of order received along with order-wise requirements of various items covered at 10(v) above to be indicated

10. (a) Nature of the Concern

Whether the concern is :

1 Public Ltd. Co.
 2 Private Ltd. Co.
 3 Proprietary Firm
 4 Individual Firm
 5 Hindu Undivided Family
 6 Body/Association of Individuals
 7 others (Pl. Specify)

(b) Names of the Directors, Partners, proprietor or Karta as the case may be :

(Attach extra sheet for more than five persons)

1. _____
2. _____
3. _____
4. _____
5. _____

Whether extra sheet attached Y N

(c) Details of branches or associate Companies (names & locations)

- (i) In India
- (ii) Abroad

11. Are you actually adhering to the approved/phased manufacturing programme? Y N

APPENDIX V—A (Contd.)

PART—II

STATEMENT SHOWING CONSUMPTION OF IMPORTED RAW MATERIALS, COMPONENTS AND CONSUMABLES

1. End Products manufactured

2. CIF Value of consumption of imported raw materials, Components and consumables during either of the preceding two licensing years in respect of—
 - (i) Raw materials, components and consumables covered by Appendix 3 part-A of Import & Export Policy Book for 1988-91 Rs.
 - (ii) Iron & steel Items mentioned in Appendix 3 Part-B of Import & Export Policy for 1988-91 Rs.

3. Book Value of production turned out during the period of consumption indicated against Item 3 above Rs.

6. 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 3 Part A of Import & Export Policy, 1988-91) Rs.
 - (iii) Procured by the applicant from other authorised sources Rs.

8. Capital investment on Machinery and equipment :
 - (i) Imported machinery (CIF) Value Rs.
 - (ii) Indigenous machinery having imported components (purchase price) Rs.
 - (iii) Other Indigenous Machinery (Purchase Price) Rs.

ANNEXE A APPENDIX V-A (Contd.)

Statement of requirement, consumption, stocks etc.

For Import of Non-Iron & Steel Items appearing in Appendix 2-B & 3-A to the Import and Export Policy, 1988-91.

Sl. No.	Description of the items Applied for alongwith specifications/grades/sizes	Code of item	Quantity applied for (MT)	CIF Value Applied for (Rs.)	Past Consumption (MT) of the items Applied for				Stock in Hand (MT)		Stocks in Pipelines (MT)		Unutilized valid import licences in hand (MT)		
					Preceding Year		Year before Preceding year		IND	IMP	IND	IMP		IND	IMP
					IND	IMP	IND	IMP							

Note : 1. Statement to be submitted in 6 Copies.

2. Separate statements should be submitted for the items appearing in App. 2-B & App. 3-A.

3. The statement should be signed by the applicant and should be duly certified as correct by a Chartered Accountant/Cost Accountant/Company Secretary.

ANNEXE B

STATEMENT OF REQUIREMENT, CONSUMPTION, STOCKS etc.

(for Iron & Steel items appearing in App. 2-B & 3-B, to the Import & Export Policy 1988-91)

Sl. No.	Description of items/Category	Specification/Grade/Size	CODE	Quantity applied for (MT)	CIF value in Rs.	Past consumption (MT)				Stock (MT)		in pipelines (MT)		Unutilized valid import licences in hand (MT)
						Preceding Year		Year before Preceding		Indigenous	Imported	Indigenous	Imported	
						Ind	Imp	Ind	Imp					

Note : 1. Statement to be submitted in 6 Copies.

2. Separate statement to be submitted for carbon steel (prime), Carbon steel (Secondary/defective/waste), alloy steels (prime) and alloy steels (Secondary/defective/waste).

3. Past consumption is to be for the period April-March.