

GENERAL AGREEMENT ON TARIFFS AND TRADE

REPLIES TO THE QUESTIONNAIRE ON LICENSING

INDIA

1. Outline of systems

Imports into India unless otherwise exempted require import licences or a customs clearance permit. The exempted category includes imports on government account, imports under Open General Licence, relief supplies, passenger baggages etc. 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 graduates in professional subjects, ex-service personnel and export-oriented industries. Imports of certain items is 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.

Import of a large number of items is allowed to actual users under Open General Licence i.e., without the requirement of specific import licences. These items are certain items of spare parts, raw materials, components and capital goods having no indigenous angle. Research and development units, scientific and research laboratories, institutions of higher education and hospitals can also import their bona fide requirements under Open General Licence. Furthermore, a number of items can be imported under OGL by all persons; these items include educational, scientific and technical books and journals, news magazines and newspapers, hides and skins, life saving equipments, life saving and anti-cancer drugs, homeopathic medicines, crude drugs for manufacture of Ayurvedic and Unani medicines, pulses, spices, dry fruits etc.

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 in the beginning of each financial year. Import of items is allowed under Open General Licence for Actual Users as well as for stock and sale purposes. Import of 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, dry fruits etc.

(iii) Licensing system to administer import restrictions

Import of other items is allowed subject to licensing procedure. The policy and procedure governing import of various items is given in the Import Policy Book which is published in the beginning of each financial year. 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 dt. 7.12.55, 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 each product. For the purposes of import licensing and control, items of raw materials, components and spares have been divided broadly as under:

- (i) Restricted items.
- (ii) Banned items.
- (iii) Items canalized through public sector undertakings.
- (iv) Other items.

Items of raw materials and components appearing in the restricted list can be imported by Actual Users through the system of automatic and supplementary licences. Automatic licences are issued on the basis of actual consumption of imported inputs in the previous period. Supplementary licences are issued on the recommendations, of sponsoring authorities concerned in cases where imports by way of automatic licence fall short of the requirement of the industrial unit concerned.

Items appearing in the banned list are allowed for import on a conservative basis, in order to meet the essential requirements which cannot be met from indigenous production. Automatic licences issued to Actual Users are valid for import of banned items up to 10 per cent of their value subject to a maximum of Rs 50,000 per item. In addition, imports of banned items can be allowed against supplementary licences to the extent considered necessary in the interest of production.

Canalized items are supplied to Actual Users through the mechanism of allotments by designated canalizing agencies.

Items of raw materials and components which do not appear in the banned, restricted or canalized list can be imported by actual users 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.

The detailed import policy to be followed for various categories of importers is announced at the beginning of each financial year in the form of a book known as "Import Policy Book". Hand Book of Import-Export Procedures is also published simultaneously indicating in detail procedures to be followed for making applications for import licences and connected matters. These 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 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 announced on yearly basis. Different criteria are followed in formulating the policy and determining the eligibility for licences 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. In the case of actual users (Industrial), a period of seven months is given for making applications for the import of their annual requirements of raw materials, components and consumables and a period of eleven months is given for applying for supplementary licences after the import policy is published. Actual users (non-industrial) are given nine months for applying for the import of non-permissible spares. For submission of all other applications, a period of eleven months from the time of announcement of the import policy is given. 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 a system of granting revalidation of licences.

6. (g) Import applications for automatic licences are submitted direct to the licensing authority concerned, and for issue of such licence, the importer does not have to approach any other administrative organization. Other categories of import applications are mostly to be submitted through the sponsoring authority of the applicant; and after scrutiny, those applications are sent by the sponsoring authority to the licensing authority concerned for issue of licences. In some cases, consultation with technical authorities is also necessary.

6. (h) No quota system is maintained. Licences are granted to the Actual Users to meet their full requirement. If the value of the automatic licence obtained by the Actual Users is not sufficient to meet their requirements, supplementary licences can be obtained by them to meet their balance requirement. 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 published every year. These replenishment licences do not bear actual user condition and are freely transferable.

Advance and Imprest Licences are also issued to supply imported inputs for export production and will bear a suitable export obligation.

Sometimes import of goods free of cost is allowed for jobbing, repair, servicing, reconditioning or processing in India, 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(g).

The answer to paragraph 7(d) is already covered by paragraph 6(g).

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 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 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 a person is not satisfied with the decision of a 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 a fee of Rs 10.

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 form¹ 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 applications for licences according to the value of the imports to be made. The present rate is Re 1 for every Rs 1,000 or part thereof of the value of the licence sought, subject to a minimum of Rs 50 and maximum of Rs 10,000 per application. In the case of small-scale units, the fee is Rs 50 only.

¹ Not reproduced. Sample form is available for consultation in Room 1073, Technical Barriers to Trade Division, Centre William Rappard.

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 twenty-four months. In respect of licences for raw materials, components, consumables and spares issued for import from General Currency Area or Rupee Payment Area including import replenishment licences issued to registered exporters, the period of validity is twelve months. Licences issued against foreign credits for raw materials and components are normally valid for twelve months for the terminal date of the credit.

The validity of an import licence can be extended from six months to one year or even more where the licensing authority is satisfied that there is genuine difficulty and refusal to grant extension will cause hardship or loss to the licence holder. The importer has to apply for the purpose in a prescribed form giving full justification for his request.

15. There is no penalty for non-utilization or part-utilization of the import licence.

16. Import licences issued to actual users including the imports under "open general licence" by actual users carry a specific condition to the effect that the imported goods shall be used by the licence holder or in 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 condition. An exception in this regard has been made in the case of additional replenishment licences issued to recognized 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 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. 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.