



Foreign Trade Policy

1st September 2004-31st March 2009

w.e.f. 1.4.2007

Ministry of Commerce and Industry
Department of commerce
Government of India

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GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE

**NOTIFICATION No. 1(RE-2007)/ 2004-2009
NEW DELHI, DATED THE 19th April, 2007**

In exercise of powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act,1992 (No.22 of 1992) read with paragraph 1.2 of the Foreign Trade Policy, 2004-2009, the Central Government hereby notifies the Foreign Trade Policy, 2004-2009 incorporating the Annual Supplement as updated on 19th April 2007 and contained in Annexure to this notification. The policy shall come into force w.e.f. 1st April 2007.

This issues in Public interest.

(B. S. MEENA)
Director General of Foreign Trade and
Ex Officio Additional Secretary to the Government of India

(Issued from F.No. 01/94/180/FTP/AM08/PC-I)

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FOREIGN TRADE POLICY

PREAMBLE

CONTEXT

For India to become a major player in world trade, an all encompassing, comprehensive view needs to be taken for the overall development of the country's foreign trade. While increase in exports is of vital importance, we have also to facilitate those imports which are required to stimulate our economy. Coherence and consistency among trade and other economic policies is important for maximizing the contribution of such policies to development. Thus, while incorporating the existing practice of enunciating an annual Exim Policy, it is necessary to go much beyond and take an integrated approach to the developmental requirements of India's foreign trade. This is the context of the new Foreign Trade Policy.

OBJECTIVES

Trade is not an end in itself, but a means to economic growth and national development. The primary purpose is not the mere earning of foreign exchange, but the stimulation of greater economic activity. The Foreign Trade Policy is rooted in this belief and built around two major objectives. These are:

- (i) To double our percentage share of global merchandise trade within the next five years; and
- (ii) To act as an effective instrument of economic growth by giving a thrust to employment generation.

STRATEGY

These objectives are proposed to be achieved by adopting, among others, the following strategies:

- (i) Unshackling of controls and creating an atmosphere of trust and transparency to unleash the innate entrepreneurship of our businessmen, industrialists and traders.
- (ii) Simplifying procedures and bringing down transaction costs.
- (iii) Neutralizing incidence of all levies and duties on inputs used in export products, based on the fundamental principle that duties and levies should not be exported.
- (iv) Facilitating development of India as a global hub for manufacturing, trading and services.
- (v) Identifying and nurturing special focus areas which would generate additional employment opportunities, particularly in semi-urban and rural areas, and developing a series of 'Initiatives' for each of these.

- (vi) Facilitating technological and infrastructural upgradation of all the sectors of the Indian economy, especially through import of capital goods and equipment, thereby increasing value addition and productivity, while attaining internationally accepted standards of quality.
- (vii) Avoiding inverted duty structures and ensuring that our domestic sectors are not disadvantaged in the Free Trade Agreements/Regional Trade Agreements/Preferential Trade Agreements that we enter into in order to enhance our exports.
- (viii) Upgrading our infrastructural network, both physical and virtual, related to the entire Foreign Trade chain, to international standards.
- (ix) Revitalising the Board of Trade by redefining its role, giving it due recognition and inducting experts on Trade Policy.
- (x) Activating our Embassies as key players in our export strategy and linking our Commercial Wings abroad through an electronic platform for real time trade intelligence and enquiry dissemination.

PARTNERSHIP :

The new Policy envisages merchant exporters and manufacturer exporters, business and industry as partners of Government in the achievement of its stated objectives and goals. Prolonged and unnecessary litigation vitiates the premise of partnership. In order to obviate the need for litigation and nurture a constructive and conducive atmosphere, a suitable Grievance Redressal Mechanism will be established which, it is hoped, would substantially reduce litigation and further a relationship of partnership.

The dynamics of a liberalized trading system sometimes results in injury caused to domestic industry on account of dumping. When this happens, effective measures to redress such injury will be taken.

ROADMAP:

This Policy is essentially a roadmap for the development of India's foreign trade. It contains the basic principles and points the direction in which we propose to go. By virtue of its very dynamics, a trade policy cannot be fully comprehensive in all its details. It would naturally require modification from time to time. We propose to do this through continuous updation, based on the inevitable changing dynamics of international trade. It is in partnership with business and industry that we propose to erect milestones on this roadmap.

(KAMAL NATH)
MINISTER FOR COMMERCE & INDUSTRY
GOVERNMENT OF INDIA

NEW DELHI
31ST AUGUST, 2004

GLOSSARY (Acronyms)

ACC	Assistant Commissioner of Customs
ACU	Asian Clearing Union
AEZ	Agri Export Zone
ANF	Aayaat Niryaat Form
ARO	Advance Release Order
ASIDE	Assistance to States for Infrastructure Development of Exports
BG	Bank Guarantee
BIFR	Board of Industrial and Financial Reconstruction
BoA	Board of Approval
BoT	Board of Trade
BRC	Bank Realisation Certificate
BTP	Bio Technology Park
CBEC	Central Board of Excise and Customs
CCP	Customs Clearance Permit
CEA	Central Excise Authority
CEC	Chartered Engineer Certificate
CIF	Cost, Insurance & Freight
CIS	Commonwealth of Independent States
CoD	Cash on Delivery
CoO	Certificate of Origin
CVD	Counter Vailing Duty
DA	Document against Acceptance
DoBT	Department of Bio Technology
DC	Development Commissioner
DFRC	Duty Entitlement Passbook Scheme
DFIA	Duty Free Import Authorisation
DFRC	Duty Free Replenishment Certificate
DGCI&S	Director General, Commercial Intelligence and Statistics
DGFT	Director General of Foreign Trade
DIPP	Department of Industrial Policy & Promotion
DoC	Department of Commerce
DoE	Department of Electronics
DoIT	Department of Information Technology
DoR	Department of Revenue
DoT	Department of Tourism
DTA	Domestic Tariff Area
EDI	Electronic Data Interchange
EEFC	Exchange Earners' Foreign Currency
EFC	Exim Facilitation Committee
EFT	Electronic Fund Transfer
EH	Export House
EHTP	Electronic Hardware Technology Park
EIC	Export Inspection Council
EPCG	Export Obligation
EOP	Export Obligation Period
EOU	Export Oriented Unit

EPC	Export Promotion Council
EPCG	Export Promotion Capital Goods
EPO	Engineering Process Outsourcing
FDI	Foreign Direct Investment
FIEO	Federation of Indian Export Organisation
FIRC	Foreign Exchange Inward Remittance Certificate
FMS	Focus Market Scheme
FOB	Free On Board
FPS	Focus Product Scheme
FT (D&R) Act	Foreign Trade (Development & Regulation) Act, 1992 (No.22 of 1992)
FTDO	Foreign Trade Development Officer
FTP	Foreign Trade Policy
GATS	General Agreement on Trade in Services
GRC	Grievance Redressal Committee
HACCP	Hazard Analysis and Critical Control Process
HBP v1	Handbook of Procedures (Vol.1)
HBP v2	Handbook of Procedures (Vol.2)
ICD	Inland Container Depot
ICM	Indian Commercial Mission
IEC	Importer Exporter Code
ISO	International Standards Organisation
ITC (HS)	Indian Trade Classification (Harmonised System) Classification for Export & Import Items, 2004-2009
ITPO	India Trade Promotion Organisation
LoC	Line of Credit
LoI	Letter of Intent
LoP	Letter of Permit
LUT	Legal Under Taking
MAI	Market Access Initiative
MDA	Market Development Assistance
MEA	Ministry of External Affairs
MoD	Ministry of Defence
MoF	Ministry of Finance
NC	Norms Committee
NFE	Net Foreign Exchange
NOC	No Objection Certificate
PRC	Policy Relaxation Committee
PTH	Premier Trading House
PSU	Public Sector Undertaking
R&D	Research and Development
RA	Regional Authority
RBI	Reserve Bank of India
REP	Replenishment
RCMC	Registration-cum-Membership Certificate
RSCQC	Regional Sub-Committee on Quality Complaints
S / B	Shipping Bill
SEH	Star Export House
SEI CMM	Software Engineers Institute's Capability Maturity Model
SEZ	Special Economic Zone

SFIS	Served from India Scheme
SIA	Secretariat for Industrial Assistance
SION	Standard Input Output Norms
SSI	Small Scale Industry
STE	State Trading Enterprise
STH	Star Trading House
STP	Software Technology Park
TEE	Towns of Export Excellence
TH	Trading House
TRQ	Tariff Rate Quota
VA	Value Addition
VKGUY	Vishesh Krishi and Gram Udyog Yojana
WHOGMP	World Health Organisation Good Manufacturing Practices

CHAPTER 1A

LEGAL FRAMEWORK

- Preamble** 1.1 The Preamble spells out the broad framework.
- Duration** 1.2 This Foreign Trade Policy 2004-2009 (FTP), incorporating provisions relating to export and import of goods and services, shall come into force with effect from 1st April, 2007 and shall remain in force upto 31st March, 2009 unless otherwise specified.
- Amendments** 1.3 Central Government reserves right in public interest to make any amendments by notification to this Policy in exercise of powers conferred by Section 5 of FT(D&R) Act.
- 1.4 Authorisations issued before commencement of FTP shall continue to be valid for the purpose and duration for which such Authorisation was issued, unless otherwise stipulated.
- Transitional Arrangements** 1.5 In case an export or import that is permitted freely under FTP is subsequently subjected to any restriction or regulation, such export or import will ordinarily be permitted notwithstanding such restriction or regulation, unless otherwise stipulated, provided that shipment of export or import is made within original validity with respect to available balance and time period of an irrevocable letter of credit established before date of imposition of such restriction. However, a time limit for operationalising such LCs may be prescribed.

CHAPTER 1B

SPECIAL FOCUS INITIATIVES

Special Focus Initiatives

- 1B.1 With a view to doubling our percentage share of global trade within 5 years and expanding employment opportunities, especially in semi urban and rural areas, certain special focus initiatives have been identified for agriculture, handlooms, handicraft, gems & jewellery, leather and Marine sectors.

Government of India shall make concerted efforts to promote exports in these sectors by specific sectoral strategies that shall be notified from time to time.

New Sectoral Initiatives to be announced

Further Sectoral Initiatives in other sectors will also be announced from time to time.

Thrust sectors shall be extended following facilities:

- (i) Agriculture and Village Industry
 - (a) Vishesh Krishi and Gram Udyog Yojana
 - (b) Funds shall be earmarked under ASIDE for development of Agri Export Zones (AEZ)
 - (c) Deleted.
 - (d) Deleted.
 - (e) Capital goods imported under EPCG shall be permitted to be installed anywhere in AEZ.
 - (f) Import of restricted items, such as panels, shall be allowed under various export promotion schemes.
 - (g) Import of inputs such as pesticides shall be permitted under Advance Authorisation for agro exports.
 - (h) New towns of export excellence with a threshold limit of Rs 250 crore shall be notified.
- (ii) Handlooms :
 - (a) Specific funds would be earmarked under MAI / MDA Scheme for promoting handloom exports.
 - (b) Duty free import entitlement of specified trimmings and embellishments shall be 5% of FOB value of exports during previous financial year.
 - (c) Duty free import entitlement of hand knotted carpet samples shall be 1% of FOB value of exports during previous financial year.
 - (d) Duty free import of old pieces of hand knotted carpets

on consignment basis for re-export after repair shall be permitted.

- (e) New towns of export excellence with a threshold limit of Rs 250 crore shall be notified.
- (f) Handloom mark enables handloom products to develop a niche market with a distinct identity.
- (g) Machinery and equipment for effluent treatment plants shall be exempt from customs duty.

(iii) Handicrafts:

- (a) New Handicraft SEZs shall be established which would procure products from cottage sector and do finishing for exports.
- (b) Duty free import entitlement of tools, machinery and equipment, trimmings and embellishments shall be 5% of FOB value of exports during previous financial year. Entitlement is broad banded, and shall extend also to merchant exporters tied up with supporting manufacturers.
- (c) Handicraft EPC is authorized to import trimmings, embellishments and consumables on behalf of those exporters for whom directly importing may not be viable.
- (d) Specific funds would be earmarked under MAI & MDA Schemes for promoting Handicraft exports.
- (e) CVD is exempted on duty free import of trimmings, embellishments and consumables.
- (f) New towns of export excellence with a reduced threshold limit of Rs 250 crore shall be notified.
- (g) Machinery and equipment for effluent treatment plants shall be exempt from customs duty.

(iv) Gems & Jewellery

- (a) Import of gold of 8k and above shall be allowed under replenishment scheme subject to import being accompanied by an Assay Certificate specifying purity, weight and alloy content.
- (b) Duty free import entitlement of consumables, tools, machinery and equipments for metals other than Gold, Platinum shall be 2% and for Gold and Platinum shall be 1% of FOB value of exports during previous financial year. However, for rhodium-plated silver jewellery, entitlement shall be 3%.
- (c) Duty free import entitlement of commercial samples

shall be Rs. 300,000.

- (d) Duty free re-import entitlement for rejected jewellery shall be 2% of FOB value of exports.
- (e) Cutting and polishing of gems and jewellery, shall be treated as manufacturing for purposes of exemption under Section 10A of Income Tax Act.
- (v) Leather and Footwear
 - (a) Duty free import entitlement of specified items shall be 5% of FOB value of exports during preceding financial year.
 - (b) Duty free entitlement for import of trimmings, embellishments and footwear components for footwear (leather as well as synthetic), gloves, travel bags and handbags shall be 3% of FOB value of exports of previous financial year. Such entitlement shall also cover packing material, such as printed and non printed shoeboxes, small cartons made of wood, tin or plastic materials for packing footwear.
 - (c) Machinery and equipment for Effluent Treatment Plants shall be exempt from basic customs duty.
 - (d) Re-export of unsuitable imported materials such as raw hides & skins and wet blue leathers is permitted.
 - (e) CVD is exempted on lining and interlining material notified at S.No 168 of Customs Notification No 21/2002 dated 01.03.2002.
 - (f) CVD is exempted on raw, tanned and dressed fur skins falling under Chapter 43 of ITC (HS).

Package for Marine Sector

- (vi) (a) Duty free import of specified specialised inputs / chemicals and flavouring oils is allowed to the extent of 1% of FOB value of preceding financial year's export.
- (b) To allow import of monofilament longline system for tuna fishing at a concessional rate of duty.
- (c) A self removal procedure for clearance of seafood waste is applicable subject to prescribed wastage norms.

Hi-tech products Export Promotion Scheme

- (vii) The scheme has been introduced to promote export of notified hi-tech products.

1B.2 Deleted

CHAPTER-1C

BOARD OF TRADE

- Board of Trade (BOT)** 1C.1 BOT has a clear and dynamic role in advising government on relevant issues connected with foreign trade.
- Terms of Reference** 1C.2 BOT has following terms of reference:
- I To advise Government on Policy measures for preparation and implementation of both short and long term plans for increasing exports in the light of emerging national and international economic scenarios;
 - II To review export performance of various sectors, identify constraints and suggest industry specific measures to optimize export earnings;
 - III To examine existing institutional framework for imports and exports and suggest practical measures for further streamlining to achieve desired objectives;
 - IV To review policy instruments and procedures for imports and exports and suggest steps to rationalize and channelise such schemes for optimum use;
 - V To examine issues which are considered relevant for promotion of India's foreign trade, and to strengthen international competitiveness of Indian goods and services; and
 - VI To commission studies for furtherance of above objectives.
- Composition** 1C.3 Government shall nominate an eminent person or expert on trade policy to be Chairman of BOT. Government shall also nominate 25 persons, of whom at least 10 will be experts in trade policy. In addition, Chairmen of recognized EPCs and President or Secretary-Generals of National Chambers of Commerce will be ex-officio members. BOT will meet at least once every quarter.
- 1C.4 Deleted
To
1C.6

CHAPTER-2

GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS

- Exports and Imports free unless regulated**
- 2.1 Exports and Imports shall be free, except where regulated by FTP or any other law in force. The item wise export and import policy shall be, as specified in ITC (HS) notified by DGFT, as amended from time to time.
- 2.1.1 Import / export of arms and related material from / to Iraq shall be prohibited.
- 2.1.2 Direct or indirect export and import of following items, whether or not originating in Democratic People's Republic of Korea (DPRK), to / from, DPRK is prohibited:
- All items, materials equipment, goods and technology including as set out in lists in documents S/2006/814,S/2006/815 and S/2006/853(United Nations Security Council Documents) which could contribute to DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes.
- 2.1.3 Direct or indirect export and import of all items, materials, equipment, goods and technology which could contribute to Iran's enrichment-related, reprocessing or heavy water related activities, or to development of nuclear weapon delivery systems, as mentioned below whether or not originating in Iran, to / from Iran is prohibited:
- i) items, listed in INFCIRC/254/Rev8/Part I in document S/2006/814, in Sections B.2 to B.7 as well as A.I and B.I except supply, sale or transfer of equipment covered by B.I when such equipment is for light water reactors and low-enriched uranium covered by A.1.2 when it is incorporated in assembled nuclear fuel elements for such reactors;
- ii) items listed in S/2006/815 except supply sale or transfer of items covered by 19.A.3 of Category II.
- Above-mentioned UN Security Council documents are accessible from DGFT web site.
- Compliance with Laws**
- 2.2 Every exporter or importer shall comply with the provisions of FT (D&R) Act, Rules and Orders made there-under, FTP and terms and conditions of any Authorisation granted to him. All imported goods shall also be subject to domestic Laws, Rules, Orders, Regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods. No import or export of rough diamonds shall

be permitted unless accompanied by Kimberley Process (KP) Certificate as specified by Gem & Jewellery EPC (GJEPC).

Interpretation of Policy 2.3

If any question or doubt arises in respect of interpretation of any provision contained in FTP, or classification of any item in ITC (HS) or HBP v1 or HBP v2 or Schedule of DEPB Rates (including content, scope or issue of an authorization there under), said question or doubt shall be referred to DGFT whose decision thereon shall be final and binding.

Procedure

2.4

DGFT may, specify procedure to be followed for an exporter or importer or by any licensing or any other competent authority for purpose of implementing provisions of FT (D&R) Act, the Rules and the Orders made there under and FTP. Such procedures shall be published by means of a Public Notice, and may, in like manner, be amended from time to time.

Exemption from Policy / Procedure 2.5

DGFT may pass such orders or grant such relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade.

DGFT may, in public interest, exempt any person or class or category of persons from any provision of FTP or any procedure and may, while granting such exemption, impose such conditions as he may deem fit. Such request may be considered only after consulting committees as under:

Sl. No.	Description	Committee
(i)	Fixation / modification of product norms under all schemes	Norms Committee
(ii)	Nexus with Capital Goods (CG) and benefits under EPCG Schemes	EPCG Committee
(iii)	All other issues	Policy Relaxation Committee (PRC)

Principles of Restriction

2.6

DGFT may, through a notification, adopt and enforce any measure necessary for: -

- i Protection of public morals.
- ii Protection of human, animal or plant life or health.
- iii Protection of patents, trademarks and copyrights and the prevention of deceptive practices.
- iv Prevention of use of prison labour.
- v Protection of national treasures of artistic, historic or

		archaeological value.
		vi Conservation of exhaustible natural resources.
		vii Protection of trade of fissionable material or material from which they are derived; and
		viii Prevention of traffic in arms, ammunition and implements of war.
Restricted Goods	2.7	Any goods, export or import of which is restricted under ITC(HS) may be exported or imported only in accordance with an Authorisation or in terms of a public notice issued in this regard.
Terms and Conditions of a licence / Certificate / Permission / Authorisation	2.8	Every Authorisation shall be valid for prescribed period of validity and shall contain such terms and conditions as may be specified by RA which may include: <ul style="list-style-type: none"> (a) Quantity, description and value of goods; (b) Actual User condition; (c) Export obligation; (d) Value addition to be achieved; and (e) Minimum export / import price.
Authorisation / Licence / Certificate / Permission not a Right	2.9	No person may claim an Authorization 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.
Penalty	2.10	If an Authorisation holder violates any condition of such Authorisation or fails to fulfill export obligation, 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.
State Trading	2.11	Any goods, import or export of which is governed through exclusive or special privileges granted to STE(s), may be imported or exported by STE(s) as per conditions specified in ITC (HS). DGFT may, however, grant an Authorisation to any other person to import or export any of these goods. <p>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.</p>

Importer-Exporter Code (IEC) Number	2.12	No export or import shall be made by any person without an IEC number unless specifically exempted. An IEC number shall be granted on application by competent authority in accordance with procedure specified in HBP v1.
Trade with Neighbouring Countries	2.13	DGFT may issue instructions or frame schemes as may be required to promote trade and strengthen economic ties with neighbouring countries.
Transit Facility	2.14	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.
Trade with Russia under Debt-Repayment Agreement	2.15	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.
Actual User Condition	2.16	Capital goods, raw materials, intermediates, components, consumables, spares, parts, accessories, instruments and other goods, which are importable without any restriction, may be imported by any person. However, if such imports require an Authorisation, actual user alone may import such goods unless actual user condition is specifically dispensed with by RA.
Second Hand Goods	2.17	All second hand goods, except second hand capital goods, shall be restricted for imports and may be imported only in accordance with provisions of FTP, ITC (HS), HBP v1, Public Notice or an Authorisation issued in this regard. Import of second hand capital goods, including refurbished / re-conditioned spares shall be allowed freely. However, second hand personal computers / laptops, photocopier machines, air conditioners, diesel generating sets will only be allowed against a licence. Import of re-manufactured goods shall be allowed only against a licence.
Import of samples	2.18	Import of samples shall be governed by HBP v1.
Import of Gifts	2.19	Import of gifts shall be permitted where such goods are otherwise freely importable under FTP. In other cases, a Customs Clearance Permit (CCP) shall be required from DGFT.
Passenger Baggage	2.20	Bonafide 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.

Samples of such items that are otherwise freely importable under FTP may also be imported as part of passenger baggage without an Authorisation.

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.

Import on Export basis	2.21	Freely exportable new or second hand capital goods, equipments, components, parts and accessories, containers meant for packing of goods for exports, jigs, fixtures, dies and moulds may be imported for export without an Authorisation on execution of LUT / BG with Customs Authorities.
Re-import of goods repaired abroad	2.22	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.
Import of goods used in projects abroad	2.23	After completion of projects abroad, project contractors may import, without an Authorisation used goods including capital goods provided they have been used for at least one year.
Sale on High Seas	2.24	Sale of goods on high seas for import into India may be made subject to FTP or any other law in force.
Import under Lease Financing	2.25	Permission of RA is not required for import of capital goods under lease financing.
Clearance of Goods from Customs	2.26	Goods already imported / shipped / arrived, in advance, but not cleared from Customs may also be cleared against an Authorisation issued subsequently.
Execution of BG / LUT	2.27	Wherever any duty free import is allowed or where otherwise specifically stated, importer shall execute prescribed LUT / BG / Bond with Customs Authority before clearance of goods. 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 HBP v1.
	2.27.1	Deleted
Private / Public Bonded Warehouses for Imports	2.28	Private / Public bonded warehouses may be set up in DTA as per terms and conditions of notification issued by DoR. Any person may import goods except prohibited items, arms

and ammunition, hazardous waste and chemicals and warehouse them in such bonded warehouses.

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.

If such goods are not cleared for home consumption within a period of one year or such extended period as the custom authorities may permit, importer of such goods shall re-export the goods.

Free Exports	2.29	All goods may be exported without any restriction except to extent such exports are regulated by ITC (HS) or any other provision of FTP or any other law for 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.
Export of Samples	2.30	Export of samples and Free of charge goods shall be governed by provisions given in HBP v1.
Export of Passenger Baggage	2.31	Bonafide 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.
Export of Gifts	2.32	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.
Export of Spares	2.33	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.
Third Party Exports	2.34	Third party exports, as defined in Chapter 9 shall be allowed under FTP.
Export of Imported Goods	2.35	Goods imported, in accordance with FTP, may be exported in same or substantially same form without an Authorisation provided that item to be imported or exported is not restricted for import or export in ITC (HS).

		Export of such goods imported against payment in freely convertible currency would be permitted against payment of freely convertible currency.
	2.36	Goods, including those mentioned as restricted for import (except prohibited items) may be imported under Customs Bond for export in freely convertible currency without an Authorisation provided that item is freely exportable without any conditionality / requirement of Licence / permission as may be required under ITC (HS) Schedule II.
Export of Replacement Goods	2.37	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 clearance by Customs authorities provided that replacement goods are not mentioned as restricted items for exports in ITC (HS).
Export of Repaired Goods	2.38	Goods or parts, except restricted under ITC (HS), thereof 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.
Private Bonded Warehouses for Exports	2.39	Private bonded warehouses exclusively for exports may be set up in DTA as per terms and conditions of notifications issued by DoR. 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.
Denomination of Export Contracts	2.40	All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realised in freely convertible currency. 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 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 the bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.

		Contracts [for which payments are received through Asian Clearing Union (ACU)] shall be denominated in ACU Dollar. 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.
Realisation of Export Proceeds	2.41	If an exporter fails to realise export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to action in accordance with provisions of FT (D&R) Act, Rules and Orders made there under and FTP.
Free movement of export goods	2.42	Consignments of items meant for exports shall not be withheld / delayed for any reason by any agency of Central / State Government. In case of any doubt, authorities concerned may ask for an undertaking from exporter.
No seizure of Stock	2.42.1	No seizure of stock shall be made by any agency so as to disrupt manufacturing activity and delivery schedule of exports. In exceptional cases, concerned agency may seize the stock on basis of prima facie evidence. However, such seizure should be lifted within 7 days.
Export Promotion Councils (EPC)	2.43	Basic objective of Export Promotion Councils (EPCs) is to promote and develop Indian exports. Each Council is responsible for promotion of a particular group of products, projects and services as given in HBP v1.
Registration -cum- Membership Certificate (RCMC)	2.44	Any person, applying for: <ul style="list-style-type: none"> (i) an Authorisation to import / export, [except items listed as restricted items in ITC(HS)] or (ii) any other benefit or concession under FTP <p>shall be required to furnish RCMC granted by competent authority in accordance with procedure specified in HBP v1 unless specifically exempted under FTP.</p>
	2.45	Deleted
Trade Facilitation through EDI Initiatives	2.45.1	It is endeavor of Government to work towards greater simplification, standardization and harmonization of trade documents using international best practices. As a step in this direction, DGFT shall move towards an automated environment for electronic filing, retrieval and authentication of documents based on agreed protocols and message exchange with other community partners including Customs and Banks.
DGCI&S Commercial Trade Data	2.45.2	To enable users to make commercial decisions in a professional manner, DGCI&S trade data shall be made available with a minimum time lag in a query based structured

format on a commercial criteria.

Fiscal Incentives to promote EDI Initiatives adoption	2.45.3	With a view to promote use of Information Technology, DGFT will provide fiscal incentives to user community. Deductions in Application Fee would be admissible for applications signed digitally or / and where application fee is paid electronically through EFT (Electronic Fund Transfer). Details are enumerated in HBP v1.
Regularization of EO default and settlement of customs duty and interest through Settlement Commission	2.46	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 CBEC to decide such cases also with effect from 01.04.2005.
Easing Of Documentation Requirement	2.47	Pending finalisation of Single Common Document (SCD) for international trade, Government Departments dealing with exports and imports will honour Authorisation issued by other Government departments based on verification of export documents Like shipping bill, bank realization certificate, Packing list, bill of lading etc. and will not insist upon fresh submission of these documents.
Exemption / Remission of Service Tax in DTA	2.48.1	For all goods and services which are exported from units in DTA and units in EOU / EHTP / STP / BTP, exemption / remission of service tax levied and related to exports shall be allowed, as per prescribed procedure in Chapter 4 of HBP v1.
Exemption from Service Tax in SEZ	2.48.2	Units in SEZ shall be exempted from service tax.
Exemption from Service Tax on Services received abroad	2.48.3	For all goods and services exported from India, services received / rendered abroad, where ever possible, shall be exempted from service tax.

GRIEVANCE REDRESSAL

DGFT as a facilitator of exports / imports	2.49	DGFT has a commitment to function as a facilitator of exports and imports. Focus is on good governance, which depends on clean, transparent and accountable delivery systems.
Citizen's Charter	2.49.1	DGFT has in place a Citizen's Charter, giving time schedules for providing services to clients, and details of grievance committees at different levels.
Grievance Redressal Committee (GRC)	2.49.2	In order to facilitate speedy redressal of grievances of trade and industry, a new grievance redressal mechanism has been put in place in the form of GRC by a Government Resolution.

Government is committed to resolving all outstanding problems and disputes pertaining to past policy periods through GRC set up on 27.10.2004, for condoning delays, regularizing breaches by exporters in bonafide cases,

resolving disputes over entitlements, granting extensions for utilization of Authorisations.

2.49.3 Deleted

Force Majeure Clause 2.50 Export Obligation period and validity of an authorization shall be extended for a further appropriate period to be notified by DGFT, from date of expiry of its validity in case unit / firm / company suffers on account of unforeseen circumstances / reasons and force majeure.

CHAPTER-3

PROMOTIONAL MEASURES

Assistance to States for Infrastructure Development of Exports

3.1 Scheme for Assistance to States for Infrastructure Development of Exports (ASIDE) is formulated to encourage State Governments to participate in promoting exports, and is administered by Department of Commerce (DoC).

(ASIDE)

Objectives of ASIDE include:

- (i) Developing infrastructure such as roads connecting production centers with ports,
- (ii) Setting up of Inland Container Depots (ICD) and Container Freight Stations (CFS),
- (iii) Creation of new State level export promotion industrial parks / zones,
- (iv) Augmenting common facilities in existing zones,
- (v) Equity participation in infrastructure projects,
- (vi) Development of minor ports and jetties,
- (vii) Assistance in setting up of common effluent treatment facilities,
- (viii) Stabilizing power supply, and
- (ix) Any other activity as may be notified by DoC.

Details of ASIDE are available at <http://commerce.nic.in>.

Market Access Initiative

3.2 MAI scheme, intended to provide financial assistance for medium term export promotion efforts with sharp focus on a country / product, and is administered by DoC.

(MAI)

Financial assistance is available for Export Promotion Councils (EPCs), Industry and Trade Associations (ITAs), Agencies of State Governments, Indian Commercial Missions (ICMs) abroad and other eligible entities as may be notified.

A whole range of activities can be funded under MAI scheme. These include, amongst others,

- (i) Market studies,
- (ii) Setting up of showroom / warehouse,
- (iii) Sales promotion campaigns,
- (iv) International departmental stores,
- (v) Publicity campaigns,
- (vi) Participation in international trade fairs,
- (vii) Brand promotion,
- (viii) Registration charges for pharmaceuticals, and
- (ix) Testing charges for engineering products.

<p>Marketing Development Assistance (MDA)</p>	<p>3.2.1</p>	<p>Each of these export promotion activities can receive financial assistance from Government ranging from 25% to 100% of total cost depending upon activity and implementing agency. Full text of guidelines is available at http://commerce.nic.in.</p> <p>MDA)Scheme is intended to provide financial assistance for a range of export promotion activities implemented by EPCs, ITAs on a regular basis every year. The scheme is administered by DoC.</p>
		<p>Assistance includes, amongst others, participation in</p>
		<ul style="list-style-type: none"> (i) Trade Fairs and Buyer Seller meets abroad or in India, and (ii) Export promotion seminars.
		<p>Financial assistance with travel grant is available to exporters traveling to Latin America, Africa, CIS region, ASEAN countries, Australia and New Zealand. In other areas, financial assistance without travel grant is available.</p>
		<p>MDA assistance is available for exporters with annual export turnover upto Rs 10 Crores. Full text of guidelines is available at http://commerce.nic.in.</p>
<p>Meeting Legal Expenses for Trade Related Matters</p>	<p>3.2.1.1</p>	<p>DOC would provide financial assistance to deserving exporters on recommendation of EPCs for meeting cost of legal expenses for trade related matters.</p>
<p>Towns of Export Excellence (TEE)</p>	<p>3.3</p>	<p>A number of towns have emerged as dynamic industrial clusters contributing handsomely to India's exports. It is necessary to grant recognition to these industrial clusters with a view to maximizing their potential and enabling them to move higher in the value chain and tap new markets.</p>
		<p>Selected towns producing goods of Rs. 1000 crore or more will be notified as TEE based on potential for growth in exports. However for TEE in Handloom, Handicraft, Agriculture and Fisheries sector, threshold limit would be Rs 250 crores.</p>
		<p>Recognized associations of units will be able to access funds under MAI scheme for creating focused technological services. Common service providers in these areas shall be entitled for EPCG scheme. Further such areas will receive priority for assistance under ASIDE scheme.</p>
		<p>Notified TEE are listed in Appendix 7 of HBP v1.</p>
<p>Brand Promotion and Quality</p>	<p>3.4.1</p>	<p>Central Government aims to encourage manufacturers and exporters to attain internationally accepted standards of</p>

quality for their products. Central Government will extend support and assistance to Trade and Industry to launch a nationwide programme on quality awareness and to promote total quality management.

Test Houses 3.4.2 Central Government will assist in modernisation and upgradation of test houses and laboratories to bring them at par with international standards.

Quality Complaints / Disputes 3.4.3 Regional Sub-Committee on Quality Complaints (RSCQC) set up at Regional Offices of this Directorate shall investigate quality complaints received from foreign buyers. Guidelines for settlement of quality complaints, in particular, and such other complaints, in general, are given in Appendix-16 of HBP v1.

Trade Disputes affecting Trade Relations 3.4.4 If it comes to DGFT notice or he has reason to believe that an export or import has been made in a manner that

- (i) is gravely prejudicial to trade relations of India with any other country; and / or
- (ii) is gravely prejudicial to interest of other persons engaged in exports or imports; and / or
- (iii) has brought disrepute to the country;

DGFT may take action against such exporter or importer in accordance with FT (D&R) Act, Rules and Orders made there-under and FTP.

3.5 EXPORT AND TRADING HOUSES

Export and Trading Houses 3.5.1 Merchant as well as Manufacturer Exporters, Service Providers, Export Oriented Units (EOUs) and Units located in Special Economic Zones (SEZs), Agri Export Zones (AEZs), Electronic Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) and Bio-Technology Parks (BTPs) shall be eligible for status.

Status Category 3.5.2 Applicant shall be categorized depending on his total FOB (FOR - for deemed exports) export performance during current plus previous three years (taken together) upon exceeding limit below. For Export House (EH) Status, export performance is necessary in at least two out of four years (i.e., current plus previous three years).

Status Category	Export Performance FOB / FOR Value (Rupees in Crores)
Export House (EH)	20
Star Export House (SEH)	100

Trading House (TH)	500
Star Trading House (STH)	2500
Premier Trading House (PTH)	10000

Note

1. Exporters in Small Scale Industry (SSI) / Tiny Sector / Cottage Sector, Units registered with KVICs / KVIBs, Units located in North Eastern States, Sikkim and Jammu & Kashmir, Units exporting handloom / handicrafts / hand knotted or silk carpets, exporters exporting to countries in Latin America / CIS / sub-Saharan Africa as listed in Appendix-9, Units having ISO 9000 (series) / ISO 14000 (series) / WHOGMP / HACCP / SEI CMM level-II and above status granted by agencies listed in Appendix-6 of HBP v1, exports of services and exports of agro products shall be entitled for double weightage on exports made for grant of status. Double Weightage shall be admissible to Merchant as well as Manufacturer Exporters. However, a shipment can get double weightage only once in any one of above categories.
- 1(a) Transfer of export performance from one to another is not permitted. Therefore disclaimer system shall not be allowed for counting of export turnover.
2. Exports made on re-export basis shall not be counted for recognition.
3. Exports made by subsidiary of a limited company shall be counted towards export performance of limited company for recognition only if limited company has a majority share holding in subsidiary company.
4. Deleted

Privileges

- 3.5.2.1 A Status Holder shall be eligible for following facilities:
- i) Authorisation and Customs clearances for both imports and exports on self-declaration basis;
 - ii) Fixation of Input-Output norms on priority within 60 days;
 - iii) Exemption from compulsory negotiation of documents through banks. Remittance / Receipts, however, would be received through banking channels;
 - iv) 100% retention of foreign exchange in EEFC account;
 - v) Enhancement in normal repatriation period from 180 days to 360 days;
 - vi) Deleted
 - vii) Exemption from furnishing of BG in Schemes under

FTP; and

viii) SEHs and above shall be permitted to establish Export Warehouses, as per DoR guidelines.

3.5.3 Deleted

3.6 SERVICES EXPORTS

Services Exports 3.6.1 Services include all 161 tradable services covered under GATS where payment for such services is received in free foreign exchange. A list of services is given in Appendix 10 of HBP v1.

Registration cum Membership Certificate (RCMC) for Service Providers 3.6.2 Software exporters shall register themselves with Electronics and Software EPC. Exporters of 13 specific services listed in Sl. No. 34 of Appendix 2 of HBP v1 are required to register themselves with Services EPC. Other service exporters shall register themselves with Federation of Indian Exporters Organisation (FIEO).

Common Facility Centres 3.6.3 Government shall promote establishment of Common Facility Centres for use by home-based service providers, particularly in areas like Engineering & Architectural design, Multi-media operations, Software developers etc., in State and District-level towns, to draw in a vast multitude of home-based professionals into services export arena.

3.6.4 SERVED FROM INDIA SCHEME (SFIS)

Objective 3.6.4.1 Objective is to accelerate growth in export of services so as to create a powerful and unique 'Served From India' brand, instantly recognized and respected world over.

Eligibility 3.6.4.2 All Service Providers, of services listed in Appendix 10 of HBP v1, who have a total free foreign exchange earning of at least Rs. 10 Lakhs in preceding financial year shall qualify for Duty Credit scrip. For Individual Service Providers, minimum would be Rs 5 Lakhs.

Entitlement 3.6.4.3 All Service Providers (except Hotels, Restaurants and other Service Providers in Tourism Sector) shall be entitled to Duty Credit scrip equivalent to 10% of free foreign exchange earned during preceding financial year.

However services and service providers as listed in Paragraph 3.18.1 of HBP v1 shall not be entitled.

Remittances 3.6.4.3.1 Free foreign exchange earned through International Credit Cards and other instruments as permitted by RBI for rendering of service shall also be taken into account for Duty Credit scrip.

Hotels, Restaurants & Other Service 3.6.4.4 Hotels of one-star and above (including managed hotels) and heritage hotels approved by Department of Tourism (DoT)

Providers in Tourism Sector

and other Service providers in tourism sector registered with DoT shall be entitled to duty credit scrip equivalent to 5% of free foreign exchange earned during preceding financial year.

Stand-alone restaurants will be entitled to duty credit equivalent to 10% of foreign exchange earned by them in preceding financial year.

Imports Allowed

3.6.4.5 Duty Credit scrip may be used for import of any capital goods including spares, office equipment and professional equipment, office furniture and consumables; that are otherwise freely importable under ITC (HS). Imports shall relate to any service sector business of applicant.

Utilization of Duty Credit scrip earned shall not be permitted for payment of duty in case of import of vehicles, even if such vehicles are freely importable under ITC (HS).

In case of hotels, golf resorts and stand-alone restaurants having catering facilities, Duty Credit scrip may also be used for import of consumables including food items and alcoholic beverages.

Non Transferability

3.6.4.6 Entitlement / goods (imported / procured) shall be non transferable (except within group company and managed hotels) and be subject to Actual User condition.

3.6.4.7 Deleted
to

3.6.4.9

Procurement from Domestic Sources

3.6.4.10 Utilization of Duty Credit Scrip shall be permitted for payment of excise duty in terms of DoR notification issued for procurement from domestic sources, of items permitted under Para 3.6.4.5.

3.7 Deleted

3.8 VISHESH KRISHI AND GRAM UDYOG YOJANA (VKGUY)

(SPECIAL AGRICULTURE AND VILLAGE INDUSTRY SCHEME)

Objective

3.8.1 Objective of VKGUY is to promote exports of

- (i) Agricultural Produce and their value added products;
- (ii) Minor Forest Produce and their value added variants; for exports w.e.f 1.4.2004
- (iii) Gram Udyog Products, for exports w.e.f 01.04.2006; and

(iv) Forest Based Products, for exports w.e.f 01.04.2007.

Such products shall be listed in Appendix 37A of HBP v1.

Entitlement

3.8.2 Duty Credit scrip benefits are granted with an aim to compensate high transport costs. Exporters, of products notified in Appendix 37A of HBP v1, shall be entitled for Duty Credit scrip equivalent to 5% of FOB value of exports (realized in free foreign exchange).

However, Duty Credit scrip benefits shall be granted only at a reduced rate of 3.5% of FOB value of exports (realized in free foreign exchange) in such cases where exporter has availed benefits under Chapter 4 of FTP for import of Agriculture Inputs (other than catalysts, consumables and packing materials) relating to export item under this scheme.

Period of exports for which entitlement is granted is given in Appendix 37A of HBP v1.

However, additional products notified / clarified in Appendix 37A of HBP v1 shall be entitled for Duty Credit Scrip on exports, w.e.f 1.4.2007, unless otherwise specified.

3.8.2.1 Exports made by EOUs / BTPs who do not avail direct tax benefits / exemption shall be eligible, provided the same is not covered under Paragraph 3.8.2.2.

3.8.2.2 Following exports shall not be taken into account for Duty Credit scrip entitlement.

(a) (i) Export of imported goods covered under Para 2.35 of FTP;

(ii) Exports through transshipment, meaning thereby that exports originating in third country but transhipped through India;

(b) Deemed Exports;

(c) Exports made by SEZ units; and

(d) Items, which are restricted or prohibited for export under Schedule-2 of Export Policy in ITC (HS).

3.8.3 to Deleted

3.8.5

3.8.6 All Status Holders shall be incentivised with duty credit scrip equal to 10% of FOB value of agricultural exports which can be used for duty free import / procurement of capital goods related to infrastructure meant for agro-processing to promote agricultural exports. This would be in addition to prevailing

benefits in other schemes administered by Ministry of Agriculture and others for infrastructure development for agriculture, agricultural items and agro-processing activities like :-

- (i) Cold storage units including Controlled Atmosphere (CA) and Modified Atmosphere (MA) Stores, pre-cooling Units and mother storage for onions etc.
- (ii) Pack Houses (including facilities for handling, grading, sorting and packaging etc.), and
- (iii) Reefer Van / Containers.

Assessment of applicant's proposal would be done with respect to past export performance and on a first come first served basis.

	3.9	FOCUS MARKET SCHEME (FMS)
Objective	3.9.1	Objective is to offset high freight cost and other externalities to select international markets with a view to enhance our export competitiveness in these countries.
Entitlement	3.9.2	Exporters of all products through EDI enabled ports to notified countries (as in Appendix 37C of HBP v1) shall be entitled for Duty Credit scrip equivalent to 2.5% of FOB value of exports for each licensing year commencing from 1 st April, 2006. However additional Markets notified in Appendix 37C of HBP v1 shall be entitled for Duty Credit scrip on exports w.e.f 1.4.2007.
	3.9.2.1	Exports made by EOUs / EHTPs / BTPs who do not avail direct tax benefits / exemption shall be eligible, provided the same is not covered under Paragraph 3.9.2.2.
	3.9.2.2	Following exports shall not be taken into account for computation of entitlement: <ul style="list-style-type: none">a. (i) Export of imported goods covered under Para 2.35 of FTP;(ii) Exports through transshipment, meaning thereby that exports originating in third country but transshipped through India;b. Export turnover of SEZ units or supplies made to such units or SEZ products exported through DTA units;c. Deemed Exports;

- d. Service Exports;
- e. Diamonds and other precious, semi precious stones;
- f. Gold, silver, platinum and other precious metals in any form, including plain and studded Jewellery;
- g. Ores and Concentrates, of all types and in all forms;
- h. Cereals, of all types;
- i. Sugar, of all types and in all forms;
- j. Crude / Petroleum Oil & Crude / Petroleum based Products covered under ITC HS codes 2709 to 2715, of all types and in all forms; and
- k. Items, which are restricted or prohibited for export under Schedule-2 of Export Policy in ITC (HS).

3.9.2.3 Deleted

3.9.3 to
3.9.6 Deleted

3.10 FOCUS PRODUCT SCHEME (FPS)

Objective

3.10.1 Objective is to incentivise export of such products, which have high employment intensity in rural and semi urban areas, so as to offset infrastructure inefficiencies and other associated costs involved in marketing of these products.

Entitlement

3.10.2 Exports of notified products (as in Appendix 37D of HBP v1) through EDI enabled ports to all countries shall be entitled for Duty Credit scrip equivalent to 1.25% of FOB value of exports for each licensing year commencing from 1st April, 2006.

However, additional products notified / clarified in Appendix 37D of HBP v1 shall be entitled for Duty Credit scrip on exports w.e.f 1.4.2007.

3.10.2.1 Exports made by EOUs / EHTPs / BTPs who do not avail direct tax benefits / exemption shall be eligible, provided the same is not covered under Paragraph 3.10.2.2.

3.10.2.2 Following exports shall not be taken into account for computation of entitlement.

a. (i) Export of imported goods covered under Para 2.35 of FTP;

(ii) Exports through transshipment, meaning thereby that exports originating in third country but transshipped through India;

b. Export turnover of SEZ units or supplies made to such units or SEZ products exported through DTA units; and

		c. Deemed Exports.
	3.10.2.3	Deleted
	3.10.3 to 3.10.6	Deleted
	3.11	High-Tech Products Export Promotion Scheme
Objective	3.11.1	Objective is to incentivise export of High Technology products.
Entitlement	3.11.2	Exports of notified High Tech products (as notified in Appendix 37E of HBP v1) through EDI enabled ports to all countries, shall be entitled for Duty Credit scrip equivalent to 10 % of incremental growth in exports of notified products put together (realized in free foreign exchange) for current year (i.e., 2007-08) over previous year (i.e., 2006-07) for each licensing year commencing from 1 st April, 2007.
		Computation would be on following basis:
		(i) Exports of notified products taken together.
		(ii) FOB value realized (as reflected in BRC / FIRC).
		(iii) Applicant with 'nil' exports in base year shall not be eligible.
Ceiling	3.11.3	Duty Credit Scrip shall not exceed Rs 15 Cr for an exporter for all shipments done in a licensing year put together, for which benefit is being claimed under this scheme.
Ineligible Exports / Categories	3.11.4	Following shall not be counted for entitlement
		(i) Export of imported goods covered under Para 2.35 of FTP;
		(ii) Exports originating in third country but transshipped through India;
		(iii) Exports of SEZ units or SEZ products exported through DTA units; and
		(iv) Deemed Exports.
	3.12	Common Provisions for Schemes under this Chapter, except where specifically provided for.
CENVAT / Drawback	3.12.1	Additional customs duty/excise duty paid in cash or through debit under Duty Credit scrip shall be adjusted as CENVAT Credit or Duty Drawback as per DoR rules, except under SFIS.
Special	3.12.2	Government reserves right in public interest, to specify export

Provisions		products or services or exports to such countries, which shall not be eligible for computation of entitlement.
		Further Government reserves right to change ceiling on Duty Credit scrip under this chapter.
		Similarly, Government may also notify goods (in Appendix 37B of HBP v1), which shall not be allowed for import under Duty Credit scrips.
TRA Facility	3.12.3	Utilization of Duty Credit Scrip for imports from a port other than port of registration shall be allowed under Telegraphic Release Advice (TRA) facility as per DoR notification.
Imports Allowed	3.12.4	Duty Credit Scrip may be used for import of inputs or goods including capital goods, provided same is freely importable under ITC (HS). However, import of items listed in Appendix 37B of HBP v1 shall not be permitted to be debited.
Free Transferability	3.12.5	Duty Credit scrip and items imported against it would be freely transferable, except under SFIS.
Exclusivity of Entitlement	3.12.6	For a shipment, benefit under any one of schemes covered in this Chapter can alone be claimed, at exporter's option.
Import under Lease financing	3.12.7	Utilization of Duty Credit scrip shall be permitted for payment of duty in case of import of capital goods under lease financing in terms of provision in Para 2.25 of FTP.
Transfer of Export Performance	3.12.8	Transfer of export performance from one to another shall not be permitted. Thus, a shipment bill containing name of applicant shall be counted in export performance / turnover of applicant only if export proceeds from overseas are realized in applicant's bank account and this shall be evidenced from BRC / FIRC.

CHAPTER-4

DUTY EXEMPTION & REMISSION SCHEMES

Duty Exemption and Remission Schemes	4.1	Duty exemption schemes enable duty free import of inputs required for export production. Duty Exemption Schemes consist of (a) Advance Authorisation and (b) Duty Free Import Authorisation (DFIA). A Duty Remission Scheme enables post export replenishment / remission of duty on inputs used in export product. Duty remission schemes consist of (a) Duty Entitlement Passbook Scheme (DEPB) and (b) Duty Drawback (DBK) Scheme.
Re-import of exported goods under Duty Exemption / Remission Scheme	4.1.1	Goods exported under Advance Authorisation / DFIA / DEPB may be re-imported in same or substantially same form subject to DoR specified conditions.
Value Addition	4.1.2	Value addition (VA) for the purpose of this Chapter (Except for Gems and Jewellery Sector) shall be:- $VA = \frac{A - B}{B} \times 100, \text{ where}$ <p>A FOB value of export realised / FOR value of supply received.</p> <p>B CIF value of inputs covered by authorisation, plus any other imported materials used on which benefit of DBK is claimed.</p>

ADVANCE AUTHORISATION SCHEME

Advance Authorisation	4.1.3	An Advance Authorisation is issued to allow duty free import of inputs, which are physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, energy, catalysts which are consumed / utilised to obtain export product, may also be allowed. DGFT, by means of Public Notice, may exclude any product(s) from purview of Advance Authorisation. Duty free import of mandatory spares upto 10% of CIF value of Authorisation which are required to be exported / supplied with resultant product are allowed under Advance Authorisation.
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Advance Authorisations are issued for inputs and export items given under SION. These can also be issued on the basis of Adhoc norms or self declared norms as per para 4.7 of HBP v1.

Advance Authorisation can be issued either to a manufacturer exporter or merchant exporter tied to supporting manufacturer(s) for:

- i) Physical exports (including exports to SEZ); and/ or
- ii) Intermediate supplies; and /or
- iii) supply of goods to the categories mentioned in paragraph 8.2 (b), (c), (d), (e), (f), (g), (i) and (j) of FTP ;
- iv) supply of ‘stores’ on board of foreign going vessel / aircraft subject to condition that there is specific SION in respect of item(s) supplied.

In addition, in respect of supply of goods to specified projects mentioned in paragraph 8.2 (d), (e), (f), (g) and (j) of FTP, an Advance Authorisation can also be availed by sub-contractor to such project provided name of sub contractor(s) appears in main contract.

Such Authorisation can also be issued for supplies made to United Nations Organisations or under Aid Programme of the United Nations or other multilateral agencies and paid for in free foreign exchange.

- 4.1.4 Advance Authorisations are exempted from payment of basic customs duty, additional customs duty, education cess, anti-dumping duty and safeguard duty, if any. However, imports for supplies covered under paragraph 8.2 (h) & (i) will not be exempted from payment of applicable anti-dumping and safeguard duty, if any.
- 4.1.5 Advance Authorisation and / or materials imported thereunder will be with actual user condition. It will not be transferable even after completion of export obligation. However, Authorisation holder will have option to dispose off product manufactured out of duty free inputs once export obligation is completed.
- 4.1.6 Advance Authorisations necessitate exports with a positive value addition. Exports to SEZ Units / supplies to Developers / Co-developers, irrespective of currency of realization, would also

cover.

For physical exports for which payments are not received in freely convertible currency, same shall be subject to value addition as specified in Appendix 11 of HBP v1.

In case of Authorisation for import of Tea, minimum value addition under Advance Authorisation shall be 100%.

Similarly, in case of spices {covered by Chapter 9 of ITC(HS)}, duty free import of spices shall be permitted only for value addition purposes like crushing / grinding / sterilization or for manufacture of oils and oleoresins and not for simple cleaning, grading, re-packing etc. and minimum value addition shall be 15%.

4.1.7 Advance Authorisation shall be issued in accordance with Policy and procedure in force on Authorisation issue date.

Validity period of Advance Authorisation for import shall be as prescribed in HBP v1.

Free of Cost Supply by Foreign Buyer

4.1.8 Facility of Advance Authorisation shall also be available where some or all inputs are supplied free of cost to exporter by foreign buyer.

In such cases, for calculation of VA, notional value of free of cost inputs along with value of other duty-free inputs shall be taken into consideration. However, if all inputs are supplied free of cost, exporter shall also have option to follow provision prescribed by DoR.

Export Obligation

4.1.9 Period for fulfillment of export obligation under Advance Authorisation shall be as prescribed in HBP v1.

Provision for BIFR units

4.1.9 A Any firm / company registered with BIFR or any firm / company acquiring a unit, which is under BIFR shall be allowed Export Obligation Period (EOP) extension as per rehabilitation package prepared subject to approval of BIFR or 5 years if not specified, without payment of composition fee.

Above provisions apply also to SSI units as per rehabilitation scheme of concerned State government.

Advance Authorisation for Annual Requirement

4.1.10 Advance Authorisation can also be issued for annual requirement.

Status Certificate holder and all other categories of exporters having past export performance (in preceding two years) shall be entitled for Advance Authorisation for annual requirement.

Entitlement in terms of CIF value of imports shall be upto 300% of FOB value of physical export and / or FOR value of deemed export in preceding licensing year or Rs 1 crore, whichever is higher.

Advance Release Orders (ARO) and Invalidation Letter

4.1.11 Holder of Advance Authorisation, Advance Authorisation for annual requirement, Diamond Imprest Authorisation and Duty Free Import Authorisation intending to source inputs from indigenous sources / State Trading Enterprises in lieu of direct import has option to source them either against Advance Release Order (ARO) or Invalidation letter denominated in free foreign exchange / Indian rupees. However, supplies may be obtained against Authorisation from EOU / EHTP / BTP / STP / SEZ units, without conversion into ARO or Invalidation letter.

Transferee of DFIA shall also be eligible for ARO / invalidation letter facility.

Validity period of ARO shall be as prescribed in HBP v1.

Back-to-Back Inland Letter of Credit

4.1.12 Holder of Advance Authorisation, Advance Authorisation for annual requirement, DFIA and Diamond Imprest Authorisation may, instead of applying for an ARO or Invalidation letter, avail of the facility of back-to-back Inland Letter of Credit in accordance with procedure specified in HBP v1.

Prohibited Items

4.1.13 Prohibited items of imports mentioned in ITC(HS) shall not be imported under Advance Authorisation / DFIA. Further items reserved for imports by STEs cannot be imported against Advance Authorisation / DFIA. However those items can be procured from STEs against ARO or Invalidation letter.

STEs are also allowed to sell goods on High Sea Sale basis to holders of Advance Authorisation / DFIA holder.

In addition, STEs are permitted to issue “No Objection Certificate (NOC)” for import by advance Authorisation / DFIA holder. Authorisation Holder would be required to file Quarterly Returns of imports effected against such NOC to concerned STE and STE would submit half-yearly import figures of such imports to concerned administrative Department for monitoring with a copy endorsed to DGFT.

Similarly prohibited items of exports mentioned in ITC(HS) shall not be exported under Advance Authorisation / DFIA scheme. Export of restricted items shall be subject to all conditionalities or requirements of export Authorisation or permission, as may be required, under Schedule II of ITC (HS).

Admissibility of Drawback 4.1.14 In case of an Advance Authorisation, drawback shall be available for any duty paid material, whether imported or indigenous, used in goods exported, as per drawback rate fixed by DoR, Ministry of Finance (Directorate of Drawback). Drawback allowed shall be mentioned in Authorisation.

DUTY FREE REPLENISHMENT CERTIFICATE

4.2 Deleted.

4.2.1 Deleted.

to

4.2.8

4.2.9 Scheme has been withdrawn for exports with effect from 1.5.2006. Exports made till 30.4.2006 shall be governed by chapter 4 of FTP (as amended upto 31.3.2007).

DUTY ENTITLEMENT PASSBOOK (DEPB) SCHEME

Duty Entitlement Passbook Scheme (DEPB) 4.3 Objective of DEPB is to neutralise incidence of customs duty on import content of export product. Component of Special Additional Duty and customs duty on fuel shall also be allowed under DEPB (as a brand rate) in case of non-availment of CENVAT credit. Neutralisation shall be provided by way of grant of duty credit against export product.

4.3.1 An exporter may apply for credit, at specified percentage of FOB value of exports, made in freely convertible currency or payment made from foreign currency account of SEZ unit / SEZ Developer in case of supply by DTA.

Credit shall be available against such export products and at such rates as may be specified by DGFT by way of public notice. Credit may be utilized for payment of Customs Duty on freely importable items.

4.3.2 DEPB holder shall have option to pay additional customs duty in cash as well.

Validity 4.3.3 Validity period of DEPB for import shall be as prescribed in HBP v1.

Transferability 4.3.4 DEPB and / or items imported against it are freely transferable. Transfer of DEPB shall however be for import at specified port, which shall be the port from where exports have been made.

Imports from a port other than the port of export shall be allowed

under TRA facility as per terms and conditions of DoR notification.

Applicability of Drawback 4.3.5 Additional customs duty / Excise Duty and Special Additional Duty paid in cash or through debit under DEPB may also be adjusted as CENVAT Credit or Duty Drawback as per DoR rules.

DUTY FREE IMPORT AUTHORISATION (DFIA) SCHEME

Scheme 4.4.1 DFIA is issued to allow duty free import of inputs, fuel, oil, energy sources, catalyst which are required for production of export product. DGFT, by means of Public Notice, may exclude any product(s) from purview of DFIA. This scheme is in force from 1st May, 2006.

Entitlement 4.4.2 Provisions of paragraph 4.1.3 shall be applicable in case of DFIA. However, these Authorisations shall be issued only for products for which Standard Input and Output Norms (SION) have been notified.

In case of post export DFIA, a merchant exporter shall be required to mention only name (s) and address(s) of manufacturer(s) of the export product(s). Applicant is required to file application to concerned RA before affecting exports under DFIA.

Pre-export Authorisation shall be issued with actual user condition and shall be exempted from payment of basic custom duty, additional customs duty, education cess, anti-dumping duty and safeguard duty, if any.

Import items 4.4.3 Provisions of paragraphs 4.1.11, 4.1.12, 4.1.13 and 4.1.14 of FTP shall be applicable for DFIA holder.

Value Addition 4.4.4 A minimum 20% value addition shall be required for issuance of such authorisation except for items in gems and jewellery sector for which value addition would be as per paragraph 4A.2.1 of HBP v1. Items for which higher value addition is prescribed under Advance Authorisation Scheme shall be applicable.

Export Obligation 4.4.5 Procedure and time period related to fulfillment of Export Obligation have been laid down in Chapter 4 of HBP v1.

Transferability 4.4.6 Once export obligation has been fulfilled, request for transferability of Authorisation or inputs imported against it may be made before concerned RA. Once, transferability is endorsed, Authorisation holder may transfer DFIA or duty free inputs, except fuel and any other item(s) notified by DGFT. However, for fuel, import entitlement may be transferred only to companies which have been granted authorisation to market fuel by Ministry of Petroleum and Natural Gas.

Once transferability is endorsed, imports against authorisation or transfer of imported inputs shall be subject to payment of applicable additional customs duty / excise duty. While endorsing transferability, authorisation would bear a note as to liability of such additional customs duty / excise duty. Such additional customs duty / excise duty would be reimbursed to exporter as drawback. In case of local sales by excisable unit, CENVAT credit would equal excise duty already paid.

Wherever SIONs prescribe actual user condition and in case of Acetic Anhydride, Ephedrine and Pseudo Ephedrine, DFIA shall be issued with actual user condition for these inputs and no transferability shall be allowed for these inputs even after fulfillment of export obligation.

CENVAT Facility 4.4.7 CENVAT credit facility shall be available for inputs either imported or procured indigenously.

4.4.8 Deleted.

GEMS AND JEWELLERY

Scheme for Gems and Jewellery 4A Exporters of gems and Jewellery can import / procure duty free inputs for manufacturing.

Replenishment Authorisation 4A.1 Exporters may obtain Replenishment (REP) Authorisations from RA in accordance with procedure specified in HBP v1.

4A.1.1 Replenishment authorisation may also be for consumables as per paragraph 4A.28 of HBP v1.

Export of Cut & Polished Diamonds for Certification / Grading	4A.2	<p>Following are authorized laboratories for certification / grading of diamonds of 0.25 carat and above:</p> <ul style="list-style-type: none"> (i) Indian Diamond Institute, Surat, Gujarat; (ii) Gemological Institute of America (GIA), USA; (iii) The Robert Mouawad Campus, International Gemological Institute (IGI) USA; (iv) European Gemological Laboratory (EGL), USA; (v) Hoge Road Voor Diamond, Antwerp, (HRD); (vi) World Diamond Centre of Diamonds High Council, Antwerp, Belgium; (vii) Central Gem Laboratory, Miyagi Building, 5-15-14 Ueno Taito-Ku, Tokyo, Japan; (viii) American Gem Society Laboratories (AGS Laboratories), 8917 West Sahara Avenue, Las Vegas, Nevada 89117; (ix) Diamond Trading Company, Maidenhead, U.K; and (x) International Diamond Laboratories DMCC, Dubai.
	4A.2.1	<p>An exporter (with turnover of Rs 5 crores annual export for last three years) may export cut & polished diamonds (each of 0.25 carat or more) abroad to any of above agencies / laboratories with re-import facility at zero duty within 3 months as per DoR guidelines.</p>
Schemes for Gold / Silver / Platinum Jewellery	4A.3	<p>Exporters of gold / silver / platinum jewellery and articles thereof may import their essential inputs such as gold, silver, platinum, mountings, findings, rough gems, precious and semi-precious stones, synthetic stones and unprocessed pearls etc. in accordance with the procedure specified in this behalf.</p>
Nominated Agencies	4A.4	<p>Nominated agencies are MMTC Ltd, Handicraft and Handloom Export Corporation (HHEC), State Trading Corporation (STC), the Project and Equipment Corporation of India Ltd (PEC), Premier Trading House under Paragraph 3.5.2 of FTP and any other agency authorised by RBI. Exporters (except EOU / units in SEZ) may obtain gold / silver / platinum from nominated agency(s).</p> <p>A bank authorised by RBI is allowed export of gold scrap for refining and import standard gold bars as per RBI guidelines.</p>
Items of Export	4A.5	<p>Following items, if exported, would be eligible for facilities:</p> <ul style="list-style-type: none"> (a) Gold jewellery, including partly processed jewellery and articles including medallions and coins (excluding legal tender coins), whether plain or studded, containing gold of 8 carats and above; (b) Silver jewellery including partly processed jewellery, silverware, silver strips and articles including medallions

and coins (excluding legal tender coins and any engineering goods) containing more than 50% silver by weight;

- (c) Platinum jewellery including partly processed jewellery and articles including medallions and coins (excluding legal tender coins and any engineering goods) containing more than 50% platinum by weight.

Value Addition 4A.6 Value Addition (VA) for gems and jewellery sector shall be as per paragraph 4A.2.1 of HBP v1. It would be calculated as under:

$$VA = \frac{A - B}{B} \times 100, \text{ where}$$

A = FOB value of the export realised / FOR value of supply received.

B = Value of inputs (including domestically procured) such as gold / silver / platinum content in export product plus admissible wastage along with value of other items such as gemstone etc. Wherever gold has been obtained on loan basis, value shall also include interest paid in free foreign exchange to foreign supplier.

Wastage Norms 4A.7 Wastage or manufacturing loss for gold / silver / platinum jewellery shall be admissible as per paragraph 4A.2 of HBP v1.

Export against Supply by Foreign Buyer 4A.8 Where export orders are placed on nominated agencies / status holder / exporters of three years standing having an annual average turnover of Rs. Five Crores during preceding three licensing years, foreign buyer may supply in advance and free of charge, gold / silver / platinum, alloys, findings and mountings of gold / silver / platinum for manufacture and export.

Such supplies can also be in advance and may involve semi-finished jewellery including findings / mountings / components for repairs / re-make and export subject to minimum value addition of 10%. However, if so imported semi finished gold / silver /platinum jewellery is exported as studded jewellery, value addition of 15% shall be achieved. In such cases of export, wastage of 2% may be permitted.

Exports may be made by nominated agencies directly or through their associates or by status holder / exporter. Import and Export of findings shall be on net to net basis.

Export Against Supply by Nominated Agencies	4A.9	Exporter may obtain gold / silver / platinum as an input for export products from nominated agencies in advance or as replenishment after exports in accordance with specified procedure.
Export Against Advance Authorisation	4A.10	<p>An Advance Authorisation may be granted for duty free import of:</p> <p>(a) Gold of fineness not less than 0.995 and mountings, sockets, frames and findings of 8 carats and above;</p> <p>(b) Silver of fineness not less than 0.995 and mountings, sockets, frames and findings containing more than 50% silver by weight;</p> <p>(c) Platinum of fineness not less than 0.900 and mountings, sockets, frames and findings containing more than 50% platinum by weight.</p>
	4A.11	<p>Such authorisations shall carry an export obligation to be fulfilled as per procedure specified in paragraph 4A of HBP v1.</p> <p>Advance Authorisation holder may obtain gold / silver / platinum from nominated agencies in lieu of direct import.</p>
Gem Replenishment Authorisation	4A.12	<p>Gem Replenishment (Gem & Jewellery REP) Authorisation may be issued as given in paragraphs 4A.8, 4A.9 and 4A.10 above.</p> <p>In case of plain or studded gold / silver / platinum jewellery and articles, value of such Authorisations shall be determined with reference to realisation in excess of prescribed minimum VA.</p> <p>Such Gem REP Authorisations shall be freely transferable.</p>
Gem REP Rate and Item	4A.13	Replenishment Rate and item of import will be as prescribed in Appendix 12B of HBP v1.
Diamond Imprest Authorisation	4A.14	Diamond Imprest Authorisation for import of cut and polished diamonds including semi processed diamonds, half cut diamonds, broken in any form, for mixing with cut and polished diamonds or for export as it is, may be issued for export of cut and polished diamonds and shall carry an EO.
Eligibility	4A.14.1	An exporter of cut & polished diamonds who is status holder may be issued an Authorisation for import of cut & polished diamonds upto 5% of preceding year's export performance of cut & polished diamonds.
Export Obligation	4A.14.2	EO will be governed by provisions of paragraph 4A of chapter 4 of

(EO)		HBP v1.
Export Promotion Tours / Export of Branded Jewellery	4A.15	Nominated agencies and their associates, with approval of DoC, and others, with approval of Gem & Jewellery EPC (GJEPC), may export gold / silver / platinum jewellery and articles thereof for exhibitions abroad. Personal carriage of gold / silver / platinum jewellery, precious, semi-precious stones, beads and articles and export of branded jewellery is also permitted, subject to conditions as in HBP v1.
Personal Carriage of Export / Import Parcels	4A.16	Personal carriage of gems and jewellery export parcels by foreign bound passengers and import parcels by an Indian importer / foreign national may be permitted as in HBP v1.
Export by Post	4A.17	In case of exports through Foreign Post Office (including via Speed Post), value of jewellery parcels shall not exceed US\$50000 and 20 kg. by weight.
Private / Public Bonded Warehouse	4A.18	Private / Public Bonded Warehouses may be set up in SEZ / DTA for import and re-export of cut & Polished diamonds, cut & polished coloured gemstones, uncut & unset precious & semi-precious stones, subject to achievement of minimum VA of 5%.
Diamond & Jewellery Dollar Accounts	4A.19	Firms and companies dealing in purchase / sale of rough or cut and polished diamonds / precious metal jewellery plain, minakari and / or studded with / without diamond and / or other stones with a track record of at least 3 years in import or export of diamonds / coloured gemstones / diamond and coloured gemstones studded jewellery / plain gold jewellery and having an average annual turnover of Rs. 5 crore or above during preceding three licensing years may also carry out their business through designated Diamond Dollar Accounts (DDA). Dollars in such accounts available from bank finance and / or export proceeds shall be used only for (i) Import / purchase of rough diamonds from overseas / local sources; (ii) Purchase of cut and polished diamonds, coloured gemstones and plain gold jewellery from local sources; (iii) Import / purchase of gold from overseas / nominated agencies and repayment of dollar loans from the bank; and (iv) Transfer to Rupee Account of exporter. Details of this DDA Scheme are given in HBP v1.

A non DDA holder is also permitted to supply cut and polished diamonds to DDA holder, receive payment in dollars and convert

same into Rupees within 7 days. Cut and polished diamonds and coloured gemstones so supplied by non-DDA holder will also be counted towards discharge of his export obligation and / or entitle him to replenishment Authorisation.

Export of cut & Polished precious and semi-precious stones for treatment and re-import

4A.20.1 (i) Gems & Jewellery exporters shall be allowed to export cut and polished precious and semi-precious stones for treatment and re-import without payment of Customs duty as per customs rules and regulations and subject to condition that exporter shall declare at the time of shipment:

- (a) nature of treatment on cut and polished precious and semi-precious stones ; and
- (b) likely change of such stones after treatment.

(ii) Re-importation would be allowed from the same port from where stones were exported for treatment. On re-importation, customs authority shall cross verify the details with the export documents. A maximum time period of 120 days shall be allowed for re-import.

However in case treated precious stones or semi-precious stones are meant for domestic consumption, re-imported consignment shall be allowed by Customs on payment of duty on fair cost of repairs carried out including cost of materials used in repairs, insurance and freight charges, both ways.

(iii) Imported items shall be re-exported.

Import of precious metal scrap / used jewellery for melting and re-export of jewellery.

4A.21 Import of precious metal scrap / used jewellery shall be allowed for melting, refining and re-export of jewellery as per the procedure laid down in HBP v1. However, such import shall not be allowed through hand baggage.

Re-import of rejected jewellery

4A.22 Gems & Jewellery exporters shall be allowed to re-import rejected precious metal jewellery as per para 4A.32 and 4A.32.1 of HBP v1.

Export of Diamond and Jewellery on consignment basis

4A.23 Gems & Jewellery exporters shall be allowed to export diamond & jewellery on consignment basis as per HBP v1 and Customs rules and regulations.

CHAPTER-5

EXPORT PROMOTION CAPITAL GOODS (EPCG) SCHEME

EPCG Scheme 5.1 EPCG scheme allows import of capital goods for pre production, production and post production (including CKD / SKD thereof as well as computer software systems) at 5% Customs duty subject to an export obligation equivalent to 8 times of duty saved on capital goods imported under EPCG scheme to be fulfilled in 8 years reckoned from Authorisation issue-date.

In case of agro units, and units in cottage or tiny sector, import of capital goods at 5% Customs duty shall be allowed subject to fulfillment of export obligation equivalent to 6 times of duty saved on capital goods imported in 12 years from Authorisation issue-date.

For SSI units, import of capital goods at 5% Customs duty shall be allowed subject to fulfillment of export obligation equivalent to 6 times of duty saved on capital goods in 8 years from Authorisation issue-date and total investment in plant and machinery after such imports does not exceed SSI limit.

However, in respect of EPCG Authorisations with a duty saved amount of Rs. 100 crores or more, export obligation, shall be fulfilled in 12 years.

In case CVD is paid in cash on imports under EPCG, incidence of CVD would not be taken for computation of net duty saved provided the same is not Cenvated.

Capital goods shall include spares (including refurbished/reconditioned spares), tools, jigs, fixtures, dies and moulds.

Second hand capital goods without any restriction on age may also be imported under EPCG scheme.

However, import of motor cars, sports utility vehicles/all purpose vehicles shall be allowed only to hotels, travel agents, tour operators or tour transport operators and companies owning / operating golf resorts subject to condition that :

- (i) total foreign exchange earning from hotel, travel & tourism and golf tourism sectors in current and preceding three licensing years is Rs 1.5 crores or more.

- (ii) 'duty saved' amount on all EPCG Authorisations issued in a licensing year for import of motor cars, sports utility vehicles / all purpose vehicles shall not exceed 50% of average foreign exchange earnings from hotel, travel & tourism and golf tourism sectors in preceding three licensing years.
- (iii) vehicles imported shall be so registered that the vehicle is used for tourist purpose only. A copy of the Registration certificate should be submitted to concerned RA as confirmation of import of vehicle. However, parts of motor cars, sports utility vehicles / all purpose vehicles such as chassis etc. cannot be imported under EPCG Scheme.

Import of Restricted items of imports mentioned under ITC(HS) shall only be allowed under EPCG Scheme after approval from EFC at Headquarters.

EPCG for Projects	5.1A	Spares (including refurbished / reconditioned spares), tools, spare refractories and catalyst for existing plant and machinery shall be allowed to be imported subject to an export obligation equivalent to 8 times of duty saved to be fulfilled in 8 years reckoned from Authorisation issue-date.
EPCG for Retail Sector	5.1B	An EPCG Authorisation can also be issued for import of capital goods under Scheme for Project Imports notified by the Central Board of Excise and Customs under S.No 441 of Customs Exemption Notification No 21/2002 dated 01.03.2002. Export obligation for such EPCG Authorisations would be 8 times of duty saved. Duty saved would be difference between effective duty under aforesaid Customs Notification and concessional duty under the EPCG Scheme.
EPCG for Retail Sector	5.1 C	To create modern infrastructure in retail sector, concessional duty benefits under EPCG scheme shall be extended for import of capital goods required by retailers having minimum area of 1000 sq meters. Such retailer shall fulfill export obligation i.e., 8 times of duty saved in 8 years.
Eligibility	5.2	EPCG scheme covers manufacturer exporters with or without supporting manufacturer(s) / vendor(s), merchant exporters tied to supporting manufacturer(s) and service providers.
Conditions for import of Capital Goods	5.3	Import of capital goods shall be subject to Actual User condition till export obligation is completed.
Export obligation	5.4	Following conditions shall apply to the fulfillment of the export obligation:- (i) Export obligation shall be fulfilled by export of goods,

manufactured / services rendered by the applicant.

Export obligation shall be, over and above, the average level of exports achieved by applicant in preceding three licensing years. Such average would be the arithmetic mean of export performance in last 3 years.

Export obligation may also be fulfilled by exports of group company / managed hotel which has EPCG Authorisation. However, in such cases, additional export obligation imposed shall be over and above average exports achieved by unit / company / group company / managed hotel in preceding three years, despite exemption in Para 5.7.6 of HBP v1. For this purpose, average would be based on previous export of goods and services put together.

- (ii) Shipments under Advance Authorisation, DFRC, DFIA, DEPB or Drawback scheme would also count for fulfillment of EPCG export obligation.
- (iii) Export obligation can also be fulfilled by supply of ITA-1 items to DTA provided realization is in free foreign exchange.
- (iv) Exports shall be physical exports. However, deemed exports as specified in paragraph 8.2 (a), (b), (d), (f), (g) & (j) of FTP shall also be counted towards fulfillment of export obligation alongwith usual benefits available under paragraph 8.3 of FTP.

Royalty payments received in freely convertible currency and foreign exchange received for R&D services shall also be counted for discharge under EPCG. Payment received in rupee terms for port handling services, in terms of Chapter 9 of FTP shall also be counted for export obligation discharge.

- (v) Foreign exchange counted towards fulfillment of export obligation (over and above the average) shall not be eligible for incentives / rewards under promotional measures / schemes.

Provision for BIFR units 5.5.1 Any firm / company registered with BIFR or any firm / company acquiring a unit, which is under BIFR shall be allowed EO extension as per rehabilitation package subject to approval of BIFR or 12 years if not specified.

Above provisions apply also to SSI units as per rehabilitation scheme of concerned State government.

EPCG for agro 5.5.2 LUT / Bond or 15% BG (as applicable) may be given for EPCG

units		Authorisation granted to units in Agri Export Zones provided EPCG Authorisation is taken for export of primary agricultural product (s) notified in Appendix 8 or their value added variants.
Indigenous Sourcing of Capital Goods and benefits to Domestic Supplier	5.6	A person holding an EPCG Authorisation may source capital goods from a domestic manufacturer. Such domestic manufacturer shall be eligible for deemed export benefit under paragraph 8.3 of FTP. Such domestic sourcing shall also be permitted from EOUs and these supplies shall be counted for purpose of fulfillment of positive NFE by said EOU as provided in Para 6.9 (a) of FTP.
	5.7	Deleted
Fixation of Export Obligation	5.7A	In case of direct imports, export obligation shall be reckoned with reference to actual duty saved amount. In case of domestic sourcing, export obligation shall be reckoned with reference to notional Customs duties saved on FOR value.
	5.8	Deleted
	5.9	Deleted
Technological Upgradation of existing EPCG machinery	5.10	EPCG Authorisation holders can opt for Technological Upgradation of existing capital good imported under EPCG Authorisation. Conditions governing Technological Upgradation of existing capital goods are as under:
	(i)	Minimum time period for applying for Technological Upgradation of existing capital goods imported under EPCG is 5 years from Authorisation issue-date.
	(ii)	Minimum exports made under old capital goods must be 40% of total export obligation imposed on first EPCG Authorisation.
	(iii)	Export obligation would be refixed such that total export obligation mandated for both capital goods would be sum total of 6 times of duty saved on both the capital goods, to be fulfilled in 8 years from new authorisation issue-date.
	(iv)	Deleted
	(v)	Facility for technological upgradation shall be available only once and the minimum imports to be made shall be at least 10% of the existing investment in plant and machinery by applicant.
	(vi)	Capital goods to be imported must be new and technologically superior to earlier CG.
Incentives for Fast Track Companies	5.11	To incentivise fast track companies with a view to accelerate exports, in cases where Authorisation holder has fulfilled 75% or more of export obligation (including average level of exports) in

half or less than half the original export obligation period specified, remaining export obligation shall be condoned and the Authorisation redeemed by RA concerned.

However no benefits under Para 5.12 of HBP v1 shall be available in such cases.

CHAPTER- 6

EXPORT ORIENTED UNITS (EOUs), ELECTRONICS HARDWARE TECHNOLOGY PARKS (EHTPs), SOFTWARE TECHNOLOGY PARKS (STPs) AND BIO-TECHNOLOGY PARKS (BTPs)

- Eligibility** 6.1 Units undertaking to export their entire production of goods and services (except permissible sales in DTA), may be set up under the Export Oriented Unit (EOU) Scheme, Electronic Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-Technology Park (BTP) Scheme for manufacture of goods, including repair, re-making, reconditioning, re-engineering and rendering of services. Trading units are not covered under these schemes.
- Export and Import of Goods** 6.2 (a) An EOU / EHTP / STP / BTP unit may export all kinds of goods and services except items that are prohibited in ITC (HS). Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) shall be subject to fulfillment of the conditions indicated in ITC(HS).
- Procurement and supply of export promotion material like brochure / literature, pamphlets, hoardings, catalogues, posters etc. upto a maximum value limit of 1.5% of FOB value of previous years exports shall also be allowed.
- (b) An EOU / EHTP / STP / BTP unit may import and/or procure from DTA or bonded warehouses in DTA / international exhibition held in India without payment of duty all types of goods, including capital goods, required for its activities, provided they are not prohibited items of import in the ITC (HS). Any permission required for import under any other law shall be applicable. Units shall also be permitted to import goods including capital goods required for approved activity, free of cost or on loan / lease from clients. Import of capital goods will be on a self certification basis. Goods imported by a unit shall be with actual user condition and shall be utilized for export production.
- (c) State Trading regime shall not apply to EOU manufacturing units.
- (d) EOU / EHTP / STP / BTP units may import / procure from DTA without payment of duty certain specified goods for creating a central facility. Software EOU /

DTA units may use such facility for export of software.

- (e) An EOU engaged in agriculture, animal husbandry, aquaculture, floriculture, horticulture, pisciculture, viticulture, poultry or sericulture may be permitted to remove specified goods in connection with its activities for use outside bonded area.
- (f) Gems and jewellery EOUs may source gold / silver / platinum through nominated agencies on loan / outright purchase basis. Units obtaining gold / silver / platinum from nominated agencies, either on loan basis or outright purchase basis shall export gold / silver / platinum within 90 days from date of release.
- (g) EOU / EHTP / STP / BTP units, other than service units, may export to Russian Federation in Indian Rupees against repayment of State Credit / Escrow Rupee Account of buyer subject to RBI clearance, if any.
- (h) Procurement and export of spares / components upto 1.5% of FOB value of exports may be allowed to same consignee / buyer of export article within the warranty period.

Second Hand Capital Goods 6.3

Second hand capital goods, without any age limit, may also be imported duty free.

Leasing of Capital Goods 6.4

An EOU / EHTP / STP / BTP unit may, on the basis of a firm contract between parties, source capital goods from a domestic / foreign leasing company without payment of customs / excise duty. In such a case, EOU / EHTP / STP / BTP unit and domestic / foreign leasing company shall jointly file documents to enable import / procurement of capital goods without payment of duty.

Net Foreign Exchange (NFE) Earnings 6.5

EOU / EHTP / STP / BTP unit shall be a positive net foreign exchange earner except for sector specific provision of Appendix 14-I-C of Handbook, where a higher value addition shall be required. NFE Earnings shall be calculated cumulatively in blocks of five years, starting from commencement of production.

Letter of Permission / Letter of Intent and Legal Undertaking 6.6

(a) On approval, a Letter of Permission (LoP) / Letter of Intent (LoI) shall be issued by Development Commissioner/designated officer to EOU / EHTP / STP / BTP unit. LoP / LoI shall have an initial validity of 3

years by which time unit should have commenced production. Its validity may be extended further up to 3 years by competent authority. However, proposals for extension beyond six years shall be considered in exceptional circumstances, on a case-to-case basis by BOA. Once unit commences production, LOP / LOI issued shall be valid for a period of 5 years for its activities. This period may be extended further by DC for a period of 5 years at a time.

- (b) LoP / LoI issued to EOU / EHTP / STP / BTP units by concerned authority subject to compliance of provision in para 6.2 above, would be construed as an Authorisation for all purposes.
- (c) Unit shall execute a LUT with DC concerned. Failure to ensure positive NFE or to abide by any of the terms and conditions of LOP / LOI / IL / LUT shall render the unit liable to penal action under provisions of the FT (D&R) Act and Rules and Orders made thereunder without prejudice to action under any other law / rules and cancellation or revocation of LoP / LoI / IL.

Investment Criteria

- (d) Only projects having a minimum investment of Rs.1 Crore in Plant & Machinery shall be considered for establishment as EOUs . This shall, however, not apply to existing units and units in EHTP / STP / BTP, Handicrafts / Agriculture / Floriculture / Aquaculture / Animal Husbandry / Information Technology, Services, Brass Hardware and Handmade jewellery sectors. Board of Approval (BoA) may also allow establishment of EOUs with a lower investment criteria.

Application & Approvals

- 6.7
- (a) Applications for setting up of units under EOU scheme other than proposals for setting up of units in services sector (except R&D, software and IT enabled services, or any other service activity as may be delegated by BoA), shall be approved or rejected by the Units Approval Committee within 15 days as per criteria indicated in HBP v1.
 - (b) In other cases, approval may be granted by BoA set up for this purpose as indicated in HBP v1.
 - (c) Proposals for setting up EOU requiring industrial licence may be granted approval by Development Commissioner after clearance of proposal by BoA and DIPP within 45 days.

DTA Sale of Finished Products / Rejects / Waste / Scrap / Remnants and By-products

6.8 (a) Entire production of EOU / EHTP / STP / BTP units shall be exported subject to following:

Units, other than gems and jewellery units, may sell goods upto 50% of FOB value of exports subject to fulfilment of positive NFE on payment of concessional duties. Within entitlement of DTA sale, unit may sell in DTA its products similar to goods which are exported or expected to be exported from units. No DTA sale at concessional duty shall be permissible in respect of motor cars, alcoholic liquors, books, tea (except instant tea), pepper & pepper products, marble and such other items as may be notified from time to time. Such DTA sale shall also not be permissible to units engaged in activities of packaging / labeling / segregation / refrigeration / compacting / micronisation / pulverization / granulation / conversion of monohydrate form of chemical to anhydrous form or vice-versa. Sales made to a unit in SEZ shall also be taken into account for purpose of arriving at FOB value of export by EOU provided payment for such sales are made from Foreign Exchange Account of SEZ unit. Sale to DTA would also be subject to mandatory requirement of registration of pharmaceutical products (including bulk drugs).

(b) For services, including software units, sale in DTA in any mode, including on line data communication shall also be permissible up to 50% of FOB value of exports and /or 50% of foreign exchange earned, where payment of such services is received in foreign exchange.

(c) Gems and jewellery units may sell upto 10% of FOB value of exports of the preceding year in DTA subject to fulfillment of positive NFE. In respect of sale of plain jewellery, recipient shall pay concessional rate of duty as applicable to sale from nominated agencies. In respect of studded jewellery, duty shall be payable as applicable.

(d) Unless specifically prohibited in LoP, rejects within an overall limit of 50% may be sold in Domestic Tariff Area (DTA) on payment of duties as applicable to sale under paragraph 6.8(a) on prior intimation to Customs authorities. Such sales shall be counted against DTA sale entitlement. Sale of rejects upto 5% of FOB value of exports shall not be subject to achievement of NFE.

(e) Scrap / waste / remnants arising out of production

process or in connection therewith may be sold in DTA as per SION notified under Duty Exemption Scheme on payment of concessional duties as applicable within overall ceiling of 50% of FOB value of exports. Such sales shall not, however, be subject to achievement of positive NFE. In respect of items not covered by the norms, DC may, fix ad-hoc norms for a period of six months and within this period, he shall get norms fixed by BoA. Sale of waste / scrap / remnants by units not entitled to DTA sale or sales beyond DTA sale entitlement, shall be on payment of full duties. Scrap / waste / remnants may also be exported.

- (f) There shall be no duties / taxes on scrap / waste / remnants in case same are destroyed with permission of Customs authorities.
- (g) By-products included in LoP may also be sold in DTA subject to achievement of positive NFE on payment of applicable duties within the overall entitlement of paragraph 6.8(a). Sale of by-products by units not entitled to DTA sales or beyond entitlements of paragraph 6.8 (a) shall also be permissible on payment of full duties.
- (h) EOU / EHTP / STP / BTP units may sell finished products, except pepper and pepper products and marble which are freely importable under FTP in DTA under intimation to DC against payment of full duties provided they have achieved positive NFE.
- (i) In case of units manufacturing electronics hardware and software, NFE and DTA sale entitlement shall be reckoned separately for hardware and software.
- (j) In case of DTA sale of goods manufactured by EOU / EHTP / STP / BTP, where basic duty and CVD is nil, such goods may be considered as non-excisable for payment of duty.
- (k) In case of new EOUs, advance DTA sale will be allowed not exceeding 50% of its estimated exports for first year except pharmaceutical units where this will be based on its estimated exports for first two years.

Other Supplies in 6.9 DTA

Following supplies effected from EOU / EHTP / STP / BTP units to DTA will be counted for fulfillment of positive NFE:

- (a) Supplies effected in DTA to holders of Advance

Authorisation /Advance Authorisation for annual requirement / DFIA under duty exemption / remission scheme / EPCG scheme.

- (b) Supplies effected in DTA against foreign exchange remittance received from overseas.
- (c) Supplies to other EOU / EHTP / STP / BTP / SEZ units provided that such goods are permissible for procurement in terms of paragraph 6.2 of FTP.
- (d) Supplies made to bonded warehouses set up under FTP and / or under section 65 of Customs Act and free trade and warehousing zones, where payment is received in foreign exchange.
- (e) Supplies of goods and services to such organizations which are entitled for duty free import of such items in terms of general exemption notification issued by MoF.
- (f) Supply of services (by services units) relating to exports paid for in free foreign exchange or for such services rendered in Indian Rupees which are otherwise considered as having been paid for in free foreign exchange by RBI.
- (g) Supplies of Information Technology Agreement (ITA - 1) items and notified zero duty telecom / electronic items.
- (h) Supplies of accessories including tags, labels, printed bags, stickers, belts, buttons or hangers to DTA Unit for export.

Export through others

6.10 An EOU / EHTP / STP / BTP unit may export goods manufactured/software developed by it through another exporter or any other EOU / EHTP / STP / SEZ unit subject to conditions mentioned in para 6.19 of HBP v1.

Entitlement for supplies from the DTA

6.11 (a) Supplies from DTA to EOU / EHTP / STP / BTP units will be regarded as “deemed exports” and DTA supplier shall be eligible for relevant entitlements under chapter 8 of FTP besides discharge of export obligation, if any, on the supplier. Notwithstanding the above, EOU / EHTP / STP / BTP units shall, on production of a suitable disclaimer from DTA supplier, be eligible for obtaining entitlements specified in chapter 8 of FTP. For claiming deemed export duty drawback, they shall get Brand Rates fixed by Development Commissioner

wherever All Industry Rates of Drawback are not available.

- (b) Suppliers of precious and semi-precious stones, synthetic stones and processed pearls from DTA to EOU shall be eligible for grant of Replenishment authorisations at rates and for items mentioned in HBP v1.
- (c) In addition, EOU / EHTP / STP / BTP units shall be entitled to following:-
 - i) Reimbursement of Central Sales Tax (CST) on goods manufactured in India.

Interest on delay in refund of CST would be paid, as notified.
 - ii) Exemption from payment of Central Excise Duty on goods procured from DTA on goods manufactured in India.
 - iii) Deleted
 - iv) Reimbursement of Duty paid on fuels procured from domestic oil companies as per Drawback rate notified by DGFT from time to time.
 - v) CENVAT Credit on service tax paid.

Other Entitlements

- 6.12 Other entitlements of EOU / EHTP / STP / BTP units are as under:
- (a) Exemption from Income Tax as per Section 10A and 10B of Income Tax Act.
 - (b) Exemption from industrial licensing for manufacture of items reserved for SSI sector.
 - (c) Deleted
 - (d) Export proceeds will be realized within 12 months.
 - (e) Units will be allowed to retain 100% of its export earning in the EEFC account.
 - (f) Units will not be required to furnish bank guarantee at the time of import or going for job work in DTA, where unit has
 - (i) a turnover of Rupees 5 crores or above;
 - (ii) unit is in existence for at least three years; and
 - (iii) unit is having an unblemished track record.

- (g) 100% FDI investment permitted through Automatic Route similar to SEZ units.
- Inter Unit Transfer** 6.13 (a) Transfer of manufactured goods from one EOU / EHTP / STP / BTP unit to another EOU / EHTP / STP / BTP unit is allowed with prior intimation to concerned Development Commissioner and Customs authorities following procedure of in bond movement of goods. Transfer of manufactured goods shall also be allowed from EOU / EHTP / STP / BTP unit to a SEZ Developer or Unit following procedure prescribed in SEZ Rules, 2006.
- (b) Capital goods may be transferred or given on loan to other EOU / EHTP / STP / BTP / SEZ units with prior intimation to concerned Development Commissioner and Customs authorities.
- (c) Goods supplied by one unit of EOU/EHTP/STP/BTP to another unit shall be treated as imported goods for second unit for payment of duty, on DTA sale by second unit.
- Sub-Contracting** 6.14 (a)(i) EOU / EHTP / STP / BTP units, including gem and jewellery units, may on the basis of annual permission from Customs authorities, subcontract production processes to DTA through job work which may also involve change of form or nature of goods, through job work by units in DTA.
- (ii) These units may subcontract upto 50% of overall production of previous year in value terms in DTA with permission of Customs authorities.
- (b)(i) EOU may, with annual permission from Customs authorities, undertake job work for export, on behalf of DTA exporter, provided that goods are exported directly from EOU and export document shall jointly be in name of DTA / EOU. For such exports, DTA units will be entitled for refund of duty paid on inputs by way of Brand Rate of duty drawback.
- (ii) Duty free import of goods for execution of export order placed on EOU by Foreign Supplier on jobwork basis would be allowed subject to condition that no DTA clearance shall be allowed.
- (iii) Subcontracting of both production and production

processes may also be undertaken without any limit through other EOU / EHTP / STP / SEZ / BTP units on the basis of records maintained in unit.

- (iv) Subcontracting of part of production process may also be permitted abroad with approval of Development Commissioner.
- (c) Scrap / waste / remnants generated through job work may either be cleared from job worker's premises on payment of applicable duty on transaction value or destroyed in presence of Customs / Excise authorities or returned to unit. Destruction shall not apply to gold, silver, platinum, diamond, precious and semi precious stones.
- (d) Sub-contracting / exchange by gems and jewellery EOUs through other EOUs or SEZ units or units in DTA shall be as per procedure indicated in HBP v1.

Sale of Un-utilised Material 6.15

- (a) In case an EOU / EHTP / STP / BTP unit is unable to utilize goods and services, imported or procured from DTA, it may be
 - (i) transferred to another EOU / SEZ / EHTP / STP / BTP unit or
 - (ii) disposed off in DTA with approval of Customs authorities on payment of applicable duties and submission of import authorisation, or
 - (iii) exported. Such transfer from EOU / EHTP / STP / BTP unit to another such unit would be treated as import for receiving unit.
- (b) Capital goods and spares that have become obsolete / surplus, may either be exported, transferred to another EOU / EHTP / STP / BTP / SEZ or disposed of in DTA on payment of applicable duties. Benefit of depreciation, as applicable, will be available in case of disposal in DTA. No duty shall be payable in case capital goods, raw material, consumables, spares, goods manufactured, processed or packaged, and scrap / waste / remnants / rejects are destroyed within Unit after intimation to Customs authorities or destroyed outside Unit with permission of Customs authorities. Destruction as stated above shall not apply to gold, silver, platinum, diamond, precious and semi precious stones.
- (c) In case of textile sector, disposal of left over material / fabrics upto 2% of cif value or quantity of import, whichever is lower, on payment of duty on transaction

value may be allowed, subject to certification of Central Excise / Customs officers that these are leftover items.

- (d) Disposal of used packing material will be allowed on payment of duty on transaction value.

**Reconditioning /
Repair and Re-
engineering**

6.16 EOU / EHTP / STP / BTP units may be set up with approval of BoA to carry out reconditioning, repair, remaking, testing, calibration, quality improvement, up-gradation of technology and re-engineering activities for export in foreign currency. Provisions of paragraphs 6.8, 6.9, 6.10, 6.13, 6.14 of FTP and para 6.29 of HBP v1 shall not, however, apply to such activities.

**Replacement / Repair
of imported /
Indigenous Goods**

6.17 (a) General provisions of FTP relating to export / import of replacement / repair of goods would also apply equally to EOU / EHTP / STP / BTP units. Cases not covered by these provisions shall be considered on merits by DC.

(b) Goods sold in DTA and not accepted for any reasons may be brought back for repair / replacement, under intimation to concerned jurisdictional Customs / Excise authorities.

(c) Goods or parts thereof on being imported / indigenously procured and found defective or otherwise unfit for use or which have been damaged or become defective subsequently may be returned and replacement obtained or destroyed. In the event of replacement, goods may be brought back from foreign suppliers or their authorized agents in India or indigenous suppliers. However destruction shall not apply to precious and semi precious stones and precious metals.

**Exit from EOU
Scheme**

6.18 (a) With approval of DC, EOU units may opt out of scheme. Such exit shall be subject to payment of Excise and Customs duties and industrial policy in force.

(b) If unit has not achieved obligations, it shall also be liable to penalty at the time of exit.

(c) In the event of a gem and jewellery unit ceasing its operation, gold and other precious metals, alloys, gem and other materials available for manufacture of jewellery, shall be handed over to an agency nominated by DoC at price to be determined by that agency.

(d) An EOU / EHTP / STP / BTP unit may also be

permitted by Development Commissioner, to exit on payment of duty on capital goods under the prevailing EPCG Scheme as a one time option. This will be subject to fulfilment of eligibility criteria under that Scheme and standard conditions indicated in HBP v1.

- (e) Unit proposing to exit out of EOU scheme shall intimate DC and Customs and Central Excise authorities in writing. Unit shall assess duty liability arising out of debonding and submit details of such assessment to customs and Central Excise authorities. Customs and Central Excise authorities shall confirm duty liabilities on priority basis. After payment of duty and clearance of all dues, unit shall obtain “No Dues Certificate” from Customs and Central Excise authorities. On the basis of “No Dues Certificate” so issued by the Customs and Central Excise authorities, unit shall apply to DC for final debonding.

In case there is no proceeding pending under FT(D&R) Act, DC shall issue final debonding order within a period of 7 working days. Between “No Dues Certificate” issued by Customs and Central Excise authorities and final debonding order by DC, unit shall not be entitled to claim any exemption for procurement of capital goods or input. Unit can however, claim Advance Authorisation / DEPB / Duty Drawback. Since the duty calculations and dues are disputed and take a long time, a BG / Bond / Installment processes backed by BG shall be provided for expediting the exit process.

- (f) In cases where a unit is initially established as DTA unit with machine procured from abroad after payment of applicable import duty or from domestic market after payment of excise duty and unit is subsequently converted to EOU, in such cases removal of such capital goods to DTA after debonding would be without payment of duty. Similarly, in cases where a DTA unit imported capital goods under EPCG Scheme and after completely fulfilling export obligation gets converted into EOU, unit would not be charged customs duty on capital goods at the time of removal of such capital goods in DTA when debonding.
- (g) An EOU / EHTP / STP / BTP Unit may also be permitted by Development Commissioner to exit under Advance Authorization as a one time option. This will be subject to fulfillment of positive NFE criteria.

Conversion

- 6.19 (a) Existing DTA units, may also apply for conversion into

an EOU / EHTP / STP / BTP unit, and Income Tax benefits under Section 10A and 10B will be available for plant, machinery and equipment already installed.

- (b) Existing EHTP / STP units may also apply for conversion / merger to EOU unit and vice-versa. In such cases, units will remain in bond and avail exemptions in duties and taxes as applicable.

Monitoring of NFE	6.20	Performance of EOU / EHTP / STP / BTP units shall be monitored by Units Approval Committee as per guidelines in HBP v1.
Export through Exhibitions / Export Promotion Tours / Export through showrooms abroad / Duty Free Shops	6.21	EOU / EHTP / STP / BTP are permitted to : (i) Export goods for holding / participating in exhibitions abroad with permission of Development Commissioner. (ii) Personal carriage of gold / silver / platinum jewellery, precious, semi-precious stones, beads and articles. (iii) Export goods for display / sale in permitted shops set up abroad. (iv) Display / sell in permitted shops set up abroad or in show rooms of their distributors / agents. (v) Set up show rooms / retail outlets at International Airports.
Personal Carriage of Import / Export Parcels Including through Foreign bound Passengers	6.22	Import / export through personal carriage of gem and jewellery items may be undertaken as per Customs procedure .Export proceeds shall, however, be realized through normal banking channel. Import / export through personal carriage by units, other than gem and jewellery units, shall be allowed provided goods are not in commercial quantity.
Export / Import by Post / Courier	6.23	Goods including free samples, may be exported / imported by airfreight or through Foreign Post Office or through courier, as per Customs procedure.
Administration of EOUs / Power of Development Commissioner	6.24	Details of administration of EOUs and power of Development Commissioner are given in HBP v1.
Revival of Sick Units	6.25	Subject to a unit being declared sick by appropriate authority, proposals for revival of the unit or its take over may be considered by BoA .
Approval for EHTP / STP	6.26	In case of units under EHTP / STP Schemes, necessary approval / permission under relevant paragraphs of this Chapter

shall be granted by officer designated by Ministry of Communication and Information Technology, Department of Information Technology instead of Development Commissioner and by Inter-Ministerial Standing Committee (IMSC) instead of BoA.

Approval of BTP

6.27 Bio-Technology Parks (BTP) would be notified by DGFT on recommendations of Department of Biotechnology. In case of units in BTP, necessary approval / permission under relevant provisions of this chapter will be granted by designated officer of Department of Biotechnology.

CHAPTER-7
SPECIAL ECONOMIC ZONES

The policy relating to Special Economic Zones is governed by SEZ Act 2005, and the Rules framed thereunder.

CHAPTER 7A
FREE TRADE & WAREHOUSING ZONES

The policy relating to Free Trade and Warehousing Zones is governed by SEZ Act 2005, and the Rules framed thereunder.

CHAPTER –8

DEEMED EXPORTS

- Deemed Exports** 8.1 “Deemed Exports” refers to those transactions in which goods supplied do not leave country and payment for such supplies is received either in Indian rupees or in free foreign exchange.
- Categories of Supply** 8.2 Following categories of supply of goods by main / sub-contractors shall be regarded as “Deemed Exports” under FTP, provided goods are manufactured in India:
- (a) Supply of goods against Advance Authorisation / Advance Authorisation for annual requirement / DFIA;
 - (b) Supply of goods to EOUs or STPs or EHTPs or BTPs;
 - (c) Supply of capital goods to holders of Authorisations under EPCG Scheme;
 - (d) Supply of goods to projects financed by multilateral or bilateral agencies / funds as notified by Department of Economic Affairs (DEA), MoF under International Competitive Bidding (ICB) in accordance with procedures of those agencies / funds, where legal agreements provide for tender evaluation without including customs duty;

Supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral agencies / funds as notified by DEA, MoF under ICB in accordance with procedures of those agencies/funds, which bids may have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad;
 - (e) Supply of capital goods, including in unassembled / disassembled condition as well as plants, machinery, accessories, tools, dies and such goods which are used for installation purposes till stage of commercial production and spares to extent of 10% of FOR value to fertilizer plants;
 - (f) Supply of goods to any project or purpose in respect of which the MoF, by a notification, permits import of such goods at zero customs duty;

- (g) Supply of goods to power projects and refineries not covered in (f) above;
- (h) Supply of marine freight containers by 100%EOU (Domestic freight containers-manufacturers) provided said containers are exported out of India within 6 months or such further period as permitted by customs;
- (i) Supply to projects funded by UN agencies; and
- (j) Supply of goods to nuclear power projects through competitive bidding as opposed to ICB.

Benefits of deemed exports shall be available under paragraphs (d), (e) (f) and (g) only if the supply is made under procedure of ICB.

Benefits for Deemed Exports 8.3

Deemed exports shall be eligible for any / all of following benefits in respect of manufacture and supply of goods qualifying as deemed exports subject to terms and conditions as in HBP v1.

- (a) Supply of goods against Advance Authorisation / Advance Authorisation for annual requirement / DFIA.
- (b) Deemed Export Drawback.
- (c) Exemption from terminal excise duty where supplies are made against ICB. In other cases, refund of terminal excise duty will be given.

Benefits to the Supplier 8.4.1

- (i) In respect of supplies made against Advance Authorisation / DFIA in terms of paragraph 8.2(a) of FTP, supplier shall be entitled to Advance Authorisation / DFIA for intermediate supplies.
- (ii) If supplies are made against Advance Release Order (ARO) or Back to Back Letter of Credit issued against Advance Authorisation / DFIA in terms of paragraphs 4.1.11 and 4.1.12 of FTP, suppliers shall be entitled to benefits listed in paragraphs 8.3(b) and (c) of FTP, wherever is applicable.
- (iii) Deleted.

8.4.2 In respect of supply of goods to EOU / EHTP / STP / BTP in terms of paragraph 8.2(b) of FTP, supplier shall be entitled to benefits listed in paragraphs 8.3(a), (b) and (c) of FTP, whichever is applicable.

- 8.4.3 In respect of supplies made under paragraph 8.2(c) of FTP, supplier shall be entitled to the benefits listed in paragraphs 8.3(a), (b) and (c) of the Policy, whichever is applicable.
- 8.4.4 (i) In respect of supplies made under paragraphs 8.2(d), (f) and (g) of FTP, supplier shall be entitled to benefits listed in paragraphs 8.3(a), (b) and (c), whichever is applicable.
- (ii) In respect of supplies mentioned in paragraph 8.2(d), supplies to projects funded by such agencies alone, as may be notified by DEA, MoF shall be eligible for deemed export benefits. A list of such agencies/funds is given in Appendix 13 of HBP v1 .
- (iii) Benefits of deemed exports under para 8.2(f) of FTP shall be applicable in respect of items, import of which is allowed by DoR at zero customs duty subject to fulfillment of conditions specified under Notification No. 21/2002-Customs dated 1.3.2002, as amended from time to time.
- (iv) Supply of Capital goods and spares upto 10% of FOR value of capital goods to power projects in terms of paragraph 8.2(g) shall be entitled for deemed export benefits provided the ICB procedures have been followed at Independent Power Producer (IPP) / Engineering and Procurement Contract (EPC) stage. Benefit of deemed exports shall also be available for renovation / modernization of power plants. Supplier shall be eligible for benefits listed in paragraph 8.3(a) and (b) of FTP, whichever is applicable. However, supply of goods required for setting up of any mega power projects as specified in S.No. 400 of DoR Notification No. 21/2002-Customs dated 1.3.2002, as amended, shall be eligible for deemed exports benefits as mentioned in paragraph 8.3(a), (b) and (c) of FTP, whichever is applicable, if such mega power project is :
- (a) an inter state Thermal Power Plant of capacity of 1000MW or more; or
- (b) an inter state Hydel Power Plant of capacity of 500 MW or more.
- (v) Supplies under paragraph 8.2(g) of FTP to new refineries being set up during Ninth Plan period and spilled over to Tenth Plan period shall be entitled for deemed export benefits in respect of goods mentioned in list 17 specified in S.No. 228 of Notification No. 21/2002-Customs dated 1.3.2002, as amended from time

to time. Supplier shall be eligible for benefits listed in paragraphs 8.3(a) and (b) of FTP, whichever is applicable.

8.4.5 In respect of supplies made under paragraph 8.2(e) of FTP, supplier shall be eligible for benefits listed in paragraph 8.3(a) and (b) of FTP, whichever is applicable. Benefit of deemed exports shall be available in respect of supplies of capital goods and spares to Fertilizer Plants which are set up or expanded / revamped / retrofitted / modernized during Ninth Plan period. Benefit of deemed exports shall also be available on supplies made to Fertilizers Plants, which have started in the 8th / 9th Plan periods and spilled over to 10th Plan period.

8.4.6 Supplies of goods to projects funded by UN agencies covered under para 8.2(i) of FTP are eligible for benefits listed in paragraph 8.3(a) and (b) of FTP, whichever is applicable.

8.4.7 In respect of supplies made to Nuclear Power Projects under para 8.2(j) of FTP, the supplier would be eligible for benefits given in para 8.3(a), (b) and (c) of FTP, whichever is applicable. Supply of only those goods required for setting up any Nuclear Power Project specified in list 43 at S.No. 401 of Notification No. 21/2002-Customs dated 1.3.2002, as amended from time to time having a capacity of 440MW or more as certified by an officer not below rank of Joint Secretary to Government of India in Department of Atomic Energy shall be entitled for deemed exports benefits in cases where procedure of competitive bidding (and not ICB) has been followed.

Eligibility for refund of Terminal Excise Duty / Drawback

8.5 Supply of goods will be eligible for refund of Terminal Excise Duty in terms of para 8.3(c) FTP provided recipient of goods does not avail CENVAT credit / rebate on such goods. Similarly, supplies will be eligible for deemed export drawback in terms of para 8.3(b) of FTP on Central Excise paid on inputs / components, provided CENVAT credit facility / rebate has not been availed by applicant. Such supplies will however be eligible for deemed export drawback on customs duty paid on inputs / components.

8.5.1 Interest would be payable on delay in refund of Terminal Excise Duty / Drawback, as notified.

Supplies to be made by the main / sub-contractor

8.6.1 In all cases of deemed exports, supplies shall be made directly to designated Projects / Agencies / Units / Advance Authorisation / EPCG Authorisation holders. Sub-contractor may, however, make supplies to main contractor instead of supplying directly to designated projects / agencies. Such Supplies shall be eligible for deemed export benefits as per

procedure laid down in paragraph 8.4 of HBP v1.

- 8.6.2 Supplies made by an Indian sub-contractor of an Indian or foreign main contractor directly to the designated projects / agencies, shall also be eligible for deemed export benefits provided sub-contractor is indicated either originally or subsequently in the contract, and payment certificate is issued by project authority in the name of sub-contractor as in Appendix 22C of HBP v1.

CHAPTER-9

DEFINITIONS

- 9.1 For purpose of FTP, unless context otherwise requires, following words and expressions shall have the following meanings attached to them.
- 9.2 "Accessory" or "Attachment" means a part, sub-assembly or assembly that contributes to efficiency or effectiveness of a piece of equipment without changing its basic functions.
- 9.3 "Act" means Foreign Trade (Development and Regulation) Act, 1992 (No.22 of 1992) [FT(D&R) Act].
- 9.4 "Actual User" means an actual user who may be either industrial or non-industrial.
- 9.5 "Actual User (Industrial)" means a person who utilises imported goods for manufacturing in his own industrial unit or manufacturing for his own use in another unit including a jobbing unit.
- 9.6 "Actual User (Non-Industrial)" means a person who utilises the imported goods for his own use in
- (i) any commercial establishment carrying on any business, trade or profession; or
 - (ii) any laboratory, Scientific or Research and Development (R&D) institution, university or other educational institution or hospital; or
 - (iii) any service industry.
- 9.7 "AEZ" means Agricultural Export Zones notified by DGFT in Appendix 8 of HBP v1.
- 9.8 Deleted
- 9.8.1 "Appeal" is an application filed under section 15 of the Act and includes such applications preferred by DGFT officials in government interest against decision by designated adjudicating / appellate authorities.
- 9.9 "Applicant" means person on whose behalf an application is made and shall, wherever context so requires, include person signing the application.
- 9.9.1 "Authorisation" means a permission as included in Section 2 (g) of FT(D&R) Act to import or export as per provisions of FTP.
- 9.10 "BoA" means the Board of Approval as notified by DoC.
- 9.11 "BTP" means Biotechnology Park as notified by DGFT on recommendation of Department of Biotechnology.

- 9.12 "Capital Goods" means any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, of goods or for rendering services, including those required for replacement, modernisation, technological upgradation or expansion. It also includes packaging machinery and equipment, refractories for initial lining, refrigeration equipment, power generating sets, machine tools, catalysts for initial charge, equipment and instruments for testing, research and development, quality and pollution control. Capital goods may be for use in manufacturing, mining, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture and viticulture as well as for use in services sector.
- 9.13 "Competent Authority" means an authority competent to exercise any power or to discharge any duty or function under the Act or Rules and Orders made thereunder or under FTP.
- 9.14 "Component" means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved. A component includes an accessory or attachment to another component.
- 9.15 "Consumables" means any item, which participates in or is required for a manufacturing process, but does not necessarily form part of end-product. Items, which are substantially or totally consumed during a manufacturing process will be deemed to be consumables.
- 9.16 "Consumer Goods" means any consumption goods, which can directly satisfy human needs without further processing and includes consumer durables and accessories thereof.
- 9.17 "Counter Trade" means any arrangement under which exports / imports from / to India are balanced either by direct imports / exports from importing / exporting country or through a third country under a Trade Agreement or otherwise. Exports / Imports under Counter Trade may be carried out through Escrow Account, Buy Back arrangements, Barter trade or any similar arrangement. Balancing of exports and imports could wholly or partly be in cash, goods and / or services.
- 9.18 "Developer" means a person or body of persons, company, firm and such other private or government undertaking, who develops, builds, designs, organises, promotes, finances, operates, maintains or manages a part or whole of infrastructure and other facilities in SEZ as approved by Central Government and also includes a co-developer.
- 9.19 "Development Commissioner" means Development Commissioner of SEZ.
- 9.20 "DFRC" means Duty Free Replenishment Certificate.
- 9.21 "Domestic Tariff Area (DTA)" means area within India which is

outside SEZs and EOU / EHTP / STP / BTP.

- 9.22 "Drawback" in relation to any goods manufactured in India and exported, means rebate of duty chargeable on any imported material or excisable material used in manufacture of such goods in India. Goods include imported spares, if supplied with capital goods manufactured in India.
- 9.23 "EHTP" means Electronic Hardware Technology Park.
- 9.24 "EOU" means Export Oriented Unit for which an LOP has been issued by Development Commissioner.
- 9.25 "Excisable goods" means any goods produced or manufactured in India and subject to a duty of excise under Central Excise and Salt Act 1944 (1 of 1944).
- 9.26 "Exporter" means a person who exports or intends to export and holds an IEC number unless otherwise specifically exempted.
- 9.27 "Export Obligation" means obligation to export product or products covered by Authorisation or permission in terms of quantity, value or both, as may be prescribed or specified by Regional or competent authority.
- 9.27.1 "FTP" means the Foreign Trade Policy which specifies policy for exports and imports under section 5 of the Act.
- 9.28 "Group Company" means two or more enterprises which, directly or indirectly, are in a position to —
- (i) exercise twenty-six per cent, or more of voting rights in other enterprise; or
- (ii) appoint more than fifty percent, of members of board of directors in the other enterprise.
- For group companies to claim benefits or have their exports counted for benefits to be claimed by another member of group, the group company should have been in existence at least 2 years prior to date of application under any of export promotion schemes notified in FTP.
- 9.29 "HBP v1" means the Handbook of Procedures (Vol.1) and "HBP v2" means Handbook of Procedures (Vol.2) published under provisions of paragraph 2.4 of FTP.
- 9.30 "Importer" means a person who imports or intends to import and holds an IEC number unless otherwise specifically exempted.
- 9.31 "Infrastructure facilities" means industrial, commercial and social infrastructure or any other facility for development of SEZ as notified.
- 9.32 "ITC(HS)" means ITC(HS) Classifications of Export and Import

Items Book.

- 9.33 "Jobbing" means processing or working upon of raw materials or semi-finished goods supplied to job worker so as to complete a part of process resulting in manufacture or finishing of an article or any operation which is essential for aforesaid process.
- 9.34 Deleted
- 9.35 "Licensing Year" means period beginning on the 1st April of a year and ending on 31st March of following year.
- 9.36 "Managed Hotel" means hotels managed by a three star or above hotel / hotel chain under an operating management contract for a duration of at least three years between operating hotel / hotel chain and hotel being managed. Management contract must necessarily cover the entire gamut of operations / management of managed hotel.
- 9.37 "Manufacture" means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, re-packing, polishing, labelling, Re-conditioning repair, remaking, refurbishing, testing, calibration, re-engineering. Manufacture, for the purpose of FTP, shall also include agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining.
- 9.38 "Manufacturer Exporter" means a person who exports goods manufactured by him or intends to export such goods.
- 9.39 "MAI" means Market Access Initiative Scheme notified by Department of Commerce.
- 9.40 "Merchant Exporter" means a person engaged in trading activity and exporting or intending to export goods.
- 9.40.1 "NC" means the Norms Committee in the Directorate General of Foreign Trade for recommending grant of Authorisations under Duty Exemption Scheme and for recommending Input Output norms and value addition norms to be notified by DGFT.
- 9.41 "NFE" means Net Foreign Exchange.
- 9.42 "Notification" means a notification published in Official Gazette.
- 9.43 "Order" means an Order made by Central Government under the Act.
- 9.44 "Part" means an element of a sub-assembly or assembly not normally useful by itself and not amenable to further disassembly for maintenance purposes. A part may be a component, spare or an accessory.
- 9.45 "Person" includes an individual, firm, society, company,

corporation or any other legal person including the DGFT officials.

- 9.46 "Policy" means FTP 2004-2009 as amended from time to time.
- 9.47 "Prescribed" means prescribed under the Act or the Rules or Orders made thereunder or under FTP.
- 9.48 "Public Notice" means a notice published under provisions of paragraph 2.4 of FTP.
- 9.49 "Raw material" means:
- (i) basic materials which are needed for manufacture of goods, but which are still in a raw, natural, unrefined or unmanufactured state; and
 - (ii) for a manufacturer, any materials or goods which are required for his manufacturing process, whether they have actually been previously manufactured or are processed or are still in a raw or natural state.
- 9.49.1 "Regional Authority" means authority competent to grant an Authorisation under the Act / Order.
- 9.50 "Registration-Cum-Membership Certificate" (RCMC) means certificate of registration and membership granted by an Export Promotion Council / Commodity Board / Development Authority or other competent authority as prescribed in FTP or HBP v1.
- 9.51 "Rules" means Rules made by Central Government under Section 19 of the Act.
- 9.52 "Services" include all tradable services covered under General Agreement on Trade in Services and earning free foreign exchange.
- 9.53 "Service Provider" means a person providing
- (i) Supply of a 'service' from India to any other country;
 - (ii) Supply of a 'service' from India to service consumer of any other country in India; and
 - (iii) Supply of a 'service' from India through commercial or physical presence in territory of any other country.
 - (iv) Supply of a 'service' in India relating to exports paid in free foreign exchange or in Indian Rupees which are otherwise considered as having being paid for in free foreign exchange by RBI.
- 9.54 "SEZ" means Special Economic Zone notified by Ministry of Commerce & Industry, Department of Commerce.
- 9.55 "Ships" mean all types of vessels used for sea borne trade or coastal trade and shall include second hand vessels.
- 9.56 "SION" means Standard Input Output Norms notified by DGFT

in HBP v2, 2004-09 / approved by Board of Approval.

- 9.57 "Spares" means a part or a sub-assembly or assembly for substitution, that is ready to replace an identical or similar part or sub-assembly or assembly. Spares include a component or an accessory.
- 9.58 "Specified" means specified by or under provisions of this Policy through Notification / Public Notice.
- 9.59 "Status holder" means an exporter recognized as Export House / Trading House etc. by DGFT / Development Commissioner.
- 9.59.1 "Stores" means goods for use in a vessel or aircraft and includes fuel and spares and other articles of equipment, whether or not for immediate fitting.
- 9.60 "STP" means Software Technology Park
- 9.61 "Supporting Manufacturer" means any person who manufactures any product or part / accessories / components of that product. Name of supporting manufacturer as well as the exporter must be endorsed on export documents.
- 9.62 "Third-party exports" means exports made by an exporter or manufacturer on behalf of another exporter(s). In such cases, export documents such as shipping bills shall indicate name of both manufacturing exporter/manufacturer and third party exporter(s). BRC, GR declaration, export order and invoice should be in the name of third party exporter.
- 9.63 "Transaction Value" as defined in Customs Valuation Rules of Department of Revenue.
- 9.64 Deleted
- 9.65 "Wild Animal" means any wild animal as defined in Section 2(36) of Wildlife (Protection) Act, 1972.