

THE BANGLADESH GAZETTE, EXTRA, OCTOBER 26, 1981

THE IMPORTERS, EXPORTERS AND INDENTORS (REGISTRATION)
ORDER, 1981.

ORDER

Dacca, the 22nd October, 1981

No. S.R.O. 346-L/81.—In exercise of the powers conferred by sub-section (1) of section 3 of the Imports and Exports (Control) Act, 1950 . (XXXIX of 1950); the Government is pleased to make the following Order, namely:—

1. Short title and commencement.--(1) This Order may be called the Importers, Exporters and Indentors (Registration) Order, 1981.

(2) It shall come into force at once,

2. Definitions.—In this Order, unless there is anything repugnant in the subject or context,—

(a) "Act" means the Importers and Exporters (Control) Act, 1950 (XXXIX of 1950);

(b) "actual user" means a person, group of persons, institution, body or organization to whom an import licence is issued by the licensing authority for import of an item for the actual use or consumption by such person, group or persons, institution, body or organization;

(c) "branch" means a subsidiary of a firm engaged in import or export business in Bangladesh;

(d) "family" means a husband and a wife dependent on him or a wife and a husband dependent on her and includes minor children – and other dependents;

(e) "foreign firm" means a firm the controlling share or interest or management of which is held by person or persons who are not nationals of Bangladesh;

(f) "importers" and "exporters" means a firm or a branch of a firm, institution, body, organisation or person or group of persons desiring to import or export or engaged in importing or exporting goods into, or from, Bangladesh;

(g) "indenter" means a firm, institution, body, organization, person or group of persons registered as an indenter and holding sole agency; dealership or distribution right from a supplier abroad;

- (h) "industrial consumer" means a recognised industrial unit registered as an importer;
- (i) "licensing authority" means the Chief Controller of Imports and Exports and includes any other officer authorised under sub- section (2) of section 3 of the Act to issue license, permit or registration certificate;
- (J) "partnership" and "private company" have the meaning assigned to them in the Partnership Act, 1932, and the Companies Act, 1913, respectively;
- (k) "proprietary firm" means an organization for purpose of trade owned by one individual;
- (l) "registration" means registration under this Order, and "registered" shall be construed accordingly.

3. (1) No indentor, importer or exporter who has not been granted registration by the Chief Controller shall issue indent, import or export any goods into, or out of Bangladesh.

(2) No exporter shall export any exportable commodity notified by the Government in the official Gazette. unless he fulfils such conditions as may be imposed by the Government in that behalf and is registered specifically as an exporter of such commodity,

(3) No registered firm or branch shall be eligible to apply for import or export licences to an office of a licensing authority other than that indicated in the official Gazette or Public Notice issued by the Chief Controller inviting applications for such licences from time to time,

4. No indentor, importer or exporter shall be entitled to registration as of right and registration may be refused or if granted, may be suspended or cancelled, for any of the following reasons, namely:—

- (a) for contravening or failing to comply with any provision of this Order;
- (b) for contravening or failing to comply with any regulation relating to import export or foreign exchange control;
- (c) for under-invoicing or over-invoicing the value of imports or exports;
- (d) for purchasing, selling, transferring or violating the conditions of an import or export licence or an authorisation issued to him by the Chief Controller or any other officer authorised in this behalf;

- (e) for obtaining or attempting to obtain any such licence or permits or authorisation by fraudulent means;
- (f) for evading payment of dues to the Government in connection with import or export;
- (g) for committing any practice relating to trades commerce and industry which, in the opinion of the Government is detrimental to the public interest;
- (h) for committing breach of any order of the Government regarding price or distribution of imported goods; or quality, standards and prices of exported goods;
- (i) for conviction in a court of law for an offence relating to trade commerce or industry;
- (j) for non-possession of real assets in Bangladesh to the extent considered adequate by the Government;
- (k) for refusal to issue indent or charging any money other than normal commission accepted by the licensing authority and the Bangladesh Bank for issuing any indent or for any other mal-practice relating to issue of indent;
- (l) for non-existence of the indenter, importer or exporter, as the case may be, at its declared or registered place,
- (m) for non-utilisation of the importer's share of import or import licence;
- (n) for mis declaration of any material fact in connection with the import, export and indenting trade;
- (o) for not being a member of a chamber of commerce and industry or a trade association duly licensed by the Government under the Trade Organisation Ordinance, 1961 (XLV of 1961), to represent any trade, commerce or industry;
- (p) for non-submission by registered indentors of documents to Bangladesh Bank in terms or section 18A of the Foreign Exchange Regulation Act, 1947 (VII of 1947),

5. If Registration is refused, suspended or cancelled, the reasons for refusal, suspension or cancellation shall be communicated by the Chief Controller to the indenter, importer or exporter concerned, who may, within one month of the date of receipt of the communication or publication of the order, as the case may be, make an application for review to the licensing authority concerned under the provision of the Review, Appeal and Revision Order, 1977.

6. The Chief Controller may at any time require a registered indenter, importer or exporter applying for registration, to furnish, in the manner prescribed by the Chief Controller, such evidence or information as Chief Controller may deem necessary for the purpose of this Order, including evidence and information relating to the organisation and conduct of the business, financial transactions made and trade practices adopted by the importer, exporter or indenter relating to import and export of goods and the class and nature of the goods imported or exported or indented or intended to be imported or exported.

7. The Chief Controller may direct a Gazetted Officer authorised by him in this behalf to inspect all documents, books and accounts relating to the import or export of goods and the premises of any importer, exporter or indenter applying for registration,

8. After the Chief Controller has examined such evidence or information as may be available to him or as may have been called for by him under paragraph 6, he may grant registration and issue a certificate in the prescribed form or, for reasons to be recorded in writing, may refuse registration or suspend or cancel registration if the importer or exporter or indenter is already registered.

9. Without prejudice to the generality of the power conferred upon him by paragraph 8,-

(a) If the evidence or the information supplied by any importer, exporter or indenter under paragraph 6 is found to be incorrect in any material respect, the Chief Controller may refuse registration or, where registration has already been granted, suspend or cancel the same after recording his reasons for such refusal, suspension or cancellation which shall be communicated to the importer, exporter or indenter concerned;

(b) If an importer exporter or indenter registered or applying for registration does not permit any officer duty authorized under paragraph 7 to inspect the documents, books and accounts relating to the import or export of goods and his premises, the Chief Controller may suspend, cancel or, as the case may be, refuse the registration.

10. The Chief Controller may exempt any indenter, importer or exporter or any class or category of indentors, importers or exporters or any class or category of indentors, importers or exporters from all or any of the provisions of this Order and such exemptions may, if the Chief Controller so thinks fit, be granted subject to such conditions or for such period as specified by him in writing.

11. Lists of the names, classes or categories of indentors, importers or exporters who have been granted registration and of persons whose registration has been cancelled shall be announced through public notice and published from time to time in the official Gazette,

12. In the case of proprietary firms—

- (a) where a proprietor has more than one firm, or
- (b) where the proprietors of two or more proprietary firms are members of a family, or
- (c) where the proprietor of a proprietary firm is a shareholder in a partnership firm whose partners are members of his family, only one of the firms shall be registered.

13. In case of partnership firms—

- (a) where the partners of two or more firms are members of the same family?
- (b) where two or more firms have the same set of partners, only one of the firms shall be registered.

14. Where-

- (a) the shareholder of two or more private companies are members of the same family, or
- (b) two or more private companies have the same shareholders only one of the companies shall be registered.

15. No firms which holds the managing agency of another firm shall in respect of the goods managed, be granted registration, but nothing in this paragraph shall prevent a firm holding a managing agency from being registered if such firm is otherwise eligible for registration.

16. Where under the provisions of paragraph 12, 13 or 14 one firm or company is granted registration to the exclusion of other firms or companies belonging to the same proprietor or proprietors, partners or shareholders the past performance, if any of the firms or companies so excluded shall be set down, item by item, to the firm or company registered.

17. The provisions of paragraph 12, 13 and 14 shall not apply to cases in which it is shown that separate firms or, as the case may be, companies exist for importing or exporting different Kinds, categories or make of goods which in the opinion of the Chief Controller, cannot for any special commercial or industrial reasons be grouped together for import or export by a single firm or company.

18. The disabilities imposed by clause (b) of paragraph 12; clause (a) of paragraph 13 and clause (a) of paragraph 14 shall not apply to a husband or wife who has established an independent business and paid income-tax before marriage or to a member

of a family who has established an independent business and paid income-tax before joining the family.

19. No foreign firm shall be registered as an indenter, importer or exporter which has not been registered as a company in Bangladesh under the Companies Act, 1913. or which has not a place of business in Bangladesh¹ and has not complied with the requirements of section 277 of the said Act.

20. (1) Except in special cases where it is shown to the satisfaction of the Government that it is necessary to depart from the percentages herein after prescribed, no foreign firm shall be registered or continue as registered as an indenter, importer or exporter unless at least 50% (fifty per cent) of its officers in each class, having more than one officer in each of the superior, executive and managerial classes, and at least 75% - (seventy-five per cent) of its staff in other classes are nationals of Bangladesh, and unless the terms of service in any class in respect of pay, allowances, privileges and the like matters are the same for all employees irrespective of their nationality:

Provided that no foreign firm established at the commencement of this Order as an indenter, importer or exporter shall be debarred from registration under sub-paragraph (1) by reasons only that the number of Bangladeshi nationals employed by it does not fulfill the percentage therein prescribed, but its registration shall be liable to be cancelled unless the prescribed percentage is reached in each class, all vacancies occurring in that class are filled by nationals of Bangladesh and the prescribed percentage is maintained in each class once it has been reached;

(2) In no case shall the term of employment of a foreign national employed in any class by such firm after the commencement of this Order be deemed to extend beyond the date the foreign national completes the age of 57 years or in the case of a foreign national employed by such firm on contract for a limited term, beyond the date of termination of the term current at the commencement of the Order:

Provided that such limited term may be renewed if it is proved to the satisfaction of the Government that the original contract contained a provision for such renewal,

(3) The Government may, for the purpose of implementing the provisions of this paragraph, direct, at any time, a foreign firm registered under this Order either as an indenter, importer or exporter to furnish such documents or information relating to the firm as the Government may require.

(4) If a foreign firm registered under this Order as an indenter on the basis of single-agency agreement with a foreign supplier either as an agent of its principal or an agent of its associate desires to enter into any additional agency agreement with any other foreign supplier for the purpose of doing indenting business in Bangladesh, it shall have to obtain prior permission from the Chief Controller for inclusion in its indenting registration certificate of the name of every such additional foreign supplier

(5) The Government may, if it considers necessary in the public interest so to do, fix the number of agencies to be held by a foreign or foreign controlled firm for the purpose of carrying on indenting business in Bangladesh.

21. (1) Every importer, every exporter and every indenter applying for registration or renewal of registration shall pay fees as follows:—

(a) importers : .

	<u>Registration fees.</u>	<u>Renewal fees</u>
	Taka	Taka
(i) Commercial	400.00	400.00
(ii) Industrial	500.00	500.00
(b) Exporters	150.00	25.00
(c) Indentors	2,000.00	2,000.00

(2) Fees shall be paid in the Bangladesh Bank or in the Government treasury or in Sonali Bank under the Head "XL VI—Misc—Fees realised under Imports and Exports (Control) Act, 1950" and the original copy of receipted bank certificate or treasury chalan, as the case may be, shall be submitted or forwarded to the nominated bank for endorsement on the pass book or Import Registration Certificate where there is no pass book and in respect of indenter or exporter to the respective licensing offices of the Chief Controller through the nominated bank-

(3) The first annual fees shall be paid along with the registration fee and the annual fee for every subsequent year shall be paid by the 31st December in the year preceding the year in respect of which the renewal of registration is applied for and the original copy of receipted bank certificate or treasury chalan as the case may be, shall be submitted so as to reach the respective licensing authority stated above not later than 31st January unless otherwise notified.

22. The Registration (Importers and Exporters) Order, 1952, is hereby repealed.

By order of the President
M. M. SIDDIQULLAH
Joint Secretary.