

## CHAPTER 2

### GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS

#### 2.00 Objective

The general provisions governing import and export of goods and services are dealt with in this chapter.

#### 2.01 Exports and Imports – ‘Free’, unless regulated

- (a) Exports and Imports shall be ‘Free’ except when regulated by way of ‘prohibition’, ‘restriction’ or ‘exclusive’ trading through State Trading Enterprises (STEs) as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports. The list of ‘Prohibited’, ‘Restricted’, and STE items can be viewed by clicking on ‘Downloads’ at <http://dgft.gov.in>
- (b) Further, there are some items which are ‘free’ for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force.

#### 2.02 Indian Trade Classification (Harmonised System) [ITC (HS)] of Exports and Imports.

- (a) ITC (HS) is a compilation of codes for all merchandise / goods for export/import. Goods are classified based on their group or sub-group at 2/4/6/8 digits.

- (b) ITC (HS) is aligned at 6 digit level with international Harmonized System goods nomenclature maintained by World Customs Organization (<http://www.wcoomd.org>). However, India maintains national Harmonized System of goods at 8 digit level which may be viewed by clicking on 'Downloads' at <http://dgft.gov.in>
- (c) The import/export policies for all goods are indicated against each item in ITC (HS). Schedule 1 of ITC (HS) lays down the Import Policy regime while Schedule 2 of ITC (HS) details the Export Policy regime.
- (d) Except where it is clearly specified, Schedule 1 of ITC (HS), Import Policy is for new goods and not for the Second Hand goods. For Second Hand goods, the Import Policy regime is given in Para 2.31 in this FTP.

### **2.03 Compliance of Imports with Domestic Laws**

- (a) Domestic Laws/ Rules/ Orders/ Regulations/ technical specifications/ environmental/safety and health norms applicable to domestically produced goods shall apply, mutatis mutandis, to imports, unless specifically exempted.
- (b) However, Goods to be utilized/ consumed in manufacture of export products, as notified by DGFT, may be exempted from domestic standards/ quality specifications.

### **2.04 Authority to specify Procedures**

DGFT may, specify Procedures to be followed by an exporter or importer or by any licensing/Regional Authority (RA) or by any other authority for purposes of implementing provisions of FT (D&R) Act, the Rules and the Orders made there under and FTP. Such procedures, or amendments if any, shall be published by means of a Public Notice.

## **Importer-Exporter Code/e-IEC**

### **2.05 Importer-Exporter Code (IEC)**

(I) An IEC is a 10-character alpha-numeric number allotted to a person that is mandatory for undertaking any export/import activities. With a view to maintain the unique identity of an entity (firm/company/LLP etc.), consequent upon introduction / implementation of GST, IEC will be equal to PAN and will be separately issued by DGFT based on an application.

(a) No export or import shall be made by any person without obtaining an IEC number unless specifically exempted. For services exports, IEC shall be necessary as per the provisions in Chapter 3 only when the service provider is taking benefits under the Foreign Trade Policy.

(b) Exempt categories and corresponding permanent IEC numbers are given in Para 2.07 of Handbook of Procedures.

(c) Application process for IEC is completely online and IEC can be generated by the applicant as per the procedure detailed in the Handbook of Procedure.<sup>i</sup>

### **2.06 Mandatory documents for export/import of goods from/into India:**

(a) Mandatory documents required for export of goods from India:

1. Bill of Lading/ Airway Bill/ Lorry Receipt/ Railway Receipt/Postal Receipt
2. Commercial Invoice cum Packing List\*
3. Shipping Bill/Bill of Export/ Postal Bill of Export

(b) Mandatory documents required for import of goods into India

1. Bill of Lading/Airway Bill/Lorry Receipt/ Railway Receipt/Postal Receipt in form CN-22 or CN 23 as the case may be.
2. Commercial Invoice cum Packing List\*
3. Bill of Entry

[Note: \*(i) As per CBEC Circulars issued under the Customs Act, 1962

(ii) Separate Commercial Invoice and Packing List would also be accepted.]

- (c) For export or import of specific goods or category of goods, which are subject to any restrictions/police conditions or require NOC or product specific compliances under any statute, the regulatory authority concerned may notify additional documents for purposes of export or import.
- (d) In specific cases of export or import, the regulatory authority concerned may electronically or in writing seek additional documents or information, as deemed necessary to ensure legal compliance.
- (e) The above stipulations are effective from 1<sup>st</sup> April, 2015.

## 2.07 Principles of Restrictions

DGFT may, through a Notification, impose restrictions on export and import, necessary for: -

- (a) Protection of public morals;
- (b) Protection of human, animal or plant life or health;

- (c) Protection of patents, trademarks and copyrights, and the prevention of deceptive practices;
- (d) Prevention of use of prison labour;
- (e) Protection of national treasures of artistic, historic or archaeological value;
- (f) Conservation of exhaustible natural resources;
- (g) Protection of trade of fissionable material or material from which they are derived;
- (h) Prevention of traffic in arms, ammunition and implements of war
- (i) Relating to the importation or exportation of gold or silver.

## **2.08 Export/Import of Restricted Goods/Services**

Any goods /service, the export or import of which is 'Restricted' may be exported or imported only in accordance with an Authorisation / Permission or in accordance with the Procedures prescribed in a Notification / Public Notice issued in this regard.

## **2.09 Export of SCOMET Items**

Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET), as indicated in Appendix-3 of Schedule 2 of ITC(HS) Classification of Export & Import Items, shall be governed by the specific provisions of (i) Chapter IV of the FT(D&R) Act, 1992 as amended from time to time (ii) Sl. No. 4 & 5 of Table A and Appendix-3 of Schedule 2 of ITC(HS) Classification of Export & Import Items (iii) Para 2.16, Para 2.17, Para 2.18 of FTP and (iv) Para 2.73 -2.82 of Hand Book of Procedures, in addition to the other provisions of FTP and Handbook of Procedures governing export Authorisations.

## **2.10 Actual User Condition**

Goods which are importable freely without any 'Restriction' may be imported by any person. However, if such imports require an Authorisation, actual user alone may import such good(s) unless actual user condition is specifically dispensed with by DGFT.

## 2.11 Terms and Conditions of an Authorisation

Every Authorisation shall, inter alia, include either all or some of the following terms and conditions (as applicable in terms of the para under which the Authorisation has been issued), in addition to such other conditions as may be specified:

- (a) Description, quantity and value of goods;
- (b) Actual User condition (as defined in Chapter 9);
- (c) Export Obligation;
- (d) Minimum Value addition to be achieved;
- (e) Minimum export/import price;
- (f) Bank guarantee/ Legal undertaking / Bond with Customs Authority/RA (as in para 2.35 of FTP).
- (g) Validity period of import/export as specified in Handbook of Procedures.

## 2.12 Application Fee

Application for IEC/ Authorisation / License / Scrips must be accompanied by application fees as indicated in the **Appendix 2K** of Appendices and Aayat Niryat Forms. Fees must be paid online through electronic fund transfer (EFT) mechanism or through Credit/Debit Cards, unless provided otherwise.

## **2.13 Clearance of Goods from Customs against Authorisation**

Goods already imported / shipped / arrived, in advance, but not cleared from Customs may also be cleared against an Authorisation issued subsequently. However, such goods already imported/shipped/arrived in advance are first warehoused against Bill of Entry for Warehousing and then cleared for home consumption against an Authorisation issued subsequently. This facility will however be not available to “restricted” items or items traded through STEs.

## **2.14 Authorisation - not a Right**

No person can claim an Authorisation as a right and DGFT or RA shall have power to refuse to grant or renew the same in accordance with provisions of FT (D&R) Act, Rules made there under and FTP.

## **2.15 Penal action and placing of an entity in Denied Entity List (DEL)**

- a) If an Authorisation holder violates any condition of such Authorisation or fails to fulfill export obligation, or fails to deposit the requisite amount within the period specified in demand notice issued by Department of Revenue and/or DGFT, he shall be liable for action in accordance with FT (D&R) Act, the Rules and Orders made there under, FTP and any other law for time being in force.
- b) With a view to raising ethical standards and for ease of doing business, DGFT has provided for self certification system under various schemes. In such cases, applicants shall undertake self certification with sufficient care and caution in filling up information/particulars. Any information/particulars subsequently found untrue/incorrect will be

liable for action under FTDR Act, 1992 and Rules therein in addition to penal action under any other Act/Order.

- c) A firm may be placed under Denied Entity List (DEL), by the concerned RA, under the provision of Rule 7 of Foreign Trade (Regulation) Rules, 1993. On issuance of such an order, for reasons to be recorded in writing, a firm may be refused grant or renewal of a license, certificate, scrip or any instrument bestowing financial or fiscal benefits. If a firm is placed under DEL all new licences, scrips, certificates, instruments etc will be blocked from printing/ issue/renewal.
- d) DEL orders may be placed in abeyance, for reasons to be recorded in writing by the concerned RA. DEL order can be placed in abeyance, for a period not more than 60 days at a time.
- e) A firm's name can be removed from DEL, by the concerned RA for reasons to be recorded in writing, if the firm completes Export Obligation/ pays penalty/ fulfils requirement of Demand Notice(s) issued by the RA/ submits documents required by the RA.

#### **Prohibitions (Country, Organisations, Groups, Individuals etc. and Product Specific):**

##### **2.16 Prohibition on Import and Export of 'Arms and related material' from / to Iraq**

Notwithstanding the policy on Arms and related materials in Chapter 93 of ITC(HS), the import/export of Arms and related material from/to Iraq is 'Prohibited'. However, export of Arms and related material to Government of Iraq shall be permitted subject to 'No Objection Certificate' from the Department of Defence Production.

**2.16 A Prohibition on Trade with the Islamic State in Iraq and the Levant [ISIL, also known as Daesh], Al Nusrah Front [ANF] and other individuals, groups, undertakings and entities associated with Al Qaida.**

In compliance with United Nations Security Council Resolution No. 2190 [2015] (full text of the Resolution is available at <http://www.un.org/press/en/2015/sc11775.doc.htm>), trade in oil and refined oil products, modular refineries and related materials, besides items of cultural (including antiquities), scientific and religious importance is prohibited with the Islamic State in Iraq and the Levant [ISIL], Al Nusrah Front [ANF] and other individuals, groups, undertakings and entities associated, directly or indirectly, with Al Qaida.

**2.17 Prohibition on direct or indirect import and export from/to DPRK**

Direct or Indirect export and import of items, whether or not originating in Democratic People's Republic of Korea (DPRK) to/from DPRK is detailed in Appendix – I of FTP.<sup>ii</sup>

**2.18 Direct or Indirect Export/Import to/from Iran**

(a) Direct or indirect export to Iran or import from Iran of any item, material, equipment, goods and technology mentioned in the following documents would be permitted subject to the provisions contained in Annex-B to the United Nations Security Council Resolution 2231 (2015):

(i) Items listed in INF CIRC/254/Rev.9/Part 1 and INF CIRC /254/Rev.7 /Part 2 (IAEA Documents) as updated by the IAEA from time to time.

(ii) Items listed in S/2006/263 (UN Security Council document) as updated by the Security Council from time to time.

(b) All the UN Security Council Resolutions/Documents and IAEA Documents referred to above are available on the UN Security Council website ([www.un.org/Docs/sc](http://www.un.org/Docs/sc)) and IAEA website ([www.iaea.org](http://www.iaea.org)).

## **2.19 Prohibition on Import of Charcoal from Somalia**

Direct or indirect import of charcoal is prohibited from Somalia, irrespective of whether or not such charcoal has originated in Somalia [United Nations Security Council Resolution 2036 (2012)]. Importers of Charcoal shall submit a declaration to Customs that the consignment has not originated in Somalia.

### **Import / Export through State Trading Enterprises:**

## **2.20 State Trading Enterprises (STEs)**

(a) State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may be imported or exported by the concerned STE as per conditions specified in ITC (HS). The list of STEs notified by DGFT is in Appendix-2J.

(b) Such STE(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale in a non discriminatory manner and shall afford enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.

(c) DGFT may, however, grant an authorisation to any other person to import or export any of the goods notified for exclusive trading through STEs.

### **Trade with Specific Countries:**

#### **2.21 Trade with Neighbouring Countries**

DGFT may issue instructions or frame schemes as may be required to promote trade and strengthen economic ties with neighbouring countries.

#### **2.22 Transit Facility**

Transit of goods through India from/ or to countries adjacent to India shall be regulated in accordance with bilateral treaties between India and those countries and will be subject to such restrictions as may be specified by DGFT in accordance with International Conventions.

#### **2.23 Trade with Russia under Debt-Repayment Agreement**

In case of trade with Russia under Debt Repayment Agreement, DGFT may issue instructions or frame schemes as may be required, and anything contained in FTP, in so far as it is inconsistent with such instructions or schemes, shall not apply.

### **Import of Specific Categories of Goods:**

#### **2.24 Import of Samples**

Import of samples shall be governed by Para 2.65 of Handbook of Procedures.

## **2.25 Import of Gifts**

Import of gifts shall be 'free' where such goods are otherwise freely importable under ITC (HS). In other cases, such imports shall be permitted against an Authorisation issued by DGFT.

## **2.26 Passenger Baggage**

- (a) Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.
- (b) Samples of such items that are otherwise freely importable under FTP may also be imported as part of passenger baggage without an Authorisation.
- (c) Exporters coming from abroad are also allowed to import drawings, patterns, labels, price tags, buttons, belts, trimming and embellishments required for export, as part of their passenger baggage without an Authorisation.

## **2.27 Re - import of goods repaired abroad**

Capital goods, equipments, components, parts and accessories, whether imported or indigenous, except those restricted under ITC (HS) may be sent abroad for repairs, testing, quality improvement or upgradation or standardization of technology and re-imported without an Authorisation.

## 2.28 Import of goods used in projects abroad

Project contractors after completion of projects abroad, may import without an Authorisation, goods including capital goods used in the project, provided they have been used for at least one year.

## 2.29 Import of Prototypes

Import of new / second hand prototypes / second hand samples may be allowed on payment of duty without an Authorisation to an Actual User (industrial) engaged in production of or having industrial license/ letter of intent for research in item for which prototype is sought for product development or research, as the case may be, upon a self- declaration to that effect, to satisfaction of customs authorities

## 2.30 Import through courier service/Post

Imports through a registered courier service or post are permitted as per Notification(s) issued under the Customs Act, 1962. However, importability of such items shall be regulated in accordance with FTP/ ITC (HS), 2017.

### Import Policy for Second Hand Goods:

#### 2.31 Second Hand Goods

| S.No | Categories of Second Hand Goods   | Import Policy   | Conditions, if any |                                  |
|------|---|---|--------------------|----------------------------------|
| I    | <b>Second Hand Capital Goods</b><br><br><small>(This document is only for use of reference. The Foreign Trade Policy reads with the relevant Notification will only have legal authority)</small> | i. Desktop Computers,<br><br>ii. Refurbished/re-conditioned spares of re-furbished parts of Personal Computers/ Laptops | Restricted         | Importable against Authorization |

|     |  |            |  |
|-----|--|------------|--|
|     | <p>iii. Air conditioners</p> <p>iv. Diesel generating sets.</p>  |            |  |
| (b) | All electronics and IT Goods notified under the Electronics and IT Goods (Requirements of Compulsory Registration ) Order, 2012 as amended from time to time | Restricted | <p>(i) Importable against an authorization. Subject to conditions laid down under Electronics and IT Goods (Requirements of Compulsory Registration ) Order, 2012 as amended from time to time.</p> <p>(ii) Import of unregistered/non-compliant notified products as in CRO, 2012 as amended from time to time is Prohibited.<sup>iii</sup></p> |
| (c) | Refurbished / re-conditioned spares of Capital Goods   | Free       | Subject to production of Chartered Engineer certificate to the effect that such spares have at least 80% residual life of original spare.  |
| (d) | All other second hand capital goods {other than (a) (b) (c) above}   | Free       |  |
| II  | Second Hand Goods other than capital goods   | Restricted | Importable against Authorisation   |
| III | Second Hand Goods imported for the purpose of repair/refurbishing / re-conditioning or re-engineering  | Free       | Subject to condition that waste generated during the repair / refurbishing of imported items is treated as per domestic Laws/ Rules/   |

*This document is only for release of reference. The Foreign Trade Policy reads with the relevant Notifications without any changes.*

|  |  |  |   |
|--|--|--|---|
|  |  |  | Orders/ Regulations/ technical specifications/ Environmental / safety and health norms and the imported item is re-exported back as per the Customs Notification. <sup>iv</sup> |
|--|--|--|---|

### **Import Policy for Metallic Waste and Scraps:**

#### **2.32 Import of Metallic waste and Scrap**

- (a) Import of any form of metallic waste, scrap will be subject to the condition that it will not contain hazardous, toxic waste, radioactive contaminated waste/scrap containing radioactive material, any types of arms, ammunition, mines, shells, live or used cartridge or any other explosive material in any form either used or otherwise as detailed in Para 2.54 of Handbook of Procedures.
- (b) The types of metallic waste and scrap which can be imported freely, and the Procedure of import in the shredded form; unshredded compressed and loose form is laid down in Para 2.54 of Handbook of Procedures.

#### **2.33 Removal of Scrap/waste from SEZ**

A SEZ unit/Developer/ Co-developer may be allowed to dispose of in DTA any waste or scrap, including any form of metallic waste and scrap, generated during manufacturing or processing activity, without an Authorisation, on payment of applicable Customs Duty.

## **Other Provisions Related to Imports:**

### **2.34 Import under Lease Financing**

No specific permission of RA is required for lease financed capital goods.

### **2.35 Execution of Legal Undertaking (LUT) / Bank Guarantee (BG)**

- (a) Wherever any duty free import is allowed or where otherwise specifically stated, importer shall execute, Legal Undertaking (LUT) / Bank Guarantee (BG) / Bond with the Customs Authority, as prescribed, before clearance of goods.
- (b) In case of indigenous sourcing, Authorisation holder shall furnish LUT/BG/Bond to RA concerned before sourcing material from indigenous supplier/nominated agency as prescribed in Chapter 2 of Handbook of Procedures.

### **2.36 Private/Public Bonded Warehouses for Imports**

- (a) Private/Public bonded warehouses may be set up in DTA as per rules, regulations and notifications issued under the Customs Act, 1962. Any person may import goods except prohibited items, arms and ammunition, hazardous waste and chemicals and warehouse them in such bonded warehouses.
- (b) Such goods may be cleared for home consumption in accordance with provisions of FTP and against Authorisation, wherever required. Customs duty as applicable shall be paid at the time of clearance of such goods.

(c) The clearance of the warehoused goods shall be as per the provisions of the Customs Act, 1962.

### **2.37 Special provision for Hides Skins and semi-finished goods**

Hides, Skins and semi-finished leather may be imported in the Public/ Private Bonded warehouse for the purpose of DTA sale and the items thereof can be re-exported from such bonded warehouses on payment of the applicable rate of export duty.

### **2.38 Sale on High Seas**

Sale of goods on high seas for import into India may be made subject to FTP or any other law in force.

#### **Exports:**

### **2.39 Free Exports**

All goods may be exported without any restriction except to the extent that such exports are regulated by ITC (HS) or any other provision of FTP or any other law for the time being in force. DGFT may, however, specify through a public notice such terms and conditions according to which any goods, not included in ITC (HS), may be exported without an Authorisation.

2.40 Deleted

## **2.41 Benefits for Supporting Manufacturers**

For any benefit to accrue to the supporting manufacturer (as defined in Para 9.58 of FTP), the names of both supporting manufacturer as well as the merchant exporter must figure in the concerned export documents, especially in ARE-1 / ARE-3 / Shipping Bill / Bill of Export/ Airway Bill.

## **2.42 Third Party Exports**

Third party exports (except Deemed Export) as defined in Chapter 9 shall be allowed under FTP. In such cases, export documents such as shipping bill shall indicate name of both manufacturing exporter/manufacturer and third party exporter(s). Bank Realization Certificate (BRC), Export Order and Invoice should be in the name of third party exporter.

### **Exports of Specific Categories:**

## **2.43 Export of Samples**

Export of Samples and Free of charge goods shall be governed by provisions given in Para 2.66 of Handbook of Procedures.

## **2.44 Export of Gifts**

Goods including edible items, of value not exceeding Rs.5,00,000/- in a licensing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC (HS) shall not be exported as a gift, without an Authorisation.

## 2.45 Export of Passenger Baggage

- (a) Bona-fide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger's departure from India. However, items mentioned as restricted in ITC (HS) shall require an Authorisation. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry along with their personal baggage, food items (free, restricted or prohibited) strictly for their personal consumption. The Provisions of the Part A shall be subject to Baggage Rules issued under Customs Act, 1962.
- (b) Samples of such items that are otherwise freely exportable under FTP may also be exported as part of passenger baggage without an Authorisation.

## 2.46 Import for export

- I. (a) Goods imported, in accordance with FTP, may be exported in same or substantially the same form without an Authorisation provided that item to be imported or exported is not in the restricted for import or export in ITC (HS).
- (b) Goods, including capital goods (both new and second hand), may be imported for export provided:
  - i. Importer clears goods under Customs Bond;
  - ii. Goods are freely exportable, i.e., are not "Restricted"/ "Prohibited"/ subject to "exclusive trading through State Trading Enterprises" or any conditionality/ requirement as may be required under Schedule 2 – Export Policy of the ITC (HS);

iii. Export is against freely convertible currency.

(c) Goods in (b) above will include 'Restricted' goods for import (except 'Prohibited' items).

(d) Capital goods, which are freely importable and freely exportable may be imported for export on execution of LUT/BG with Customs Authority.

(e) Notwithstanding the above, goods which are freely importable may be re-exported except items as in the Prohibited or SCOMET List of exports, in same or substantially same form even though such goods are under "restricted list" for export, subject to the following conditions:

- (i) Goods are not of Indian Origin;
- (ii) Goods imported shall be kept in bonded warehouse under supervision of Customs;
- (iii) Goods to be exported have never been cleared for home consumption;
- (iv) Export of goods shall be subjected to Section 69 of Customs Act, 1962.

II. (a) Goods imported against payment in freely convertible currency would be permitted for export only against payment in freely convertible currency, unless otherwise notified by DGFT.

(b) Export of such goods to the notified countries (presently only Iran) would be permitted against payment in Indian Rupees, subject to minimum 15% value addition.

(c) However, re-export of food, medicine and medical equipments, namely, items covered under ITC(HS) Chapters 2 to 4, 7 to 11, 15 to 21, 23, 30 and items under headings 9018, 9019, 9020, 9021 & 9022 of Chapter-90 of ITC(HS) will not be subject to minimum value addition requirement for export to Iran. Exports of these items to Iran shall, however, be subject to

all other conditions of FTP 2015-20 and ITC (HS) 2017, as applicable. Bird's eggs covered under ITC (HS) 0407 & 0408 and Rice covered under ITC (HS) 1006 are not covered under this dispensation, as at II (a) above.

(d) Exports under this dispensation, as at I (e) and II (a), (b) and (c) above shall not be eligible for any export incentives.

#### **2.47 Export through Courier Service/Post**

Exports through a registered courier service/Foreign Post Office is permitted as per Notification issued by DoR. However, exportability of such items shall be regulated in accordance with FTP/Export Policy in ITC(HS), 2018. The value limit for exports through courier service shall be Rs.5,00,000 per consignment.<sup>v</sup>

#### **2.48 Export of Replacement Goods**

Goods or parts thereof on being exported and found defective/damaged or otherwise unfit for use may be replaced free of charge by the exporter and such goods shall be allowed for export by Customs authorities, provided that replacement goods are not mentioned as restricted/SCOMET items for exports in ITC (HS). If the export item is 'restricted' under SCOMET, the exporter shall require a export license for replacement.

#### **2.49 Export of Repaired Goods**

Goods or parts thereof, except restricted under ITC (HS), on being exported and found defective, damaged or otherwise unfit for use may be imported for repair and subsequent re-export. Such goods shall be allowed clearance without an Authorisation and in accordance with customs notification. To that extent the

exporter shall return the benefits /incentive availed on the returned goods. If the item is 'restricted' for import, the exporter shall require an import license.

However, re-export of such defective parts/spares by the Companies/firms and Original Equipment Manufacturers shall not be mandatory if they are imported exclusively for undertaking root cause analysis, testing and evaluation purpose."

## **2.50 Export of Spares**

Warranty spares (whether indigenous or imported) of plant, equipment, machinery, automobiles or any other goods [except those restricted under ITC (HS)] may be exported along with main equipment or subsequently but within contracted warranty period of such goods, subject to approval of RBI.

### **2.50A Re-export of imported Goods found defective and unsuitable for use:**

Imported goods found defective after Customs clearance, or not found as per specifications or requirements may be re-exported back as per Customs Act, 1962.

## **2.51 Private Bonded Warehouses for Exports**

- (a) Private bonded warehouses exclusively for exports may be set up in DTA as per terms and conditions of notifications issued by DoR.
- (b) Such warehouses shall be entitled to procure goods from domestic manufacturers without payment of duty. Supplies made by a domestic supplier to such notified warehouses shall be treated as physical exports provided payments are made in free foreign exchange.

### **Payments and Receipts on Imports / Exports:**

## 2.52 Denomination of Export Contracts

(a) All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency.

(b) However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan. Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non- resident bank account. Free foreign exchange remitted by buyer to his non-resident bank (after deducting bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.

(c) Contracts (for which payments are received through Asian Clearing Union (ACU) shall be denominated in ACU Dollar. However, participants in the ACU may settle their transactions in ACU Dollar or in ACU Euro as per RBI Notifications. Central Government may relax provisions of this paragraph in appropriate cases. Export contracts and invoices can be denominated in Indian rupees against EXIM Bank/Government of India line of credit.

*The Foreign Trade Policy read with Export Notifications will only have legal authority*

## 2.53 Export to Iran -Realisations in Indian Rupees to be eligible for FTP benefits / incentives

Notwithstanding the provisions contained in para 2.52 (a) above, export proceeds realized in Indian Rupees against exports to Iran are permitted to avail exports benefits / incentives under the Foreign Trade Policy (2015-20), at par with export proceeds realized in freely convertible currency.

## 2.54 Non-Realisation of Export Proceeds

- (a) If an exporter fails to realize export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to return all benefits / incentives availed against such exports and action in accordance with provisions of FT (D&R) Act, Rules and Orders made thereunder and FTP.
- (b) In case an Exporter is unable to realize the export proceeds for reasons beyond his control (force-majeure), he may approach RBI for writing off the unrealised amount as laid down in Para 2.87 of Handbook of Procedures.
- (c) The payment realized through insurance cover, would be eligible for benefits under FTP as per Procedures laid down in Para 2.85 of Handbook of Procedures.

## 2.54A Export Credit Agencies (ECAs)

- (i) Export Credit Agencies (ECAs) are policy instrument for Government to support exports. ECAs support exports by insurance, guarantee and also direct lending. Export Credit Agencies (ECAs) like Export Credit Guarantee Corporation of India Ltd. (ECGC) provides credit insurance support to exports and export credit lending. Covers issued by ECGC to exporters, protect against losses arising out of payment failures due to insolvency or default of the buyers or due to political risks. Exporters can diversify their markets in addition to protecting existing markets through such covers. ECGC also supports Medium and Long term (MLT) exports including project exports. Exim Bank is the other ECA in the business of lending for MLT exports and fronting the government's line of credit.
- (ii) ECGC indemnifies losses of exporters in export trade due to insolvency or default of the buyer. Additionally losses due to political risk like war,

sudden import restriction, promulgation of law or decree after the shipment has been effected are also covered. Some of the anti- dumping measures or non-tariff barriers introduced after a shipment has been made will come under the purview of the political risk. In such cases exporter's interest are protected by ECGC.

### **Export Promotion Councils:**

#### **2.55 Recognition of EPCs to function as Registering Authority for issue of RCMC**

- (a) Export Promotion Councils (EPCs) are organizations of exporters, set up with the objective to promote and develop Indian exports. Each Council is responsible for promotion of a particular group of products/projects/services as given in Appendix 2T of AANF.
- (b) EPCs are also eligible to function as Registering Authorities to issue Registration-cum-Membership Certificate (RCMC) to its members. The criteria for EPCs to be recognized as Registering Authorities for issue of RCMC to its members are detailed in Para 2.92 of the Handbook of Procedures.

#### **2.56 Registration-cum-Membership Certificate (RCMC)**

Any person, applying for:

- (a) An Authorisation to import/export (except items) listed as 'Restricted' items in ITC (HS)  
Or
- (b) Any other benefit or concession under FTP shall be required to furnish or upload on DGFT's website in the Importer Exporter Profile, the

RCMC granted by competent authority in accordance with Procedures specified in Handbook of Procedures unless specifically exempted under FTP. Certificate of Registration as Exporter of Spices (CRES) issued by Spices Board and Certificate of Registration as Exporter of coir & coir products issued by the Coir Board shall be treated as Registration-Cum-Membership Certificate (RCMC) for the purposes under this Policy.

### **Policy Interpretation and Relaxations:**

#### **2.57 Interpretation of Policy**

- (a) The decision of DGFT shall be final and binding on all matters relating to interpretation of Policy, or provision in Handbook of Procedures, Appendices and Aayat Niryat Form for classification of any item for import / export in the ITC (HS).
- (b) A Policy Interpretation Committee (PIC) may be constituted to aid and advice DGFT. The composition of the PIC would be as follows:
  - (i) DGFT: Chairman
  - (ii) All Additional DGFTs in Headquarters: Members
  - (iii) All Joint DGFTs in Headquarters looking after Policy matters: Members
  - (iv) Joint DGFT (PRC/PIC): Member Secretary
  - (v) Any other person / representative of the concerned Ministry / Department, to be co-opted by the Chairman.

#### **2.58 Exemption from Policy/Procedures**

DGFT may in public interest pass such orders or grant such exemption, relaxation or relief, as he may deem fit and proper, on grounds of genuine

hardship and adverse impact on trade to any person or class or category of persons from any provision of FTP or any Procedures. While granting such exemption, DGFT may impose such conditions as he may deem fit after consulting the Committees as under:

| Sl. No. | Description   | Committee                         |
|---------|---|-----------------------------------|
| (a)     | Fixation / modification of product norms                      | Norms Committees                  |
| (b)     | Nexus with Capital Goods (CG) and benefits under EPCG Schemes | EPCG Committee                    |
| (c)     | All other issues  | Policy Relaxation Committee (PRC) |

## 2.59 Personal Hearing by DGFT for Grievance Redressal

(a) Government is committed to easy and speedy redressal of grievances from Trade and Industry. Paragraph 2.58 of FTP provides for relaxation of Policy and Procedures on grounds of genuine hardship and adverse impact on trade. If an importer/exporter is aggrieved by any decision taken by Policy Relaxation Committee (PRC), or a decision/order by any authority in the Directorate General of Foreign Trade, a specific request for Personal Hearing (PH) along with the prescribed application fee as per Appendix-2K has to be made to DGFT. DGFT may consider request for relaxation after consulting concerned Norms Committee, EPCG Committee or Policy Relaxation Committee (PRC) and the decision conveyed in pursuance to the personal hearing shall be final and binding.

(b) The opportunity for Personal Hearing will not apply to a decision/order made in any proceeding, including an adjudication proceeding, whether at the original stage or at the appellate stage,

under the relevant provisions of FT (D&R) Act, 1992, as amended from time to time.

## **2.60 Regularization of EO default and settlement of Customs duty and interest through Settlement Commission**

With a view to providing assistance to firms who have defaulted under FTP for reasons beyond their control as also facilitating merger, acquisition and rehabilitation of sick units, it has been decided to empower Settlement Commission in Department of Revenue to decide such cases also with effect from 01.04.2005.

### **Self Certification of Originating Goods:**

## **2.61 Approved Exporter Scheme for Self Certification of Certificate of Origin.**

- (i) Currently, Certificates of Origin under various Preferential Trade Agreements [PTA], Free Trade Agreements [FTAs], Comprehensive Economic Cooperation Agreements [CECA] and Comprehensive Economic Partnerships Agreements [CEPA] are issued by designated agencies as per Appendix 2B of Appendices and Aayat and Niryat Forms. A new optional system of self certification is being introduced with a view to reducing transaction cost.
- (ii) Manufacturers who are also Status Holders shall be eligible for Approved Exporter Scheme. Approved Exporters will be entitled to self-certify their manufactured goods as originating from India with a view to qualifying for preferential treatment under different PTAs/FTAs/CECAs/CEPAs which are in operation. Self-certification will be permitted only for the goods that are manufactured as per the Industrial Entrepreneurs Memorandum (IEM) / Industrial License (IL) /Letter of Intent (LOI) issued to manufacturers.

- (iii) Status Holders will be recognized by DGFT as Approved Exporters for self-certification based on availability of required infrastructure, capacity and trained manpower as per the details in Para 2.109 of Handbook of Procedures 2015-20 read with Appendix 2F of Appendices & Aayaat Niryat Forms.
- (iv) The details of the Scheme, along with the penalty provisions, are provided in Appendix 2F of Appendices and Aayaat Niryat Forms and will come into effect only when India incorporates the scheme into a specific agreement with its partner/s and the same is appropriately notified by DGFT.

## **2.62 Certification of Origin of Goods EU-GSP**

Exporters can self-certify the Statement on Origin of their goods, as per the self-certification scheme , Certification of Origin of Goods for European Union Generalised System of Preferences (EU-GSP) , of the European Union (EU) under the Registered Exporter System (REX) as in Para 2.104 (c) of the Handbook of Procedures.

*This document is only for ease of reference. The Foreign Trade Policy read with the relevant Notifications will be the legal authority*

## Appendix I (Para 2.17)

### 2.17 Prohibition on direct or indirect import and export from/to Democratic People's Republic of Korea (DPRK)

“Prohibition on export:

(A) The direct or indirect supply, sale, transfer or export of the following items to Democratic People's Republic of Korea (DPRK) is prohibited:-

- (i) any battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register of Conventional Arms, or related materiel including spare parts;
- (ii) all arms and related materiel, including small arms and light weapons and their related materiel;
- (iii) all items, materials, equipment, goods and technology as set out in the United Nations Security Council (UNSC) and International Atomic Energy Agency (IAEA) documents, namely,

1. S/2006/853\*;
2. S/2006/853/Corr.1;
3. Part B of S/2009/364\*;
4. Annex III of Resolution 2094 (2013);
5. S/2016/1069;
6. Annex A to INF CIRC/254/Rev.12/Part1 (IAEA document);
7. Annex to INF CIRC/254/Rev.9/Part2 (IAEA document);
8. S/2014/253;
9. S/2016/308;
10. Annex III of Resolution 2321 (2016); and

11. other items, materials, equipment, goods and technology, as determined by the Central Government, which could contribute to DPRK's nuclear related, ballistic missile-related or other weapons of mass destruction related programmes;

(iv) luxury goods, including, but not limited to, the items specified in Annex IV of Resolution 2094 (2013), Annex IV of Resolution 2270 (2016) and Annex IV of Resolution 2321 (2016);

(v) items as determined by the Central Government, except food or medicine, that could directly contribute to the development of the Democratic People's Republic of Korea's operational capabilities of its armed forces. This measure is subject to the exemptions set out in paragraph 8 (a) and (b) of Resolution 2270 (2016);

#### Prohibition on import

(B) The direct or indirect procurement or import from DPRK, of items, whether or not originating in DPRK, covered in sub-paragraphs (A)(i), (A)(ii), (A)(iii) and (A)(v) above is prohibited.

#### Sectoral prohibitions (export)

(C) The direct or indirect supply, sale, transfer or export of the following items to DPRK is prohibited:

(i) new helicopters and new or used vessels, except as approved in advance by the Committee on a case-by-case basis;

(ii) aviation fuel, including aviation gasoline, naphtha-type jet fuel, kerosene-type jet fuel, and kerosene-type rocket fuel. This measure is subject to the provisions of paragraph 31 of Resolution 2270 (2016) and paragraph 20 of Resolution 2321 (2016);

(iii) condensates and natural gas liquids;

(iv) refined petroleum products. This measure is subject to the limits, exceptions and procedures set out in paragraph 5 of Resolution 2397 (2017);

(v) crude oil. This measure is subject to the limits, exemptions and procedures set out in paragraph 4 of Resolution 2397 (2017);

(vi) all industrial machinery [Chapter 84 and 85 of ITC(HS)], transportation vehicles [Chapter 86 to 89 of ITC(HS)], and iron, steel, and other metals [Chapter 72 to 83 of ITC(HS)]. This measure is subject to the exemptions set out in paragraph 7 of Resolution 2397 (2017);

#### Sectoral prohibitions (import)

(D) The direct or indirect procurement or import from DPRK, of the following items is prohibited:

(i) coal, iron and iron ore. This measure is subject to the exemptions and procedures set out in paragraph 8 of Resolution 2371 (2017);

(ii) gold, titanium ore, vanadium ore, and rare earth minerals;

(iii) copper, nickel, silver and zinc;

(iv) statues, unless the Committee approves on a case-by-case basis in advance;

(v) seafood (including fish, crustaceans, mollusks, and other aquatic invertebrates in all forms). This measure is subject to the exemptions, clarifications and procedures set out in paragraph 9 of Resolution 2371 (2017) and paragraph 6 of Resolution 2397 (2017);

(vi) lead and lead ore. This measure is subject to the exemptions and procedures set out in paragraph 10 of Resolution 2371 (2017);

(vii) textiles (including but not limited to fabrics and partially or fully completed apparel products). This measure is subject to the exemptions and procedures set out in paragraph 16 of Resolution 2375 (2017);

(viii) food and agricultural products [Chapters 12, 08, 07 of ITC(HS)], machinery [Chapter 84 of ITC(HS)], electrical equipment [Chapter 85 of ITC(HS)], earth and stone including magnesite and magnesia [Chapter 25 of ITC(HS)], wood [Chapter 44 of ITC(HS)], and vessels [Chapter 89 of ITC(HS)]. These measures are subject to the procedures set out in paragraph 6 of Resolution 2397(2017).

Explanation.-

- a) UNSC means the United Nations Security Council;
- b) IAEA means the International Atomic Energy Agency;
- c) Committee means the Committee of the UNSC set up in terms of paragraph 12 of Resolution 1718 (2006);
- d) Resolution, as the case may be, means the UNSC Resolutions under Chapter VII of the Charter of the United Nations on Democratic People's Republic of Korea, namely, 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2231 (2016), 2356 (2017), 2371<sup>vii</sup> (2017), 2375 (2017) and 2397(2017)".<sup>vi</sup>

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<sup>i</sup> Amendment vide Notification No. 24/2015-2020 dated 08.08.2018.

<sup>ii</sup> Modified vide Notification No.52/2015-2020 dated 07.03.2018

<sup>iii</sup> Amendment vide Notification No. 5/2015-2020 dated 07.05.2019.

<sup>iv</sup> Inserted vide Notification No.58/2015-2020 dated 28.03.2018

<sup>v</sup> Amendment vide Notification No. 36/2015-2020 dated 27.09.2018

<sup>vi</sup> Modified vide Notification No.52/2015-2020 dated 07.03.2018

<sup>vii</sup> Inserted vide Notification No.58/2015-2020 dated 28.03.2018

This document is only for ease of reference. The Foreign Trade Policy read with the relevant Notifications will only be valid authority