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REPLIES TO THE QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

INDIA

Revision

The following revised notification<sup>1</sup> has been received from the Permanent Mission of India in response to the questionnaire on import licensing procedures annexed to L/5640/Rev.6. It replaces document L/5640/Add.7/Rev.3.

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REPONSES AU QUESTIONNAIRE RELATIF AUX PROCEDURES  
EN MATIERE DE LICENCES D'IMPORTATION

INDE

Révision

La Mission permanente de l'Inde a fait parvenir au secrétariat, en réponse au questionnaire relatif aux procédures en matière de licences d'importation annexé au document L/5640/Rev.6, la notification révisée<sup>1</sup> ci-après, qui remplace le document L/5640/Add.7/Rev.3.

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RESPUESTAS AL CUESTIONARIO RELATIVO A LOS PROCEDIMIENTOS  
PARA EL TRAMITE DE LICENCIAS DE IMPORTACION

INDIA

Revisión

La delegación de la India ha presentado, en respuesta al cuestionario relativo a los procedimientos para el trámite de licencias de importación anexo al documento L/5640/Rev.6, la notificación<sup>1</sup> siguiente, que sustituye al documento L/5640/Add.7/Rev.3.

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<sup>1</sup>English only/Anglais seulement/Inglés solamente.

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 clearances 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 and South Africa. Licences issued against tied aid and foreign credits and from rupee payment are 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 procedures.

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 that 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 items is allowed on pre-export basis and post-export basis. On pre-export basis exporters are issued duty free advance licences and blanket advance licences. These licences are given for import of the items used in the manufacture of export product. On post-export basis exporters are given import replenishment licences. These licences are given for import of those relevant items of raw materials, components, consumables and packing materials as are listed in Appendices 3 and 5 part A (list of limited permissible items and list of non-sensitive canalized items) which are related to the product exported. In addition against export of specific products, the import replenishment licences are also valid for import of Appendix-2 Part B and Appendix 5B items (list of restricted items and list of sensitive canalized items). The above provisions apply for export of items other than export of Gem and Jewellery. For Gem and Jewellery all the items required for export production are allowed for import. However, in all the above categories, import of items listed in Appendix 2 Part A is not allowed.

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 1990 to March 1993. 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 and Fiji in terms of the policy indicated in the Import Policy Book.

II. 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.

III. 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 and non-industrial) for making applications for the import of their annual requirements of raw materials, components, consumables and spares. Applicants are advised to submit applications well in advance of the last date to allow adequate time for the authorities concerned to process it.

IV. Keeping in view that Import Policy for April-March, 1990-93 is for a period of three years, actual users are permitted to submit applications for Supplementary Licence through their sponsoring authorities up to the end of the licensing year i.e. 31 March. However, for the years 1990-93, the last date will be 15 December 1992 for submission of applications to the sponsoring authority and 15 February 1993 for receipt of applications by the licensing authority through the sponsoring authority concerned, so as to enable processing of applications before the new Policy comes into force in April 1993. there is no last date for submission of applications for import of capital goods. In case of import replenishment licences, last date for receipt of application is within a period of three months from the end of the period of receipt of sale proceeds in the case of consignment exports.

V. The time limit for the disposal of various types of application varies and it may be between 10 to 45 days.

VI. 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.

VII. Import applications are submitted through the sponsoring authorities by the applicant, and after scrutiny those applications are 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.

VIII. No quota system is maintained. Licences are granted to the actual users to the extent considered necessary. Import applications are considered in chronological order based on the date of receipt of the applications.

IX. At present, no imports into India are being made under bilateral quotas or export restraint arrangements.

X. As stated in IX, no imports are made into India on the basis of export permits.

XI. Under the import policy for registered exporters, import licences are granted by way of import replenishment for essential inputs required in the manufacture of the products exported. The products against the export of which replenishment is allowed and the percentage of import replenishment allowed against each export product is contained in the Appendix 17 of the import policy book. The items permitted for import against these licences are those related items of raw materials, components, consumables and packing materials as are listed in Appendix 3 and part A (list of limited permissible items and the list of non-sensitive canalized items) which are related to the product exported. In addition, against export of specific products, import replenishment licences are also valid for import of Appendix 2 part B and Appendix 5B items (list of restricted items and list of sensitive canalized items). Against export of Gem and Jewellery items, the items required in the manufacture of export product are allowed for import. In all these categories, the import replenishment licences do not bear actual users conditions and are freely transferable.

Blanket Advance 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 date prescribed in the import policy, as already indicated in paragraph 6-IV.

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 therefore 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.<sup>1</sup> 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 100 where the value does not exceed Rs 50,000, is Rs 1 and 50 paise for every Rs 1000 or part thereof, subject to a maximum of Rs 1 lakh. In the case of small-scale units the fee is Rs 100 only for an application not more than Rs 2 lakh in value.

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

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<sup>1</sup>Can be consulted in the Secretariat Bureau 2077

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 nine 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 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 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.

ANNEX I

NEW ELEMENTS INTRODUCED IN RESPECT OF ACTUAL USERS IN THE NEW IMPORT AND EXPORT POLICY 1990-93 WHICH CAME INTO EFFECT ON 1 APRIL 1990

1. Automatic Licensing for import of raw materials and components introduced for all actual users (Industrial) to the extent of 50% of the value of Supplementary Licence issued to them in the preceding year to enable procurement of necessary imported inputs without delay. The quantity/value of automatic licence be subsequently adjusted while granting the regular supplementary licence to the party.
2. Recognized R & D Units permitted to import their requirements of raw materials, components, capital goods and instruments including those in the Restricted List, under OGL, on the certification of the Head of the R & D Units. Such permission has also been extended to import of professional grade consumer durables on the basis of essentiality certified by the Head of the Institution. This will provide strong support to indigenous R & D Institutions to intensify their substitution and technological upgradation efforts.
3. Companies securing project contracts in India against global competitive bidding will now be permitted to import machinery and equipment required for project construction which does not involve outgo of foreign exchange from the country, without the need for prior indigenous clearance from DGTD.
4. Import of precision measuring instruments, process control instruments and quality control instruments liberalized to upgrade quality of industrial production in general and export production in particular. Exporters will be able to use their own REP Licences for import of a variety of instruments required by them excepting those on the Restricted List.
5. Service Centres recognized by the Development Commissioner for Small Scale Industries will now be permitted to import spares and components of the value of Rs 1 lakh per annum. This is intended to encourage the growth of service Centres in different parts of the country which could generate employment for skilled technicians.
6. Registered manufacturer-exporters exhibiting minimum three years of export performance will be given the benefit of import of capital goods at a concessional duty of 25% of c.i.f. value, with an export obligation to export products related to the capital goods imported, for a value equivalent to three times the value of capital goods within a period of 4 years from the date of import. This benefit is expected to benefit manufacturer-exporters in the country to import capital goods of the latest technology and strengthen their export production base and also become internationally competitive.

7. Against the export of products that are not entitled for any other export incentives, exporters will be given the benefit of import of capital goods, instruments and spares that have a linkage with the products exported. Ad hoc licences for a value of 5% of the f.o.b. value of exports will be issued for import of the items mentioned above. This facility would enable the units to upgrade their technology, so as to increase their production and also improve the quality of production. This would also ensure in keeping the cost of production low.

8. Sale of consumer durables and vehicles manufactured in India to foreign diplomats and members of the Trade Missions will be extended deemed export benefit, in case the payment is made in free foreign exchange. This benefit is expected to give wide publicity to the Indian products and would also result in improving the quality of such products.

9. Fifty-two Capital Goods items have been added to the Open General Licence List. These items are mainly electronic instruments/machinery, textile machinery, food processing machinery and sea food machinery.

10. Seventeen items of Capital Goods shifted from Open General Licence List having regard to their indigenous availability.

11. Twelve items added to the list of life saving drugs allowed for import under Open General Licence.

12. Minimum value limit of Rs 5000/- in respect of import licence issued to dealers engaged in the dry fruits trade has been raised to Rs 20,000/-. All importers will be required to fulfil 100 per cent export production. Exporters of walnut/apricot kernels will be eligible to import dry fruits against REP (import replenishment) licences granted to them.

ANNEX II

CHANGES INTRODUCED IN RESPECT OF REGISTERED EXPORTERS IN THE NEW IMPORT AND EXPORT POLICY 1990-93 WHICH CAME INTO EFFECT ON 1 APRIL 1990

1. The import replenishment licensing scheme has been simplified and rationalized. Now only 4 basis rates, viz. 5%, 10%, 15% and 20%, have been prescribed, except in the case of Handicrafts where IR rate is 40%. These rates are based upon the value added criteria.
2. These licences are basically meant for import of items listed in Limited Permissible List and non-sensitive canalized list provided such items are related to the product exported. In respect of certain, identified export products, import of inputs, that are otherwise restrictive and also sensitive in nature, is allowed to some extent.
3. These licences have been made fully flexible for import of any other item listed in the Limited Permissible List and non-sensitive canalized list, for diversification of exports.
4. The policy has given recognition to the important role played by service exports towards export earnings for the country. Such exports will qualify for REP licence at the rate of 10% of the net foreign exchange earned. Such exports are also considered up to the full extent for the benefit of Export House/Trading House/Star Trading House status.
5. The minimum threshold for recognition as Export House/Trading House raised from RS 2 crores and Rs 10 crores to Rs 5 crores and Rs 20 crores respectively.
6. The flexibility available on additional licences issued to Export Houses/Trading Houses enhanced for 10% and 15% to 15% and 20% respectively.
7. The scheme to recognize "Star Trading House" has been introduced. The registered exporters having exports of Rs 75 crores on NFE earned basis are eligible to get this status. The Special Additional Licences issued to Star Trading Houses are valid for import of non-OGL capital goods up to a single item value limit of Rs 50 lakhs. These licences are also valid for import of items listed in Limited Permissible List and non-sensitive canalized list. These licences are non-transferable.
8. The Blanket Advance Licensing Scheme introduced with a view to remove procedural irritants. The scheme is available to those exporters who have annual average export of Rs 10 crores during the preceding three years.
9. The Import-Export Passbook Licensing Scheme abolished.
10. The scheme of registration of export contracts extended to consultancy projects.

ANNEX III

CHANGES MADE SUBSEQUENT TO THE ANNOUNCEMENT OF THE  
IMPORT EXPORT POLICY 1990-93

1. Import-Export Trade form Nepal freed from import-export regulations in respect of specified primary products. Similar facility allowed for import of certain manufactured articles from Nepal, containing not less than 65% of Nepalese materials.
2. The requirement of indigenous clearance has been dispensed with for import of capital goods under international competitive bidding procedure for externally aided projects.
3. Thirty four capital goods items were removed from the Open General Licence List and made licenceable items for import.
4. Six items of raw materials taken out from the Open General Licence List. These can now be imported against the Supplementary Licensing Procedure. They can also be imported against REP/Additional licences.
5. List Attestation Procedure for import of OGL items has been made applicable in the case of automobiles, electronic items and consumer durables.