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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. roducts, 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. 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



## CHAPTER 1A

### LEGAL FRAMEWORK

- |                                  |     |  |
|----------------------------------|-----|--|
| <b>Preamble</b>                  | 1.1 | The Preamble spells out the broad framework and is an integral part of the Foreign Trade Policy.   |
| <b>Duration</b>                  | 1.2 | In exercise of the powers conferred under Section 5 of The Foreign Trade (Development and Regulation Act), 1992 (No. 22 of 1992), the Central Government hereby notifies the Foreign Trade Policy for the period 2004-2009 incorporating the Export and Import Policy for the period 2002-2007, as modified. This Policy shall come into force with effect from 1 <sup>st</sup> September 2004 and shall remain in force upto 31 <sup>st</sup> March, 2009 unless as otherwise specified.  |
| <b>Amendments</b>                | 1.3 | The Central Government reserves the right in public interest to make any amendments to this Policy in exercise of the powers conferred by Section-5 of the Act. Such amendment shall be made by means of a Notification published in the Gazette of India.   |
| <b>Transitional Arrangements</b> | 1.4 | Any Notifications made or Public Notices issued or anything done under the previous Export/ Import policies, and in force immediately before the commencement of this Policy shall, in so far as they are not inconsistent with the provisions of this Policy, continue to be in force and shall be deemed to have been made, issued or done under this Policy.<br><br>Licences, certificates and permissions issued before the commencement of this Policy shall continue to be valid for the purpose and duration for which such licence, certificate or permission was issued, unless otherwise stipulated. |
|                                  | 1.5 | In case an export or import that is permitted freely under this Policy 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 the shipment of the export or import is made within the original validity of an irrevocable letter of credit established before the date of imposition of such restriction.   |



## 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 the 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.

For the present, the thrust sectors indicated below shall be extended the following facilities:

- (i) Agriculture
  - (a) A new scheme called the Vishesh Krishi Upaj Yojana (Special Agricultural Produce Scheme) for promoting the export of fruits, vegetables, flowers, minor forest produce, dairy, poultry and their value added products has been introduced (Para 3.8).
  - (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 the AEZ.
  - (f) Import of restricted items, such as panels, shall be allowed under the various export promotion schemes.
  - (g) Import of inputs such as pesticides shall be permitted under the Advance Licence 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 the previous financial year.
- (c) Duty free import entitlement of hand knotted carpet samples shall be 1% of FOB value of exports during the 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) Government has decided to develop a trade mark for Handloom on lines similar to 'Woolmark' and 'Silkmark'. This will enable handloom products to develop a niche market with a distinct identity.

(iii) Handicrafts:

- (a) New Handicraft SEZs shall be established which would procure products from the cottage sector and do the finishing for exports.
- (b) Duty free import entitlement of trimmings and embellishments shall be 5% of the FOB value of exports during the previous financial year. The entitlement is broad banded, and shall extend also to merchant exporters tied up with supporting manufacturers.
- (c) The Handicraft Export Promotion Council shall be 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.

(iv) Gems & Jewellery

- (a) Import of gold of 8k and above shall be allowed under the replenishment scheme subject to the

import being accompanied by an Assay Certificate specifying the purity, weight and alloy content.

- (b) Duty free import entitlement of consumables for metals other than Gold, Platinum shall be 2% of FOB value of exports during the previous financial year.
- (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 the FOB value of exports
- (e) Cutting and polishing of gems and jewellery, shall be treated as manufacturing for the purposes of exemption under Section 10A of the Income Tax Act

(v) Leather and Footwear

- (a) Duty free import entitlement of specified items shall be 5% of FOB value of exports during the preceding financial year.
- (b) The duty free entitlement for the 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 the previous financial year. The 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 etc. to be allowed to the extent of 1% of FOB value of preceding financial years export.
- (b) To allow import of monofilament long line system for tuna fishing at a concessional rate of duty.

- (c) A self removal procedure for clearance of seafood waste to be applicable subject to prescribed wastage norms.

**Optimum Development programme for Pragati Maidan**

1B.2 In order to showcase our industrial and trade prowess to its best advantage and leverage existing facilities to enhance the quantity of space and service, Pragati Maidan will be transformed into a world-class complex with visitor friendliness ingress and egress system. The complex utilisation will be improved, increased and diversified. There shall be brand new, state-of-the-art, environmentally-controlled, air-conditioned exhibition areas, and Permanent Exhibition Marts. In addition, a large Convention Centre to accommodate ten thousand delegates will be developed, with multiple and flexible hall spaces, auditoria and meeting rooms with hi-tech equipment. A year-round Food and Beverage destination will be developed, with a large number of outlets covering all cuisines and pricing levels. There will be a multi-level park to accommodate over nine thousand vehicles within the envelope of Pragati Maidan.



## CHAPTER-1C

### Board of Trade

- |                           |   |
|---------------------------|---|
| <b>Board of Trade</b>     | <p>1C.1 The Board of Trade has been revamped and given a clear and dynamic role in advising government on relevant issues connected with Foreign Trade Policy. There would be a process of continuous interaction between the Board of Trade and Government in order to achieve the desired objective of boosting India's exports.</p>  |
| <b>Terms of Reference</b> | <p>1C.2 The Board of Trade would have the following terms of reference:</p> <ul style="list-style-type: none"> <li>I To advise the 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;</li> <li>II To review export performance of various sectors, identify constraints and suggest industry specific measures to optimize export earnings;</li> <li>III To examine the existing institutional framework for imports &amp; exports and suggest practical measures for further streamlining to achieve the desired objectives;</li> <li>IV To review the policy instruments and procedures for imports &amp; exports and suggest steps to rationalize and channelise such schemes for optimum use;</li> <li>V To examine issues which are considered relevant for promotion of India's foreign trade, and to strengthen the international competitiveness of Indian goods and services; and</li> <li>VI To commission studies for furtherance of the above objectives.</li> </ul> |
| <b>Composition</b>        | <p>1C.3 Government shall nominate an eminent person or expert on trade policy to be President of the Board of Trade. Government shall also nominate 25 persons, of whom at least 10 will be experts in trade policy. In addition, Chairmen</p>  |

of recognized Export Promotion Councils and President or Secretary-Generals of National Chambers of Commerce will be ex-officio members.

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|------------------------------------|------|---|
| <b>Meetings</b>                    | 1C.4 | The Board will meet at least once every quarter and make recommendations to Government on issues pertaining to its terms of reference.                      |
| <b>Sub- committee</b>              | 1C.5 | The Board of Trade will have the power to set up sub-committees and to co-opt experts to these, to make recommendations on specific sectors and objectives. |
| <b>Secretariat and Budget Head</b> | 1C.6 | The Board of Trade will have a Secretariat and Budget Head and shall be serviced by the Department of Commerce.   |



## CHAPTER-2

### GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS

#### **Exports and Imports 2.1 free unless regulated**

Exports and Imports shall be free, except in cases where they are regulated by the provisions of this Policy or any other law for the time being in force. The item wise export and import policy shall be, as specified in ITC(HS) published and notified by Director General of Foreign Trade, as amended from time to time.

#### **Compliance with Laws 2.2**

Every exporter or importer shall comply with the provisions of the Foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders made thereunder, the provisions of this Policy and the terms and conditions of any licence/certificate/permission granted to him, as well as provisions of any other law for the time being in force. 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 the shipment parcel is accompanied by Kimberley Process (KP) Certificate required under the procedure specified by the Gem & Jewellery Export Promotion Council (GJEPC).

#### **Interpretation of Policy 2.3**

If any question or doubt arises in respect of the interpretation of any provision contained in this Policy, or regarding the classification of any item in the ITC(HS) or Handbook (Vol.1) or Handbook (Vol.2), or Schedule Of DEPB Rate the said question or doubt shall be referred to the Director General of Foreign Trade whose decision thereon shall be final and binding.

If any question or doubt arises whether a licence/certificate/permission has been issued in accordance with this Policy or if any question or doubt arises touching upon the scope and content of such documents, the same shall be referred to the Director General of Foreign Trade whose decision thereon shall be final and binding.

#### **Procedure 2.4**

The Director General of Foreign Trade may, in any case or class of cases, specify the procedure to be followed by an

exporter or importer or by any licensing or any other competent authority for the purpose of implementing the provisions of the Act, the Rules and the Orders made thereunder and this Policy. Such procedures shall be included in the Handbook (Vol.1), Handbook (Vol.2), Schedule of DEPB Rate and in ITC(HS) and published by means of a Public Notice. Such procedures may, in like manner, be amended from time to time.

The Handbook (Vol.1) is a supplement to the Foreign Trade Policy and contains relevant procedures and other details. The procedure of availing benefits under various schemes of the Policy are given in the Handbook (Vol.1).

### **Exemption from Policy/ Procedure 2.5**

Any request for relaxation of the provisions of this Policy or of any procedure, on the ground that there is genuine hardship to the applicant or that a strict application of the Policy or the procedure is likely to have an adverse impact on trade, may be made to the Director General of Foreign Trade for such relief as may be necessary. The Director General of Foreign Trade may pass such orders or grant such relaxation or relief, as he may deem fit and proper.

The Director General of Foreign Trade may, in public interest, exempt any person or class or category of persons from any provision of this Policy 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 Advance Licensing Committee (ALC) if the request is in respect of a provision of Chapter-4 (excluding any provision relating to Gem & Jewellery sector) and EPCG Committee if the request is in respect of a provision of Chapter-5 of the Policy/ Procedure. However, any such request in respect of a provision other than Chapter-4, Chapter-5 and Gem & Jewellery sector as given above may be considered only after consulting Policy Relaxation Committee.

### **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.

<b>Restricted Goods</b>	2.7	Any goods, the export or import of which is restricted under ITC(HS) may be exported or imported only in accordance with a licence/ certificate/ permission or a public notice issued in this behalf.
<b>Terms and Conditions of a Licence/ Certificate/ Permission</b>	2.8	<p>Every licence/certificate/permission shall be valid for the period of validity specified in the licence/ certificate/ permission and shall contain such terms and conditions as may be specified by the licensing authority which may include:</p> <ul style="list-style-type: none"> <li>(a) The quantity, description and value of the goods;</li> <li>(b) Actual User condition;</li> <li>(c) Export obligation;</li> <li>(d) The value addition to be achieved; and</li> <li>(e) The minimum export price.</li> </ul>
<b>Licence/ Certificate/ Permission not a Right</b>	2.9	No person may claim a licence/certificate/ permission as a right and the Director General of Foreign Trade or the licensing authority shall have the power to refuse to grant or renew a licence/certificate/permission in accordance with the provisions of the Act and the Rules made there under.
<b>Penalty</b>	2.10	If a licence/certificate/permission holder violates any condition of the licence/certificate/ permission or fails to fulfill the export obligation, he shall be liable for action in accordance with the Act, the Rules and Orders made there under, the Policy and any other law for the time being in force.
<b>State Trading</b>	2.11	Any goods, the import or export of which is governed through exclusive or special privileges granted to State Trading Enterprise(s), may be imported or exported by the State Trading Enterprise(s) as specified in the ITC(HS) Book subject to the conditions specified therein. The Director General of Foreign Trade may, however, grant a licence/certificate/permission to any other person to import or export any of these goods.

In respect of goods the import or export of which is governed through exclusive or special privileges granted to State Trading Enterprise(s), the State Trading Enterprise(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. These enterprises shall act in a non discriminatory manner and shall afford the enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.
<b>Importer-Exporter Code Number</b>	2.12		No export or import shall be made by any person without an Importer-Exporter Code (IEC) number unless specifically exempted. An Importer-Exporter Code (IEC) number shall be granted on application by the competent authority in accordance with the procedure specified in the Handbook (Vol.1).
<b>Trade with Neighbouring Countries</b>	2.13		The Director General of Foreign Trade may issue, from time to time, such instructions or frame such schemes as may be required to promote trade and strengthen economic ties with neighbouring countries.
<b>Transit Facility</b>	2.14		Transit of goods through India from or to countries adjacent to India shall be regulated in accordance with the 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.
<b>Trade with Russia under Debt-Repayment Agreement</b>	2.15	In	the case of trade with Russia under the Debt Repayment Agreement, the Director General of Foreign Trade may issue, from time to time, such instructions or frame such schemes as may be required, and anything contained in this Policy, in so far as it is inconsistent with such instructions or schemes, shall not apply.
<b>Actual User Condition</b>	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 a licence/certificate/permission, the actual user alone may import such goods unless the actual user condition is specifically dispensed with by the licensing authority.
<b>Second Hand Goods</b>	2.17		All second hand goods, excepting second hand capital goods, shall be restricted for imports and may be imported only in accordance with the provisions of this Policy, ITC(HS), Handbook (Vol.1), Public Notice or a licence/certificate/permission issued in this behalf.  Import of second hand capital goods, including refurbished/reconditioned spares, shall be allowed freely.
<b>Import of samples</b>	2.18		Import of samples shall be governed by the provisions given in Handbook (Vol.1).
<b>Import of Gifts</b>	2.19		Import of gifts shall be permitted where such goods are otherwise freely importable under this Policy. In other cases, a Customs Clearance Permit (CCP) shall be required from the DGFT.

### **Passenger Baggage**

2.20 Bonafide household goods and personal effects may be imported as part of passenger baggage as per the limits, terms and conditions thereof in the Baggage Rules notified by the Ministry of Finance.

Samples of such items that are otherwise freely importable under this Policy may also be imported as part of passenger baggage without a licence/certificate/permission.

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 a licence/certificate/permission.

**Import on Export basis** 2.21

New or second hand capital goods, equipments, components, parts and accessories, containers meant for packing of goods for exports, jigs, fixtures, dies and moulds <http://dgftcom.nic.in/exim/2000/not/not02/not0302.htm>

may be imported for export without a licence/certificate/permission on execution of Legal Undertaking/Bank Guarantee with the Customs Authorities provided that the item is freely exportable without any conditionality/requirement of licence/ permission as may be required under ITC(HS) Schedule II.

**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 a licence/certificate/permission.

**Import of goods used in projects abroad** 2.23

After completion of the projects abroad, project contractors may import, without a licence/ certificate/ permission, 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 this Policy or any other law for the time being in force.

**Import under Lease Financing** 2.25

Permission of licensing authority is not required for import of new capital goods under lease financing.

**Clearance of Goods from Customs** 2.26

The goods already imported/shipped/arrived, in advance, but not cleared from Customs may also be cleared against the licence/ certificate/ permission issued subsequently.

**Execution of BG/ LUT** 2.27

Wherever any duty free import is allowed or where otherwise specifically stated, the importer shall execute a Legal Undertaking (LUT)/Bank Guarantee (BG)/ Bond with the Customs Authority before clearance of goods through the Customs, in the manner as may be prescribed. In case of indigenous sourcing, the licence/ certificate/ permission holder shall furnish LUT / BG / Bond to the licensing

authority before sourcing the material from the indigenous supplier/nominated agency.

- Exemption from Bank Guarantee** 2.27.1 All the exporters who have an export turnover of at least Rupees 5 crore in the current or preceding licencing year and have a good track record of three years of exports will be exempted from furnishing a BG for any of the schemes under this Policy and may furnish a LUT in lieu of BG.
- Private/ Public Bonded Warehouses for Imports** 2.28 Private/Public bonded warehouses may be set up in the Domestic Tariff Area as per the terms and conditions of notification issued by Department of Revenue.
- Any person may import goods except prohibited items, arms and ammunition, hazardous waste and chemicals and warehouse them in such private/public bonded warehouses.
- Such goods may be cleared for home consumption in accordance with the provisions of this Policy and against Licence/certificate/ permission, 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, the importer of such goods shall re-export the goods.
- Free Exports** 2.29 All goods may be exported without any restriction except to the extent such exports are regulated by ITC(HS) or any other provision of this Policy or any other law for the time being in force.
- The Director General of Foreign Trade may, however, specify through a public notice such terms and conditions according to which any goods, not included in the ITC(HS), may be exported without a licence/ certificate/ permission.
- Export of Samples** 2.30 Export of samples and Free of charge goods shall be governed by the provisions given in Handbook (Vol.1).
- Export of Passenger Baggage** 2.31 Bonafide personal baggage may be exported either along with the passenger or, if unaccompanied, within one year before or after the passenger's departure from India. However, items mentioned as Restricted in ITC(HS) shall require a licence/certificate/permission.
- 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 a licence/certificate/permission.
- 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 the main equipment or subsequently but within the contracted warranty period of such goods subject to approval of RBI.
<b>Third Party Exports</b>	2.34		Third party exports, as defined in Chapter 9 shall be allowed under the Policy.
<b>Export of Imported Goods</b>	2.35		Goods imported, in accordance with this Policy, may be exported in the same or substantially the same form without a licence/certificate/permission provided that the item to be imported or exported is not mentioned as restricted for import or export in the ITC(HS).  Exports of such goods imported against payment in freely convertible currency would be permitted against payment in freely convertible currency.
	2.36		Goods, including those mentioned as restricted item for import (except prohibited items) may be imported under Customs Bond for export in freely convertible currency without a licence/ certificate/ permission provided that the item is freely exportable without any conditionality/ requirement of licence/permission as may be required under ITC (HS) Schedule II.
<b>Export of Replacement Goods</b>	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 the customs authorities provided that the replacement goods are not mentioned as restricted items for exports in ITC(HS).
<b>Export of Repaired Goods</b>	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 a licence/ certificate/permission and in accordance with customs notification issued in this behalf.
<b>Private Warehouses Exports</b>	<b>Bonded for</b>	2.39	Private bonded warehouses exclusively for exports may be set up in DTA as per the terms and conditions of the notifications issued by Department of Revenue.  Such warehouses shall be entitled to procure the goods from domestic manufacturers without payment of duty. The supplies made by a domestic supplier to the notified warehouses shall be treated as physical exports provided the payments for the same are made in free foreign exchange.
<b>Denomination of Export Contracts</b>		2.40	All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but the 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, the rupee payment through the Vostro account must be against payment in free foreign currency by the buyer in his non resident bank account. The free foreign exchange remitted by the buyer to his non resident bank (after deducting the bank service charges) on account of this transaction would be taken as the export realization under the export promotion schemes of this Policy.

Contracts for which payments are received through the Asian Clearing Union (ACU) shall be denominated in ACU Dollar. The Central Government may relax the 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 the export proceeds within the time specified by the Reserve Bank of India, he shall, without prejudice to any liability or penalty under any law for the time being in force, be liable to action in accordance with the provisions of the Act, the Rules and Orders made there under and the provisions of this Policy.

**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 the Central/State Government. In case of any doubt, the authorities concerned may ask for an undertaking from the exporter.

**No seizure of Stock** 2.42.1

No seizure of stock shall be made by any agency so as to disrupt the manufacturing activity and delivery schedule of export goods. In exceptional cases, the concerned agency may seize the stock on the basis of prima facie evidence. However, such seizure should be lifted within 7 days.

**Export Promotion Councils** 2.43

The basic objective of Export Promotion Councils is to promote and develop the exports of the country. Each Council is responsible for the promotion of a particular group of products, projects and services. The list of the councils, and their main functions are given in Handbook (Vol.1).

**Registration Membership Certificate -cum-** 2.44

Any person, applying for (i) a licence/ certificate/ permission to import/ export, [except items listed as restricted items in ITC(HS)] or (ii) any other benefit or concession under this policy shall be required to furnish Registration-cum-Membership Certificate (RCMC) granted by the competent authority in accordance with the procedure specified in the Handbook (Vol.1) unless specifically exempted under the Policy.

2.45 Deleted

**Trade Facilitation through EDI Initiatives** 2.45.1

It is endeavor of the 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.

<b>DGCI&amp;S Commercial Trade Data</b>	2.45.2	To enable the users to make commercial decisions in a more 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.
<b>Fiscal Incentives to promote EDI Initiatives adoption</b>	2.45.3	With a view to promote the use of Information Technology, DGFT will provide fiscal incentives to the user community. The details are enumerated in the Handbook (Vol.I).
<b>Regularization of EO default and settlement of customs duty and interest through Settlement Commission</b>	2.46	With a view to providing assistance to firms who have defaulted under the Foreign Trade Policy for reasons beyond their control as also facilitating the merger, acquisition and rehabilitation of sick units, it has been decided to empower the Settlement Commission in the Central Board of Excise and Customs to decide such cases also with effect from 01.04.2005.
	2.47	Deleted.
<b>Remission of Service Tax in DTA</b>	2.48.1	For all goods and services which are exported from units in Domestic Tariff Area (DTA) and units in EOU/EHTP/STP/BTP remission of service tax levied shall be allowed.
<b>Exemption from Service Tax in SEZ</b>	2.48.2	Units in SEZ shall be exempted from service tax.

### **GRIEVANCE REDRESSAL**

<b>DGFT as a facilitator of exports/ imports</b>	2.49	DGFT has a commitment to function as a facilitator of exports and imports. Our focus is on good governance, which depends on clean, transparent and accountable delivery systems.
<b>Citizen's Charter</b>	2.49.1	DGFT has in place a Citizen's Charter which lays down its commitment to serve importers and exporters. It also gives time schedules for providing services to clients, and details of grievance committees at different levels.
<b>Grievance Redressal Mechanism</b>	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 by a Government Resolution.
	2.49.3	Deleted

The Government is committed to resolving all outstanding problems and disputes pertaining to the past policy periods through the Grievance Redressal Committee 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 licences etc.





## CHAPTER-3

### PROMOTIONAL MEASURES

#### **Assistance to States for Infrastructure Development of Exports (ASIDE)**

3.1 The State Governments shall be encouraged to participate in promoting exports from their respective States. For this purpose, Department of Commerce has formulated a scheme called ASIDE.

Suitable provision has been made in the Annual Plan of the Department of Commerce for allocation of funds to the States on the twin criteria of gross exports and the rate of growth of exports.

The States shall utilise this amount for developing infrastructure such as roads connecting production centres with the ports, setting up of Inland Container Depots and Container Freight Stations, creation of new State level export promotion industrial parks/zones, augmenting common facilities in the existing zones, equity participation in infrastructure projects, development of minor ports and jetties, assistance in setting up of common effluent treatment facilities, stabilizing power supply and any other activity as may be notified by Department of Commerce from time to time.

#### **Market Access Initiative (MAI)**

3.2 The Market Access Initiative (MAI) scheme is intended to provide financial assistance for medium term export promotion efforts with a sharp focus on a country and product.

The financial assistance is available for Export Promotion Councils, Industry and Trade Associations, Agencies of State Governments, Indian Commercial Missions abroad and other eligible entities as may be notified from time to time.

A whole range of activities can be funded under the MAI scheme. These include market studies, setting up of showroom/ warehouse, sales promotion campaigns, international departmental stores, publicity campaigns, participation in international trade fairs, brand promotion, registration charges for pharmaceuticals and testing charges for engineering products etc. Each of these export promotion activities can receive financial assistance from the Government ranging from 25% to 100% of the total cost depending upon the activity and the implementing agency, as

indicated in the detailed guidelines. The full text of the guidelines can be seen at <http://commerce.nic.in>.

**Marketing  
Development  
Assistance (MDA)**

- 3.2.1 The Marketing Development Assistance (MDA) Scheme is intended to provide financial assistance for a range of export promotion activities implemented by export promotion councils, industry and trade associations on a regular basis every year.

As per the revised MDA guidelines with effect from 1<sup>st</sup> April, 2004 assistance under MDA is available for exporters with annual export turnover upto Rs 5 crores.

These include participation in Trade Fairs and Buyer Seller meets abroad or in India, export promotion seminars etc.

Further, assistance for participation in Trade Fairs abroad and travel grant is available to such exporters if they travel to countries in one of the four Focus Areas, such as, Latin America, Africa, CIS Region, ASEAN countries, Australia and New Zealand.

For participation in trade fairs etc., in other areas financial assistance without travel grant is available.

**Meeting Legal expenses  
for Trade related  
matters**

- 3.2.1.1 Financial assistance would be provided to deserving exporters on the recommendation of Export Promotion Councils for meeting the cost of legal expenses relating to trade related matters.

**Towns of Export  
Excellence**

- 3.3 A number of towns in specific geographical locations 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.

Selected towns producing goods of Rs. 1000 crore or more will be notified as Towns of Exports Excellence on the basis of potential for growth in exports. However for the Towns of Export Excellence in the Handloom, Handicraft, Agriculture and Fisheries sector, the threshold limit would be Rs 250 crores.

Common service providers in these areas shall be entitled for the facility of the EPCG scheme.

The recognized associations of units will be able to access the funds under the Market Access Initiative scheme for creating focused technological services.

Further such areas will receive priority for assistance for rectifying identified critical infrastructure gaps from the ASIDE scheme.

The notified towns of export excellence are listed in Appendix 7.

- Brand Promotion and Quality** 3.4.1 The Central Government aims to encourage manufacturers and exporters to attain internationally accepted standards of quality for their products. The Central Government will extend support and assistance to Trade and Industry to launch a nationwide programme on quality awareness and to promote the concept of total quality management.
- Test Houses** 3.4.2 The Central Government will assist in the modernisation and upgradation of test houses and laboratories in order to bring them at par with international standards.
- Quality Complaints/ Disputes** 3.4.3 The Regional Sub-Committee on Quality Complaints (RSCQC) set up at the Regional Offices of the Directorate General of Foreign Trade shall investigate quality complaints received from foreign buyers. The guidelines for settlement of quality complaints, in particular, and such other complaints, in general, are given in Appendix-16 of Handbook (Vol.1).
- Trade disputes affecting trade relations** 3.4.4 If it comes to the notice of the Director General of Foreign Trade or he has reason to believe that an export or import has been made in a manner that
- (i) is gravely prejudicial to the trade relations of India with any foreign country; or
  - (ii) Is gravely prejudicial to the interest of other persons engaged in exports or imports;
  - (iii) has brought disrepute to the country;
- The Director General Foreign Trade may take action against the exporter or importer concerned in accordance with the provisions of the Act, the Rules and Orders made thereunder and this Policy.

### 3.5 STAR EXPORT HOUSES

- Star Export House** 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 Zone (AEZ's), Electronic Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) and Bio Technology Parks (BTPs) shall be eligible for applying for status as Star Export Houses.
- Status Category** 3.5.2 The applicant shall be categorized depending on his total FOB/FOR export performance during the current plus the previous three years:

Category

Performance

(Rupees in Crores)

One Star Export House

15

Two Star Export House	100
Three Star Export House	500
Four Star Export House	1500
Five Star Export House	5000

- Note
1. Manufacturer exporters in the Small Scale Industry/Tiny Sector/Cottage Sector, Units registered with KVICs/KVIBs, Units located in North Eastern States, Sikkim and J&K, 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, exports of services and exports of agro products shall be entitled for double weightage of exports made for grant of Star Export House status.
  2. Exports made on re-export basis shall not be counted for the purpose of recognition.
  3. Exports made by a subsidiary of a limited company shall be counted towards export performance of the limited company for the purpose of recognition only if the limited company has a majority share holding in the subsidiary company.
  4. In case the recognition is claimed based upon the current year's export performance, same shall be considered only in case the exporter has export performance during any one of the preceding three years as well.

## Privileges

- 3.5.2.1 A Star Export House shall be eligible for the following facilities:
- i) Licence/certificate/permissions 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. The remittance, however, would continue to 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) Entitlement for consideration under the Target Plus Scheme; and
- vii) Exemption from furnishing of Bank Guarantee in Schemes under this Policy.

**Validity Period** 3.5.3 All status certificates issued or renewed on or after 01.09.2004 shall be valid from 1st April of the licensing year during which the application for the grant of such recognition is made upto 31st March, 2009, unless otherwise specified.

On the expiry of such certificate, application for renewal of status certificate shall be required to be made within a period as prescribed in the Handbook (Vol.1). During the said period, the star export house shall be eligible to claim the usual facilities and benefits.

### **3.6 SERVICES EXPORTS**

**Services exports** 3.6.1 Services include all the 161 tradable services covered under the General Agreement on Trade in Services where payment for such services is received in free foreign exchange. A list of services is given in Appendix-10 of Handbook (Vol.1). All provisions of this Policy shall apply mutatis mutandis to export of services as they apply to goods, unless otherwise specified.

**Export Promotion Council for Services** 3.6.2 Service exporters are required to register themselves with the Federation of Indian Exporters Organisation. However, software exporters shall register themselves with Electronic and Software Export Promotion Council.

In order to give proper direction, guidance and encouragement to the Services Sector, an exclusive Export Promotion Council for Services shall be set up.

The Services Export Promotion Council shall:

- (i) Map opportunities for key services in key markets and develop strategic market access programmes for each component of the matrix.
- (ii) Co-ordinate with sectoral players in undertaking intensive brand building and marketing programmes in target markets.
- (iii) Make necessary interventions with regard to policies, procedures and bilateral/multilateral issues, in co-ordination with recognised nodal bodies of the services industry.

**Common Facility** 3.6.3 Government shall promote the establishment of Common Facility Centres for use by home-based service providers,

**Centres** 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 the services export arena.

### **3.6.4 SERVED FROM INDIA SCHEME**

**Objective** 3.6.4.1 The objective is to accelerate the 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 who have a total foreign exchange earning of at least Rs.10 lakhs in the preceding or current financial year shall be eligible to qualify for a duty credit entitlement.

For individuals who are service providers, the total foreign exchange earned criteria would be Rs.5 lakhs in the preceding financial year.

Payments received from Export Earners Foreign Currency (EEFC) Account shall not be counted for benefits under the scheme.

**Entitlement** 3.6.4.3 All Service providers (other than hotels and restaurants) shall be entitled to duty credit equivalent to 10% of the foreign exchange earned by them in the preceding financial year.

**Hotels & Restaurants** 3.6.4.4 Hotels of one-star and above (including managed hotels and heritage hotels) approved by the Department of Tourism and other Service providers in the tourism sector registered with the Department of Tourism shall be entitled to duty credit equivalent to 5% of the foreign exchange earned by them in the preceding financial year.

Stand-alone restaurants will be entitled to duty credit equivalent to 20% of the foreign exchange earned by them in the preceding financial year.

Note: In the case of one and two star hotels and stand-alone restaurants, the foreign exchange earned through International Credit Cards and sources as may be notified only shall be taken into account for the purposes of computation of duty credit entitlement under the scheme.

**Imports allowed** 3.6.4.5 Duty credit entitlement may be used for import of any capital goods including spares, office equipment and professional equipment, office furniture and consumables, related to the main line of business of the applicant.

In the case of hotels and stand-alone restaurants, the duty credit entitlement may also be used for the import of food items and alcoholic beverages.

<b>Non Transferability</b>	3.6.4.6	The entitlement and the goods imported shall be non-transferable. However, transfer of goods imported under the scheme shall be allowed within the Group Company as defined in chapter 9 and managed hotels with actual user condition.
<b>Healthcare &amp; Education</b>	3.6.4.7	<p>In order to enable Healthcare and Educational Institutions to have world-class state-of-the-art infrastructure, service providers in these sectors shall, as for other service sectors, be entitled to duty credit equivalent to 10% of the foreign exchange earned by them in the previous financial year.</p> <p>(i) The foreign exchange turnover for Healthcare Institutions would include amounts earned through medical treatment, surgery, testing, consultancy and health care provided by the institution.</p> <p>(ii) The foreign exchange turnover for Educational Institutions would include amounts earned through the courses and consultancy provided by the institution.</p> <p>(iii) In either case, it will not include foreign exchange remittances through any other source including equity participation, donations etc.</p> <p>(iv) The capital goods and the consumer goods imported under the duty free entitlement shall have a nexus with the activities of the healthcare or educational institutions concerned.</p>
<b>Special provisions</b>	3.6.4.8	<p>Government reserves the right in public interest to specify from time to time the category or type of service exports which shall not be eligible for calculation of either eligibility or of entitlement.</p> <p>Similarly, Government may from time to time also notify the goods which shall not be allowed for import under the duty free entitlement certificate issued under the scheme.</p>
	3.6.4.8.1	The scheme shall not be available for 100% EOUs and units operating under SEZ, STPI and EHTP Schemes. The clubbing of turnover of services rendered by these units with the turn over of the DTA units shall also not be allowed.
	<b>3.7</b>	<b>TARGET PLUS SCHEME</b>
<b>Objective</b>	3.7.1	The objective of the scheme is to accelerate growth in exports by rewarding Star Export Houses who have achieved a quantum growth in exports. High performing Star Export Houses shall be entitled for a duty credit based on incremental exports, substantially higher than the general annual export target fixed (Since the target fixed for 2005-06 is 17%, the lower limit of performance

for qualifying for rewards is pegged at 20% for the current year).

**Eligibility Criteria** 3.7.2 All Star Export Houses (including Status Holders as defined in Para 3.7.2.1 of Exim Policy 2002-07) which have achieved a minimum export turnover in free foreign exchange of Rs.10 crores in the previous licensing year are eligible for consideration under the Target Plus Scheme.

**Entitlement** 3.7.3 The entitlement under this scheme would be contingent on the percentage incremental growth in FOB value of exports in the current licensing year over the previous licensing year, as under:

Percentage incremental growth	Duty Credit Entitlement (as a % of the incremental growth)
20% and above but below 25%	5%
25% or above but below 100%	10%
100% and above	15% (of 100%)

- Note:
- (1) Incremental growth beyond 100% will not qualify for computation of duty credit entitlement.
  - (2) For the purpose of this scheme, the export performance shall not be transferred to or transferred from any other exporter. In the case of third party exports, the name of the supporting manufacturer/manufacturer exporter shall be declared.
  - (3) Exporters shall have the option to apply for benefit either under the Target Plus Scheme or under the Vishesh Krishi Upaj Yojana, but not both in respect of the same exported product/s. Provided that in calculating the entitlement under Para 3.7.3 the total eligible exports shall be taken into account for computing the percentage incremental growth but the duty credit entitlement shall be arrived at on the eligible exports reduced by the amount on which the benefit is claimed under para 3.8.2.
  - (4) All exports including exports under free shipping bill verified and authenticated by Customs and Gems & Jewellery shipping bills but excluding exports specified under para 3.7.5,

shall be eligible for benefits under the Target Plus Scheme.

- (5) In respect of export of Cut & Polished diamonds only those shipments would be taken into account for computation of eligible exports under the scheme where a minimum of 10% value addition has been achieved.

#### **Applicant Companies** 3.7.4

Companies which are Star Export Houses as well as part of a Group company shall have an option to either apply as an individual company or as a Group based on the growth in the Group's turnover as a whole. (For the purpose of this scheme the definition of Group Company as given in Chapter 9 will be applicable. Furthermore, only such companies of the Group as are Star Export Houses will be considered).

If a Group company chooses to apply based on the export of one or more of its individual Star Export House companies, the entitlement would be calculated considering the export performance of the applicant company during the previous licencing year and current licencing year. It shall be necessary that the adjusted export performance of all the Star Export House companies of the Group during the current licencing year does not fall below the combined performance of all Star Export House companies of the Group in the previous licencing year.

In case the Group chooses to apply based on the overall growth in Group's turnover (i.e. the turnover of all the Star Export House companies), any one of the Star Export House companies of the Group may file an application on behalf of all the Star Export House companies of the Group.

#### 3.7.5

The following exports shall not be taken into account for calculation of export performance or for computation of entitlement under the scheme:

- (a) Export of imported goods covered under Para 2.35 of the Foreign Trade Policy or exports made through transshipment.
- (b) Export turnover of units operating under SEZ/EOU/EHTP/STPI/ BTP Schemes or products manufactured by them and exported through DTA units.
- (c) Deemed exports (even when payments are received in Free Foreign Exchange and payment is made from EEFC account).
- (d) Service exports.

- (e) Rough, uncut and semi polished diamonds and other precious stones.
- (f) Gold, silver, platinum and other precious metals in any form, including plain and studded Jewellery.
- (g) Export performance made by one exporter on behalf of another exporter.

**Imports allowed**

3.7.6

The Duty Credit may be used for import of any inputs, capital goods including spares, office equipment, professional equipment and office furniture provided the same is freely importable under ITC (HS) Classification of Export and Import items, for their own use or that of supporting manufacturers as declared in 'Aayaat Niryaat Form'.

Import of agricultural Products listed in Chapter 1 to 24 of ITC (HS) Classification of Export and Import items except the following shall be allowed:

(i) Garlic, Peas and all other Vegetables with a Duty of more than 30% under Chapter 7 of ITC (HS) Classification of Export and Import items.

(ii) Coconut, Areca Nut, Oranges, Lemon, Fresh Grapes, Apple and Pears and all other fruits with a Duty of more than 30% under Chapter 8 of ITC (HS) Classification of Export and Import items.

(iii) All spices with a Duty of more than 30% under Chapter 9 of ITC (HS) Classification of Export and Import items (except Cloves).

(iv) Tea, Coffee and Pepper as per Chapter 9 of ITC (HS) Classification of Export and Import items.

(v) All Oil Seeds under Chapter 12 of ITC (HS) Classification of Export and Import items.

Further, Natural Rubber as per Chapter 40 of ITC (HS) Classification of Export and Import items shall also not be allowed for import under the Scheme.

Import of all edible oils classified under Chapter 15, shall be allowed under the scheme only through STC and MMTC.

**Cenvat/ Drawback**

3.7.7

Additional customs duty/excise duty paid in cash or through debit under Target Plus shall be adjusted as CENVAT Credit or Duty Drawback as per rules framed by the Department of Revenue.

**Special Provision**

3.7.8

Government reserves the right in public interest, to specify from time to time the category of exports and export products, which shall not be eligible for calculation of incremental growth/ entitlement.

Further the Government shall have the right to change the eligibility criteria and rate of entitlement under the scheme effective from the date of notification of this policy.

Similarly, Government may from time to time also notify the list of goods, which shall not be allowed for import under the duty credit entitlement certificate issued under the scheme.

### **3.8 VISHESH KRISHI UPAJ YOJANA (SPECIAL AGRICULTURAL PRODUCE SCHEME)**

<b>Objective</b>	3.8.1	The objective of the scheme is to promote export of fruits, vegetables, flowers, minor forest produce, dairy, poultry and their value added products, by incentivising exporters of such products.
<b>Entitlement</b>	3.8.2	Exporters of such products shall be entitled for duty credit scrip equivalent to 5% of the FOB value of exports for each licencing year commencing from 1 <sup>st</sup> April, 2004. However, dairy, poultry and their value added products shall qualify for benefits in respect of the exports made on or after 1 <sup>st</sup> April 2005. The scrip and the items imported against it would be freely transferable.
	3.8.2.1	Under the Scheme, export of all items as given in Appendix-37A of Handbook (Vol.1) shall qualify for export benefits as per Para 3.8.2 above. Items which are restricted or prohibited for export under Schedule-2 of the Export Policy in the ITC (HS) Classification of Export and Import items shall not be eligible for any benefits under Para 3.8.2.
	3.8.2.2	Following exports shall not be taken into account for duty credit entitlement under the scheme :  (a) Export of imported goods covered under Para 2.35 of the Foreign Trade Policy or exports made through transshipment.  (b) Deemed exports (even when payments are received in Free Foreign Exchange and payment is made from EEFC account).
<b>Imports allowed</b>	3.8.3	The Duty Credit may be used for import of inputs or goods including capital goods, as may be notified, provided the same is freely importable under ITC(HS).

Imports from a port other than the port of export shall be allowed under TRA facility as per the terms and conditions of the notification issued by Department of Revenue.

- 3.8.3.1 Items listed in Appendix-37B of Handbook of Procedures Vol.I shall not be allowed to be imported under the scheme.
- Cenvat/ Drawback** 3.8.4 Additional customs duty/excise duty paid in cash or through debit under Vishesh Krishi Upaj Yojana shall be adjusted as CENVAT Credit or Duty Drawback as per rules framed by the Department of Revenue.
- Special Provision** 3.8.5 Government reserves the right in public interest, to specify from time to time the export products which shall not be eligible for calculation of entitlement.



## 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. An Advance Licence is issued as a duty exemption scheme. A Duty Remission Scheme enables post export replenishment/ remission of duty on inputs used in the export product. Duty remission schemes consist of (a) DFRC (Duty Free Replenishment Certificate) and (b) DEPB (Duty Entitlement Passbook Scheme).

DFRC permits duty free replenishment of inputs used in the export product. DEPB allows drawback of import charges on inputs used in the export product.

**Re-import of exported  
goods  
under Duty  
Exemption/ Remission  
Scheme**

- 4.1.1 Goods exported under Advance Licence/ DFRC/ DEPB may be re-imported in the same or substantially the same form subject to such conditions as may be specified by the Department of Revenue from time to time.

**Value Addition**

- 4.1.2 The value addition for the purposes of this chapter (Except for the Gems and Jewellery) shall be:-

$$V.A = A - B$$

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

B

V.A. Value Addition

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

B CIF value of the imported inputs covered by the licence, plus any other imported materials used on which the benefit of duty drawback is being claimed.

### ADVANCE LICENCE

**Advance Licence**

- 4.1.3 An Advance Licence is issued to allow duty free import of inputs, which are physically incorporated in the export product (making normal allowance for wastage). In addition, fuel, oil,

energy, catalysts etc. which are consumed/utilised in the course of their use to obtain the export product, may also be allowed under the scheme.

Duty free import of mandatory spares upto 10% of the CIF value of the licence which are required to be exported/ supplied with the resultant product may also be allowed under Advance Licence.

Advance Licences are issued on the basis of the inputs and export items given under SION. However, they can also be issued on the basis of Adhoc norms or self declared norms as per para 4.7 of Handbook (Vo.I). Advance Licence can be issued either to a manufacturer exporter or merchant exporter tied to supporting manufacturer(s):

i) for Physical exports (including exports to SEZ); and/ or

ii) for Intermediate supplies; and /or

iii) to the main contractor for supply of goods to the categories mentioned in paragraph 8.2 (b), (c), (d), (e), (f), (g), (i) and (j) of the Policy;

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

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

- 4.1.4 Advance Licence is issued for duty free import of inputs, as defined in paragraph 4.1.3 subject to actual user condition. Such licences are exempted from payment of basic customs duty, additional customs duty, education cess, anti dumping duty and safeguard duty, if any. However, the imports for supplies covered under paragraph 8.2 (h) & (i) will not be exempted from the payment of applicable anti-dumping and safeguard duty, if any.
- 4.1.5 Advance Licence and/or materials imported thereunder shall not be transferable even after completion of export obligation. However, the licensee will have the option to dispose off the product manufactured out of the duty free inputs once the export obligation is completed.
- 4.1.6 Advance Licences shall be issued with a positive value addition.

However, for physical exports for which payments are not received in freely convertible currency, the same shall be subject to value addition as specified in Appendix-11 of Handbook (Vol.1).

In case of Tea, the minimum value addition under advance licence shall be 100%.

- 4.1.7 Advance Licence shall be issued in accordance with the Policy and procedure in force on the date of issue of licence.

The validity period of advance licence for import shall be as prescribed in the Handbook (Vol.1).

- 4.1.8 The facility of Advance Licence shall also be available where some or all of the inputs are supplied free of cost to the exporter.

In such cases, for calculation of value addition, the notional value of free of cost inputs along with value of other duty-free inputs shall be taken into consideration. However, if all the inputs are supplied free of cost, it shall be covered under paragraph 4.2.7 of the Policy.

#### **Export Obligation**

- 4.1.9 The period for fulfilment of the export obligation under Advance Licence shall be as prescribed in the Handbook (Vol.1).

#### **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 EOP extension as per the rehabilitation package prepared by the operating agency subject to subsequent approval of BIFR.

However, in cases where the rehabilitation package does not specify the EOP extension period, a time period upto 5 years reckoned from the date of issue of licence would be permitted on merits of the case for fulfillment of export obligation.

Similarly, SSI units shall also be entitled for similar facility as per the rehabilitation scheme of the concerned State government. However, in cases where the State rehabilitation scheme does not specify the export obligation extension period, a time period upto 5 years reckoned from the date of issue of licence would be permitted on merits of the case for fulfillment of export obligation.

#### **Advance Licence for Annual Requirement**

- 4.1.10 Advance Licence can also be issued on the basis of annual requirement for physical exports, intermediate supplies and / or deemed exports.

One to Five Star Export House shall be entitled for the Advance licence for annual requirement. All other categories of exporters having past export performance (in the preceding two years) shall also be entitled for the Advance Licence for annual requirement.

In addition, a merchant exporter shall also be issued the Advance Licence for Annual Requirement provided they agree to the endorsement of the name(s) of the supporting manufacturer(s) on the relevant licence.

The entitlement in terms of CIF value of imports under this scheme shall be upto 300% of the FOB value of physical export and / or FOR value of deemed export in the preceding licensing year or Rs 1 crore, whichever is higher. Such licence shall have value addition as specified in para 4.1.6 of the Foreign Trade Policy.

### **Advance Release Orders**

4.1.11 An Advance Licence holder, holder of advance licence for annual requirement, holder of Diamond Imprest Licence and holder of DFRC intending to source the inputs from indigenous sources/State Trading Enterprises/ EOU/SEZ/ EHTP/STP/BTP units in lieu of direct import has the option to source them against Advance Release Orders denominated in free foreign exchange/ Indian rupees.

The transferee of a DFRC shall also be eligible for ARO facility. However, supplies may be obtained against the licence from EOU/EHTP/BTP/STP/units, without conversion into ARO.

The validity period of ARO shall be as prescribed in the Handbook (Vol.1).

### **Back-to-Back**

4.1.12 An Advance Licence holder, holder of advance licence for annual requirement, holder of Diamond Imprest Licence and holder of DFRC may, instead of applying for an Advance Release Order, avail of the facility of Back-to-Back Inland Letter of Credit in accordance with the procedure specified in Handbook (Vol.1).

### **Prohibited Items**

4.1.13 Prohibited items of imports mentioned in ITC(HS) shall not be imported under the licence issued under the scheme.

Further the items reserved for imports by State Trading Enterprises cannot be imported against advance licence. However those items can be procured from State Trading Enterprises against ARO issued to advance licence holder.

Similarly prohibited items of exports mentioned in the ITC(HS) shall not be exported under the licence issued under the scheme. Further, export of restricted items shall be subject to all conditionalities or requirements of export licence or permission, as may be required, under Schedule II of ITC (HS).

### **Admissibility of Drawback**

4.1.14 In the case of an Advance Licence, the drawback shall be available in respect of any of the duty paid materials, whether imported or indigenous, used in the goods exported, as per the drawback rate fixed by Ministry of Finance (Directorate of Drawback). The Drawback shall however be restricted to the duty paid materials as mentioned in the licence.

## DUTY FREE REPLENISHMENT CERTIFICATE

### Duty Free Replenishment Certificate (DFRC)

4.2 DFRC is issued to a merchant exporter or manufacturer exporter for the import of inputs used in the manufacture of goods without payment of basic customs duty.

However, such inputs shall be subject to the payment of additional customs duty equal to the excise duty at the time of import.

4.2.1 DFRC shall be issued on minimum value addition of 25% except for items in gems and jewellery sector for which value addition as given in paragraph 4A.2.1 of the Handbook (Vol.1) shall be applicable.

4.2.2 DFRC may be issued for physical exports against freely convertible currency / supplies effected under paragraph 8.2 of the Policy (except for supplies made to DFRC holder). DFRC may also be issued in respect of exports (including supplies to SEZ) for which payments are received in non-convertible currency. Such exports shall, however, be subject to value addition and conditions as specified in Appendix-11 of Handbook (Vol.1)

4.2.3 DFRC shall be issued only in respect of products covered under the Standard Input Output Norms as notified by DGFT.

However, in respect of Standard Input Output Norms which are subject to "actual user" condition or where the export proceeds have not been realised at the time of filing application or for import of fuel under the general norms, DFRC shall be issued with actual user condition for these inputs.

However, for fuel, the import entitlement may be transferred only to the companies which have been granted authorization to market fuel by the Ministry of Petroleum & Natural Gas.

In cases where Standard Input Output Norms allow import of Acetic Anhydride, Ephedrine and Pseudo Ephedrine, DFRC shall be issued provided these items are specifically deleted from the list of import items.

DFRC will not be issued against SION which prescribe a prior import condition for inputs.

4.2.4 DFRC shall be issued for import of inputs as per SION as indicated in the shipping bills. The validity of such licences will be governed by the provision stipulated in the handbook (Vol. I). DFRC and or the material(s) imported against it shall be freely transferable. However, DFRC with actual user condition or the material(s) imported against it shall not be transferable.

- 4.2.5 The export products, which are eligible for modified VAT, shall be eligible for CENVAT credit/ service tax credit.

However, non excisable, non dutiable or non CENVAT products, shall be eligible for drawback at the time of exports in lieu of additional customs duty to be paid at the time of imports under the scheme.

- 4.2.6 The exporter shall be entitled for drawback benefits in respect of any of the duty paid materials, whether imported or indigenous, used in the export product as per the drawback rate fixed by Directorate of Drawback (Ministry of Finance).

The drawback shall however be restricted to the duty paid materials not covered under SION.

**Jobbing, repairing etc. for re-export**

- 4.2.7 Import of goods, including those mentioned as restricted in ITC(HS) but excluding prohibited items, supplied free of cost, may be permitted for the purpose of jobbing without a licence/certificate/ permission as per the terms of notification issued by Department of Revenue from time to time.

Similarly, import of goods for carrying out repairs, re-conditioning, re-engineering, testing etc. shall be allowed as per the terms and conditions of the Customs notification even though the goods may be restricted for imports under the Foreign Trade Policy/ITC(HS) Classification of Imports and Exports Book.

The above provisions shall, however, be subject to all conditionality or requirement of licence or permission, as may be required, under Schedule II of ITC (HS).

**DUTY ENTITLEMENT PASSBOOK SCHEME**

**Duty Entitlement Passbook Scheme (DEPB)**

- 4.3 The objective of DEPB is to neutralise the incidence of Customs duty on the import content of the export product. The neutralisation shall be provided by way of grant of duty credit against the export product.

The DEPB scheme will continue to be operative until it is replaced by a new scheme which will be drawn up in consultation with exporters .

- 4.3.1 Under the DEPB scheme, an exporter may apply for credit, as a specified percentage of FOB value of exports, made in freely convertible currency.

The credit shall be available against such export products and at such rates as may be specified by the Director General of Foreign Trade by way of public notice issued in this behalf, for import of raw materials, intermediates, components, parts, packaging material etc.

	4.3.2	The holder of DEPB shall have the option to pay additional customs duty, if any, in cash as well.
<b>Validity</b>	4.3.3	The validity period of DEPB for import shall be as prescribed in the Handbook (Vol.1).
<b>Transferability</b>	4.3.4	The DEPB and/or the items imported against it are freely transferable. The transfer of DEPB shall however be for import at the port specified in the DEPB, 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 the terms and conditions of the notification issued by Department of Revenue.
<b>Applicability of Drawback</b>	4.3.5	Normally, the exports made under the DEPB Scheme shall not be entitled for drawback. However, the additional customs duty/excise duty paid in cash or through debit under DEPB shall be adjusted as CENVAT Credit or Duty Drawback as per rules framed by the Department of Revenue.

## GEMS AND JEWELLERY

<b>Scheme for Gems and Jewellery</b>	4A	Exporters of gems and Jewellery can import/procure duty free inputs required for manufacture of gems and jewellery items.
<b>Replenishment Licence</b>	4A.1	Exporters of gems and jewellery are eligible to import their inputs duty free by obtaining Replenishment (REP) Licences from the licensing authorities in accordance with the procedure specified in this regard in the Handbook of Procedure (Vol.1).  4A.1.1 The exporters of gems and jewellery products listed in Appendix-12A of the Handbook (Vol.1) shall be eligible for grant of Replenishment Licences at the rate and for the items mentioned in the said Appendix to import and replenish their inputs.  Replenishment licence may also be issued for import of consumables as per the details given in paragraph 4A.28 of Handbook (Vol.1).
<b>Export of Cut &amp; Polished Diamonds for Certification/ Grading</b>	4A.2	Gem and Jewellery exporters may be permitted to send cut & polished diamonds each weighing 0.25 of a carat and above for certification/grading to Indian Diamond Institute, Surat, Gujarat. In addition, Gem and Jewellery exporters with a track record of at least three years and having an annual average turnover of Rs.5 crores and above during the preceding three licensing years or the authorized offices /agencies in India of Gemological Institute of America (GIA), The Robert Mouawad Campus, International Gemological Institute (IGI) and European Gemological Laboratory (EGL) in USA, Hoge Road Voor Diamond, Antwerp, (HRD), World Diamond Centre of Diamonds High Council, Antwerp, Belgium, Central Gem Laboratory, Miyagi Building, 5-15-14 Ueno Taito-Ku, Tokyo,

Japan may also be permitted to export cut & polished diamonds each weighing 0.25 of a carat and above to the said laboratories/agencies for the purpose of certification/grading reports by them with a condition that the same should be re-imported with the certificate/grading reports issued by them without any import duty at the time of re-import.

- 4A.2.1 At the time of export of cut and polished diamonds for certification/grading, exporter should give an undertaking to the customs that the cut and polished diamonds will be re-imported within three months of exports for certification/grading.

The export invoice should clearly indicate the estimated value, height, circumference, weight of each diamond to be exported for certification/ grading so that at the time of their import, the above specification could be compared with the original ones to establish their identity. Subsequently these cut and polished diamonds would be exported as per the provisions of the Policy.

**Schemes for Gold/  
Silver/  
Platinum  
Jewellery**

- 4A.3 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.

**Nominated Agencies**

- 4A.4 Exporters (excepting units operating under EOU/SEZ schemes) availing the schemes of gold/ silver/platinum jewellery and articles thereof may obtain gold/silver/platinum from the nominated agencies. The nominated agencies are MMTC Ltd, Handicraft and Handloom Export Corporation (HHEC), State Trading Corporation (STC), the Project and Equipment Corporation of India Ltd (PEC) , Five Star Export House under Paragraph 3.5.2 of the Policy and any other agency authorised by Reserve Bank of India (RBI).

A bank authorised by RBI is allowed export of gold scrap for refining and import in the form of standard gold bars. The detailed procedure for the import of gold will be as per the guidelines notified by RBI separately.

**Items of Export**

- 4A.5 The following items, if exported, would be eligible for the facilities under the schemes stipulated in paragraph 4A of the Foreign Trade Policy:
- (a) Gold jewellery, including partly processed jewellery and any articles including medallions and coins (excluding the coins of the nature of legal tender), whether plain or studded, containing gold of 8 carats and above;
  - (b) Silver jewellery including partly processed jewellery, silverware, silver strips and any articles including medallions and coins (excluding the coins of the nature of legal tender and any engineering goods) containing more than 50% silver by weight;

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

**Value Addition**

- 4A.6 The value addition for the purpose of gems and jewellery sector shall be as per paragraph 4A.2.1 of Handbook (Vol.1).

A - B

V.A. = ----- x 100, where

B

V.A. ---Value Addition,

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

B ---- The Value of inputs such as gold / silver / platinum content in the export product plus the admissible wastage along with the value of the other items such as gemstone etc. 'Value' for this purpose includes both imported as well as domestically procured inputs. Wherever gold has been obtained on loan basis, the value shall also include interest paid in free foreign exchange to the foreign supplier.

**Wastage Norms**

- 4A.7 Under the schemes for gold/silver/platinum jewellery, the wastage or manufacturing loss shall be admissible as per paragraph 4A.2 of the Handbook (Vol.1).

**Export against Supply  
by Foreign Buyer**

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

The exports may be made by the nominated agencies directly or through their associates or by the status holder/exporter as the case may be. The import and export of findings shall be on net to net basis. The foreign buyer may also supply to the nominated agencies/status holder/ exporter in advance and free of charge plain, semi finished gold/silver/platinum jewellery including findings/ mountings/ components for repairs/re-make and export subject to minimum value addition of 10%. However, if the 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.

The procedures in this regard shall be as prescribed in the Handbook (Vol.1).

**Export Against** 4A.9

**Supply by**

**Nominated**

**Agencies**

The exporter may obtain the gold/silver/platinum as an input for export products from nominated agencies in advance or as replenishment after exports in accordance with the procedure specified in this behalf.

**Export Against** 4A.10

**Advance Licence**

An Advance Licence may be granted for the duty free import of:

- (a) Gold of fineness not less than 0.995 and mountings, sockets, frames and findings of 8 carats and above;
- (b) Silver of fineness not less than 0.995 and mountings, sockets, frames and findings containing more than 50% silver by weight;
- (c) Platinum of fineness not less than 0.900 and mountings, sockets, frames and findings containing more than 50% platinum by weight.

4A.11 Such licences shall carry an export obligation which will be required to be fulfilled in accordance with the procedure specified in paragraph 4A of the Handbook (Vol.I).

The Advance Licence holder may obtain gold/silver/ platinum from the nominated agencies in lieu of direct import in accordance with the procedure specified in this behalf.

**Gem Replenishment Licence**

4A.12 Gem Replenishment (Gem & Jewellery REP) Licence may be issued under the schemes for export of gold/ silver/ platinum jewellery and articles thereof as given in paragraph 4A.8, 4A.9 and 4A.10 of the Policy. In the case of plain gold/ silver/platinum jewellery and articles, the value of such licences shall be determined with reference to the realisation in excess of the prescribed minimum value addition.

In the case of studded gold/silver/platinum jewellery and articles thereof, the value of Gem Replenishment Licence shall be determined by taking into account the value of studdings used in items exported, after accounting for the value addition on gold/ silver/ platinum including admissible wastage.

Such Gem REP licences shall be freely transferable.

**Gem REP Rate and Item**

4A.13 The scale of replenishment and the item of import will be as prescribed in Appendix 12B of Handbook (Vol.1).

**Diamond Imprest Licence**

4A.14 Diamond Imprest Licence for import of cut & polished diamonds including semi processed diamonds, half cut diamonds, broken in any form, for mixing with cut & polished

diamonds or for export as it is, may be issued for export of cut & polished diamonds.

Such licences shall carry an export obligation, which has to be discharged in accordance with the procedure specified in this behalf.

- |  |         |   |
|--|---------|---|
| <b>Eligibility</b>   | 4A.14.1 | An exporter of cut & polished diamonds who is status holder may be issued a licence for import of cut & polished diamonds upto 5% of the export performance of the preceding year of cut & polished diamonds.   |
| <b>Export Obligation</b>                                   | 4A.14.2 | The export obligation under the scheme will be governed by the provisions of paragraph 4A of chapter 4 of the Handbook (vol.I).   |
| <b>Export Promotion Tours/ Export of Branded Jewellery</b> | 4A.15   | The nominated agencies and their associates, with the approval of Department of Commerce, and others, with the approval of Gem & Jewellery Export Promotion Council (GJEPC), may export gold/ silver/platinum jewellery and articles thereof for holding/participating in exhibitions abroad.<br><br>Personal carriage of gold/ silver/platinum jewellery, precious, semi-precious stones, beads and articles and export of branded jewellery is also permitted. These exports shall be subject to the conditions as given in the Handbook (Vol.1). |
| <b>Personal Carriage of Export/ Import Parcels</b>         | 4A.16   | Personal carriage of gems and jewellery export parcels by foreign bound passengers and personal carriage of gems & jewellery import parcels by an Indian importer/foreign national may be permitted as per the conditions given in Handbook (Vol.1).  |
| <b>Export by Post</b>                                      | 4A.17   | In case of exports through Foreign Post Office which may include export via Speed Post through Foreign Post Office, the value of the jewellery parcels shall not exceed US\$50000 and 20 kg. by weight. The detailed procedure is laid down in chapter 4 of the Handbook (vol.1).   |
| <b>Private/ Public Bonded Warehouse</b>                    | 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. Import & re-export of cut & polished diamonds & cut & polished coloured gemstones will be subject to achievement of minimum value addition of 5%.   |
| <b>Diamond &amp; Jewellery Dollar Accounts</b>             | 4A.19   | Firms and companies dealing in the 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.     |

The Diamond Dollar Account Scheme shall operate under the current licensing scheme of this chapter. This scheme shall be optional and those importers/exporters who wish to continue to use Rupee Accounts shall be allowed to do so under the existing policies.

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 the Rupee Account of the exporter. Details of this Diamond Dollar Accounts Scheme (DDAS) are given in the Handbook (Vol.1). The procedure outlined in the Handbook (Vol.1) shall also apply to diamond studded jewellery.

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 the period of 7 days and cut and polished diamonds and coloured gemstones so supplied by non-DDA holder will also be counted towards the discharge of his export obligation and/or entitle him to replenishment licence as the case may be.



## CHAPTER-5

### EXPORT PROMOTION CAPITAL GOODS SCHEME

#### EPCG Scheme

5.1 The 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 over a period of 8 years reckoned from the date of issuance of licence.

In the case of agro units, import of capital goods at 5% Customs duty shall be allowed subject to a fulfillment of an export obligation equivalent to 6 times the duty saved (on capital goods imported under the Scheme) over a period of 12 years from the date of issue of licence.

However for SSI units, import of capital goods at 5% Customs duty shall be allowed subject to a fulfillment of an export obligation equivalent to 6 times the duty saved (on capital goods imported under the Scheme) over a period of 8 years from the date of issue of licence provided the landed CIF value of such imported Capital Goods under the Scheme does not exceed Rs Twenty Five Lakhs and the total investment in plant and machinery after such imports does not exceed the SSI limit.

However, in respect of EPCG licences with a duty saved of Rs.100 crore or more, the same export obligation, as the case may be shall be required to be fulfilled over a period of 12 years.

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

The capital goods shall include spares (including refurbished/ reconditioned spares), tools, jigs, fixtures, dies and moulds. EPCG licence may also be issued for import of components of such capital goods required for assembly or manufacturer of capital goods by the licence holder.

Second hand capital goods without any restriction on age may also be imported under the 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 whose total foreign exchange earning in current and preceding three licencing years is Rs 1.5 crores. However, the parts of motor cars, sports utility vehicles/ all purpose vehicles such as chassis etc. cannot be imported under the EPCG Scheme.

Import of Restricted items of imports mentioned under ITC(HS) shall only be allowed to be imported under the Scheme after approval from the Import Licensing Committee.

- |   |       |   |
|---|-------|---|
| <b>EPCG for Projects</b>                      | 5.1A  | Spares (including refurbished/ reconditioned spares), tools, spare refractories, catalyst & consumable for the existing plant and machinery imported/to be imported under the Scheme shall also be allowed subject to an export obligation equivalent to 8 times of duty saved to be fulfilled over a period of 8 years reckoned from the date of issuance of licence.  |
| <b>EPCG for Projects</b>                      | 5.1B  | An EPCG licence can also be issued for import of capital goods under the 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 wherein the basic customs duty on imports is 10% with a CVD of 16%.<br><br>The export obligation for such EPCG licences would be eight times the duty saved. The duty saved would be the difference between the effective duty under the aforesaid Customs Notification and the concessional duty under the EPCG Scheme. |
| <b>EPCG for Retail Sector</b>                 | 5.1 C | To create modern infrastructure in the 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. The retailer shall fulfil the export obligation i.e. 8 times the duty saved in 8 years.   |
| <b>Eligibility</b>                            | 5.2   | The scheme covers manufacturer exporters with or without supporting manufacturer(s)/ vendor(s), merchant exporters tied to supporting manufacturer(s) and service providers.  |
| <b>Conditions for import of Capital Goods</b> | 5.3   | Import of capital goods shall be subject to Actual User condition till the export obligation is completed.  |
| <b>Export obligation</b>                      | 5.4   | The following conditions shall apply to the fulfillment of the export obligation:-<br><br>(i) The export obligation shall be fulfilled by the export of goods capable of being manufactured or produced by the use of the capital goods imported under the scheme.  |

The export obligation may also be fulfilled by the export of same goods, for which EPCG licence has been obtained, manufactured or produced in different manufacturing units of the licence holder/specified supporting manufacturer (s).

When Capital Goods are imported for pre/ post-production or license is taken for import of spares, the license holder shall fulfill the export obligation by export of products manufactured from the plant / project to which the pre/ post- production capital goods/ spares are related.

The import of capital goods for creating storage and distribution facilities for products manufactured or services rendered for export by the EPCG licence holder would be permitted under the EPCG Scheme.

The export obligation under the scheme shall be, over and above, the average level of exports achieved by him in the preceding three licensing years for same and similar products within the overall export obligation period including extended period, if any except for categories mentioned in Handbook (Vol.1).

Alternatively, export obligation may also be fulfilled by exports of other good(s) manufactured or service(s) provided by the same firm/company or group company/ managed hotel which has the EPCG licence.

However, in such cases, the additional export obligation imposed under EPCG scheme shall be over and above the average exports achieved by the unit/company/group company/ managed hotel in preceding three years for both the original and the substitute product(s) /service (s) even in cases where the average is exempt for the substitute product (s)/ service (s) as given in para 5.7.6 of the Handbook (Vol 1).

The incremental exports to be fulfilled by the licence holder for fulfilling the remaining export obligation can include any combination of exports of the original product/ service and the substitute product (s)/ service (s). The exporter of goods can opt to get the export obligation refixed for the export of services and vice versa.

The licensee can also opt for the re-fixation of the balance export obligation based on 8 times of the duty saved amount for the CIF value in proportion to the balance Export obligation under the scheme. The

guidelines for the re-fixation of export obligation is given in para 5.19 of the Handbook (Vol 1).

The aforesaid facilities shall only be available to manufacturer exporters/ service provider on all the licences where export obligation period including extended export obligation period is valid on the date of application. In this regard, exports made only on or after submission of application for alternate item and/ or re-fixation of the export obligation based on duty saved amount will be taken into account for fulfillment of export obligation.

- (ii) The export obligation under the scheme shall be, in addition to any other export obligation undertaken by the importer, except the export obligation for the same product under Advance Licence, DFRC, DEPB or Drawback scheme.
- (iii) The export obligation can also be fulfilled by the supply of ITA-1 items to the DTA provided the 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 Policy shall also be counted towards fulfilment of export obligation alongwith the usual benefits available under paragraph 8.3 of the Policy.

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

Payments received against 'Counter Sales' in free foreign exchange through banking channels as per the RBI guidelines shall be counted for fulfillment of export obligation under Para 5.1 C.

#### **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 the rehabilitation package prepared by the operating agency subject to subsequent approval of BIFR.

However, in cases where the rehabilitation package does not specify the EO extension period, a time period upto 12 years reckoned from the date of issue of licence would be permitted on merits of the case for fulfillment of export obligation.

Similarly, small-scale SSI units shall also be entitled for similar facility as per the rehabilitation scheme of the concerned State government. However, in cases where the

State rehabilitation scheme does not specify the export obligation extension period, a time period upto 12 years reckoned from the date of issue of licence would be permitted on merits of the case for fulfillment of export obligation

**EPCG for agro units** 5.5.2 In the case of EPCG licences issued to agro units in the agri export zones, a period of 12 years reckoned from the date of issue of the licence would be permitted for the fulfillment of export obligation.

The agro units in the agri export zones would also have the facility of moving the capital good (s) imported under the EPCG within the agri export zone.

An LUT/ Bond or a 15% BG (as the case may be) may be given for EPCG licence granted to units in the Agri Export Zones provided the EPCG licence is taken for export of the 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 licence may source the capital goods from a domestic manufacturer instead of importing them. The domestic manufacturer supplying capital goods to EPCG licence holders shall be eligible for deemed export benefit under paragraph 8.3 of the Policy.

**Benefits to Domestic Supplier** 5.7 In the event of a firm contract between the EPCG licence holder and domestic manufacturer for such sourcing, the domestic manufacturer may apply for the issuance of Advance Licence for the import of inputs including components required for the manufacturer of said capital goods.

The domestic manufacturer may also replenish the inputs including components after supply of capital goods to the EPCG licence holders.

**Fixation of Export Obligation** 5.7A In case of direct imports, the export obligation relating to the EPCG licence shall be reckoned with reference to the duty saved value on the CIF value of capital goods (including spares, jigs, fixtures, dies and moulds) actually imported. In case of domestic sourcing, the export obligation relating to EPCG shall be reckoned with reference to the notional Customs duties saved-on the FOR of capital goods (including spares, jigs, fixtures, dies and moulds).

5.8 Service provider in Agri export zone shall have the facility to move or shift the capital goods within the zone provided he maintains accurate record of such movements. However, such equipments shall not be sold or leased by the licence holder.

**Maintenance of Average exports under EPCG** 5.9 As per the provisions of para 5.4(i), the EPCG licence holder would have to maintain the average level of exports equivalent to the average of the exports in the preceding three licencing years for the same and similar products

except for exempted categories given in Handbook (Vol 1) during the entire period of export obligation.

Notwithstanding the above, the licence holder shall maintain the average exports in any particular year (s) provided the same is offset by excess exports to fulfil the average in other year (s).

**Technological  
Upgradation of existing  
EPCG machinery**

5.10

EPCG licence holders can opt for Technological Upgradation of the existing capital good imported under the EPCG licence.

The conditions governing the Technological Upgradation of the existing capital goods are as under:

- (i) The minimum time period for applying for Technological Upgradation of the existing capital goods imported under EPCG is 5 years from the date of issuance of the licence.
- (ii) The minimum exports made under the old capital goods must be 40% of the total export obligation imposed on the first EPCG licence.
- (iii) The export obligation would be refixed such that the total export obligation mandated for both the capital goods would be the sum total of 6 times the duty saved on both the capital goods.
- (iv) The procedure governing the replacement of capital goods is given in para 5.20 of the Handbook (Vol1).
- (v) The 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 the applicant firm.

**Incentives for**

5.11

**Fast Track Companies**

To incentivise fast track companies with a view to accelerate exports under the Scheme, in cases where the licence holder has fulfilled 75% or more of the export obligation under the Scheme (including average level of exports) in half or less than half the original export obligation period specified in the Licence, the remaining export obligation shall be condoned and the Licence redeemed by the licensing authority concerned.

However no benefits under Para 5.12 of Handbook (Vol.I) 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)

- |                                   |     |  |
|-----------------------------------|-----|--|
| <b>Eligibility</b>                | 6.1 | Units undertaking to export their entire production of goods and services (except permissible sales in the 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, however, are not covered under these schemes.   |
| <b>Export and Import of Goods</b> | 6.2 | <p>(a) An EOU/EHTP/STP/BTP unit may export all kinds of goods and services except items that are prohibited in the ITC (HS). Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) shall be subject to fulfillment of the conditions indicated in the ITC (HS).</p> <p>(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. The units shall also be permitted to import goods including capital goods required for the approved activity, free of cost or on loan/lease from clients. The import of capital goods will be on a self certification basis.</p> <p>(c) State Trading regime shall not apply to EOU manufacturing units.</p> <p>(d) EOU/EHTP/STP/BTP units may import/procure from DTA without payment of duty certain specified goods for creating a central facility which will be used by software units. These software units can be EOU/ DTA units who will use the facility for export of software.</p> <p>(e) An EOU engaged in agriculture, animal husbandry,</p> |

aquaculture, floriculture, horticulture, pisciculture, viticulture, poultry or sericulture may be permitted to remove specified goods in connection with its activities for use outside the bonded area.

- (f) Gems and jewellery EOUs may source gold/silver/platinum through the nominated agencies also. Units obtaining gold/silver/platinum from the nominated agencies shall export gold/silver/platinum jewellery within 90 days from the date of release. This shall not, however, apply to outright purchase of precious metal from the nominated agencies.
- (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 the buyer subject to RBI clearance, if any.
- (h) Procurement and supply of spares and consumables required for the goods manufactured by the units may be allowed to be exported along with goods upto 1.5% of FOB value of exports. This shall, however, not count towards NFE calculation, for concessional rate DTA sales or for Income Tax exemption.

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

**Net Foreign Exchange Earnings 6.5**

(NFE)

EOU/EHTP/STP/BTP unit shall be a positive net foreign exchange earner. Net Foreign Exchange Earnings (NFE) shall be calculated cumulatively in blocks of five years, starting from the 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 the Development Commissioner/designated officer to EOU/EHTP/STP/BTP unit. The LOP/LOI shall have an initial validity of 3 years by which time the unit should have commenced production. Its validity may be extended further up to 3 years by the competent authority. However, proposals for extension beyond six years shall be considered in exceptional circumstances, on a case-to-case basis by the BOA. Once the 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 the Development Commissioner for a period of 5 years at a time.

- (b) LOP/LOI issued to EOU/EHTP/STP/BTP units by the concerned authority would be construed as a licence for all purposes.
- (c) The unit shall execute a legal undertaking with the Development Commissioner concerned. Failure to ensure positive NFE or to abide by any of the terms and conditions of the LOP/LOI/IL/LUT shall render the unit liable to penal action under the provisions of the Foreign Trade (Development & Regulation) Act, 1992 and the 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 and machinery shall be considered for establishment as EOUs under the scheme. 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, Handmade

Jewellery and such other sectors as may be decided by the BOA.

### Application Approvals

& 6.7

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

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

6.8

The entire production of EOU/EHTP/STP/BTP units shall be exported subject to the following:

- (a) 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 the entitlement of DTA sale, the unit may sell in DTA its products similar to the goods, which are exported or expected to be exported from the units. No DTA sale at concessional duty shall be permissible in respect of motor cars, alcoholic liquors, books and tea (except instant tea) or by a packaging / labeling / segregation / refrigeration unit / compacting / micronisation / pulverization / granulation /conversion of mono-hydrate form of chemical to anhydrous form or vice-versa and such other items as may be notified from time to time.

Sales made to a unit in SEZ shall also be taken into account for the purpose of arriving at FOB value of export by EOU provided payment for such sales are made from EEFC Account. 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 the 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, the 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 the LOP, rejects within a overall limit of 50% may be sold in the Domestic Tariff Area (DTA) on payment of duties as applicable to sale under paragraph 6.8(a) on prior intimation to the 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 the DTA as per the Standard Input-Output norms notified under the Duty Exemption Scheme on payment of concessional duties as applicable within the 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, the Development Commissioner may fix ad-hoc norms on the basis of data for a period of six months and within this period, he shall get the norms fixed by the BOA.

Sale of waste/scrap/remnants by units not entitled to DTA sale or sales beyond the DTA sale entitlement, shall be on payment of full duties. The scrap/waste/remnants may also be exported.

- (f) There shall be no duties/taxes on scrap/waste/remnants in case the same are destroyed with the permission of Customs authorities.
- (g) By-products included in the LOP may also be sold in the 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 the 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, which are freely importable under the Policy in the DTA under intimation to the Development Commissioner against payment of full duties provided they have achieved the positive NFE.
- (i) In the case of units manufacturing electronics hardware and software, the 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 the purpose of payment of duty.
- (k) In case of new EOUs, advance DTA sale will be allowed not exceeding 50% of its estimated exports for the first year except the pharmaceutical units where this will be based on its estimated exports for the first two years.

#### **Other Supplies in DTA 6.9**

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

- (a) Supplies effected in DTA to holders of advance licence/advance licence for annual requirement/DFRC under the duty exemption / remission scheme /EPCG scheme.
- (b) Supplies effected in DTA against payment from the Exchange Earners Foreign Currency (EEFC) Account of the buyer in the DTA or 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 the Policy.
- (d) Supplies made to bonded warehouses set up under the policy and/ or under section 65 of the 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 the Ministry of Finance.
- (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.

**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 the conditions mentioned in para 6.19 of Handbook.

**Entitlement for supplies from the DTA** 6.11

- (a) Supplies from the DTA to EOU/EHTP/STP/BTP units will be regarded as "deemed exports" and the DTA supplier shall be eligible for the relevant entitlements under chapter 8 of the Policy 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 the DTA supplier, be eligible for obtaining the entitlements specified in chapter 8 of the Policy. For the purpose of claiming deemed export duty drawback, they shall get Brand Rates fixed by the 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 Licenses at the rates and for the items mentioned in the Handbook (Vol.1).
- ( c) In addition, the EOU/EHTP/STP/BTP units shall be entitled to the following:-
  - i. Reimbursement of Central Sales Tax on goods manufactured in India.
  - 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 the rate of Drawback notified by the 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 payment of Income Tax as per the provisions of 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) Will be allowed to retain 100% of its export earning in the EEFC account.
  - (f) The Units will not be required to furnish bank guarantee at the time of import or going for job work in DTA, where the unit has (i) a turnover of Rupees 5 crores or above, (ii) the unit is in existence for at least three years and (iii) unit 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/ SEZ unit will be allowed.
- (b) Capital goods may be transferred or given on loan to other EOU/EHTP/STP/BTP/SEZ units with prior intimation to the 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 the second unit for the purpose of payment of duty, on DTA sale by the 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 the 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 the DTA.
- (ii) These units may also subcontract upto 50% of the overall production of the previous year in value terms for job work in DTA with the permission of the Customs Authorities.
- (b)(i) EOU may, on the basis of annual permission from the Customs authorities, undertake job work for export, on behalf of DTA exporter, provided that the goods are exported directly from EOU and export document shall jointly be in the name of DTA/EOU.

For such exports, the DTA units will be entitled for refund of duty paid on the 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 job work basis would be allowed subject to the 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 the unit.
- (iv) Subcontracting of part of production process may also be permitted abroad with the approval of the Development Commissioner.
- ( c) Scrap/waste/remnants generated through job work may either be cleared from the job worker's premises on payment of applicable duty on transaction value or destroyed in the presence of Customs/ Excise authorities or returned to the 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 Handbook (Vol-I).
- (a) In case an EOU/EHTP/STP/BTP unit is unable to utilize the 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 the DTA with the approval of the Customs authorities on payment of applicable duties and submission of import licence, if required, or (iii)exported. Such transfer from EOU/EHTP/STP/BTP unit to another such unit would be treated as import for the 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 the DTA on payment of applicable duties. The 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 the Unit after intimation to the Custom authorities or destroyed outside the Unit with the permission of Custom authorities. Destruction as stated above shall not apply to gold, silver, platinum, diamond, precious and semi precious stones.

**Sale of Un-utilised 6.15  
Material**

(c) In the case of textile sector, disposal of leftover 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/custom 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 the 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. The provisions of paragraphs 6.8, 6.9, 6.10, 6.13, 6.14 of policy and para 6.29 of Handbook shall not, however, apply to such activities.

**Replacement/ Repair of imported/ Indigenous Goods** 6.17

(a) The general provisions of the Policy 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 the Development Commissioner.

(b) The goods sold in the DTA and not accepted for any reasons may be brought back for repair/replacement, under intimation to the 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, the goods may be brought back from the 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 the approval of the Development Commissioner, EOU units may opt out of the scheme. Such exit from the scheme shall be subject to payment of Excise and Customs duties and the industrial policy in force at the time of exit.

(b) If the unit has not achieved the obligations under the scheme, 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 the Ministry of Commerce and Industry (Department of Commerce) at the price to be determined by that agency.

- (d) An EOU//EHTP/STP/BTP unit may also be permitted by the Development Commissioner, to exit from the scheme on payment of duty on capital goods under the prevailing EPCG Scheme as a one time option. This will be subject to fulfilment of the eligibility criteria under that Scheme and standard conditions indicated in Handbook (Vol-I).
- (e) The unit proposing to exit out of the EOU scheme shall intimate the Development Commissioner and Customs and Central Excise authorities in writing. The unit shall assess the duty liability arising out of debonding and submit the details of such assessment to customs and Central Excise authorities. The Customs and Central Excise authorities shall confirm the duty liabilities on priority basis. After payment of duty and clearance of all dues the unit shall obtain "No Dues Certificate" from the Customs and Central Excise authorities. On the basis of No dues certificate so issued by the Customs and Central Excise authorities, the unit shall apply to the Development Commissioner for final debonding. In case there is no proceeding pending under FT(DR) Act 1992, the Development commissioner shall issue final debonding order within a period of 7 working days. During the period between "No dues certificate" issued by the Customs and Central Excise authorities and the final debonding order by the Development Commissioner, the unit shall not be entitled to claim any exemption for procurement of capital goods or input. The unit can however, claim Advance License / DFRC / DEPB / Duty Drawback.
- (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 the 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 the EPCG Scheme and after completely fulfilling the export obligation under the EPCG scheme gets converted into EOU, the unit would not be charged customs duty on capital goods at the time of removal of such capital goods in DTA at the time of debonding.

**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 10-A & 10-B will be available under the scheme for plant, machinery and equipment already installed.
- (b) The existing EHTP/STP units may also apply for

conversion/merger to EOU unit and vice-versa. In such cases, the units will remain in bond and avail the exemptions in duties and taxes as applicable under the relevant scheme.

<b>Monitoring of NFE</b>	6.20	The performance of EOU/EHTP/STP/BTP units shall be monitored by the Units Approval Committee as per the guidelines given in Handbook (Vol-I).
<b>Export through Exhibitions/Export Promotion Tours /Export through showrooms abroad/Duty Free Shops.</b>	6.21	EOU/EHTP/STP/BTP are permitted to : <ol style="list-style-type: none"> <li>(i) Export goods for holding/ participating in exhibitions abroad with the permission of Development Commissioner.</li> <li>(ii) Personal carriage of gold/ silver/ platinum jewellery, precious, semi-precious stones, beads and articles.</li> <li>(iii) Export goods for display/sale in the permitted shops set up abroad.</li> <li>(iv) Display/sell in the permitted shops set up abroad or in the show rooms of their distributors/agents.</li> <li>(v) Set up show rooms/retail outlets at the International Airports.</li> </ol>
<b>Personal Carriage Of Import / Export Parcels Including Through Foreign bound Passengers</b>	6.22	Import/ export through personal carriage of gem and jewellery items may be under-taken as per the procedure prescribed by Customs. The 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 the goods are not in commercial quantity.
<b>Export /Import by Post /Courier</b>	6.23	Goods including free samples, may be exported/imported by airfreight or through Foreign Post Office or through courier, subject to the procedure prescribed by Customs.
<b>Administration of EOUs/Power of Development Commissioner</b>	6.24	Details of administration of EOUs and Power of Development Commissioner are given in Handbook (Vol.1).
<b>Revival of Sick units</b>	6.25	Subject to a unit being declared sick by the appropriate authority, proposals for revival of the unit or its take over may be considered by the Board of Approval.
<b>Approval for EHTP/STP</b>	6.26	In the case of units under EHTP/STP Schemes, necessary approval / permission under relevant paragraphs of this Chapter shall be granted by the officer designated by the Ministry of Communication and Information Technology, Department of Information Technology for the purpose instead of the Development Commissioner and by the Inter-Ministerial Standing Committee (IMSC) instead of BOA.

**Approval of BTP**

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



## CHAPTER-7

### SPECIAL ECONOMIC ZONES

**Note: Special Economic Zones (SEZ) are growth engines that can boost manufacturing, augment exports and generate employment. The private sector has been actively associated with the development of SEZs. The SEZs require special fiscal and regulatory regime in order to impart a hassle free operational regime encompassing the state of the art infrastructure and support services. The proposed legislation on SEZs to be enacted in the near future would cover the concepts of the developer and co-developer, fiscal concessions under the Income Tax and Customs Act, provide for Offshore Banking Units (OBUs) etc . A brief on the facilities available under the SEZ scheme is given as under:**

- |                                    |     |  |
|------------------------------------|-----|--|
| <b>Eligibility</b>                 | 7.1 | <ul style="list-style-type: none"> <li>(a) Special Economic Zone (SEZ) is a specifically delineated duty free enclave and shall be deemed to be foreign territory for the purposes of trade operations and duties and tariffs.</li> <li>(b) Goods and services going into the SEZ area from DTA shall be treated as exports and goods coming from the SEZ area into DTA shall be treated as if these are being imported.</li> <li>(c) SEZ units may be set up for manufacture of goods and rendering of services.</li> </ul>   |
| <b>Export and Import of Goods.</b> | 7.2 | <ul style="list-style-type: none"> <li>(a) SEZ units may export goods and services including agro-products, partly processed goods, sub-assemblies and components except prohibited items of exports in ITC (HS). The units may also export by-products, rejects, waste scrap arising out of the production process. Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) shall be subject to fulfillment of the conditions indicated in the ITC (HS) Classification of Export and Import Items.<br/><br/>SEZ units, other than trading/service units, may also export to Russian Federation in Indian Rupees against repayment of State Credit/Escrow Rupee Account of the buyer, subject to RBI clearance, if any.</li> <li>(b) SEZ unit may import/procure from the DTA without payment of duty all types of goods and services, including capital goods, whether new or second hand, required by it for its activities or in connection</li> </ul> |

therewith, provided they are not prohibited items of imports in the ITC(HS). However, any permission required for import under any other law shall be applicable. Goods shall include raw material for making capital goods for use within the unit. The units shall also be permitted to import goods required for the approved activity, including capital goods, free of cost or on loan from clients.

- (c) SEZ units may procure goods required by it without payment of duty, from bonded warehouses in the DTA set up under the Policy and/or under Section 65 of the Customs Act and from International Exhibitions held in India.
- (d) SEZ units, may import/procure from DTA, without payment of duty, all types of goods for creating a central facility for use by units in SEZ. The Central facility for software development can also be accessed by units in the DTA for export of software.
- (e) Gem & Jewellery units may also source gold/ silver/ platinum through the nominated agencies.
- (f) SEZ units may import/procure goods and services from DTA without payment of duty for setting up, operation and maintenance of units in the Zone.

**Leasing of Capital Goods** 7.3

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

**Net Foreign Exchange Earning (NFE)** 7.4

SEZ unit shall be a positive Net Foreign exchange Earner. Net Foreign Exchange Earning (NFE) shall be calculated cumulatively for a period of five years from the commencement of production according to the formula given in Chapter 7 of the Handbook (Vol-I).

**Monitoring performance** of 7.5

- (a) The performance of SEZ units shall be monitored by the Unit Approval Committee.
- (b) The performance of SEZ units shall be monitored as per the guidelines given in Appendix 14-IG of the Handbook (Vol-I).

**Legal Undertaking** 7.6

The unit shall execute a legal undertaking with the Development Commissioner concerned and in the event of failure to achieve positive foreign exchange earning it shall be liable to penalty in terms of the legal undertaking or under any other law for the time being in force.

**Approvals and Applications** 7.7

- (a) Applications for setting up a unit in SEZ other than proposals for setting up of unit in the services sector

(except software and IT enabled services, trading or any other service activity as may be delegated by the BOA), shall be approved or rejected by the Units Approval Committee within 15 days as per procedure indicated in Appendix 14-IB of the Handbook (Vol-I) . In other cases approval may be granted by the Board of Approval.

(b) Proposals for setting up units in SEZ requiring Industrial Licence may be granted approval by the Development Commissioner after clearance of the proposal by the SEZ Board of Approval and Department of Industrial Policy and Promotion within 45 days on merits.

**DTA Sales and Supplies** 7.8

(a) SEZ unit may sell goods, including by-products, and services in DTA in accordance with the import policy in force, on payment of applicable duty.

(b) DTA sale by service/trading unit shall be subject to achievement of positive NFE cumulatively. Similarly for units undertaking manufacturing and services/trading activities against a single LOP, DTA sale shall be subject to achievement of NFE cumulatively.

(c) The following supplies effected in DTA by SEZ units will be counted for the purpose of fulfillment of positive NFE:

(i) Supplies effected in DTA in terms of Chapter 8 of the Policy.

(ii) Supplies made to bonded warehouses set up under the Policy and/or under Section 65 of the Customs Act.

(iii) Supplies to other EOU/SEZ/ EHTP/ STP/BTP units provided that such goods or services are permissible to be procured/rendered by these units.

(iv) Supplies against special entitlement of duty free import of goods.

(v) 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 the Ministry of Finance.

(vi) 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.

- (vii) Supplies of Information Technology Agreement (ITA-1) items and notified zero duty telecom/electronic items indicated in the Appendix 14-IC of the Handbook.

**Entitlement for 7.9  
Supplies from the DTA**

Supplies from DTA to SEZ shall be entitled for the following:

- (a) DTA supplier shall be entitled for:
  - (i) Drawback /DEPB/DFRC/Advance Licence
  - (ii) Discharge of Export performance, if any, on the supplier.
- (b) SEZ units shall be entitled for:-
  - (i) Exemption from Central Sales Tax.
  - (ii) Exemption from payment of Central Excise Duty on all goods eligible for procurement by the unit.
  - (iii) Deleted.
  - (iv) Reimbursement of Duty paid on fuels or any other goods procured from DTA as per the rate of drawback notified by the Directorate General of Foreign Trade from the date of such notification.
- (c) Supplier of precious and semi-precious stones, synthetic stones and processed pearls from Domestic Tariff Area to the units situated in SEZ shall be eligible for grant of Replenishment Licenses at the rates and for the items mentioned in the Handbook (Vol. I).
- (d) The entitlements under paragraphs (a) and (b) (ii) above shall be available provided the goods supplied are manufactured in India.

**Export Through Status 7.10  
Holder**

SEZ unit may also export goods manufactured/software developed by it through a merchant exporter/ status holder recognized under this Policy or any other EOU/SEZ/ EHTP/STP unit.

**Inter-unit Transfer 7.11**

- (a) SEZ units may transfer manufactured goods, including partly processed/semi-finished goods and services from one SEZ unit to another SEZ/EOU/ EHTP/STP unit.
- (b) Goods imported/procured by a SEZ unit may be transferred or given on loan to another unit within the same SEZ which shall be duly accounted for, but not counted towards discharge of export performance.

- (c) Capital goods imported/procured may be transferred or given on loan to another SEZ/EOU/ EHTP/ STP unit with prior permission of the Development Commissioner and Customs authorities concerned.
- (d) Transfer of goods in terms of sub-paras (a) and (b) above within the same SEZ shall not require any permission but the units shall maintain proper accounts of the transaction.

### Other Entitlements

Other entitlements of SEZ units are indicated in the Chapter 7 of the Handbook (Vol-1).

### Sub- Contracting

7.12

- (a) SEZ unit, may subcontract a part of their production or production process through units in the DTA or through other SEZ/EOU/ EHTP/ STP, with the annual permission of Customs authorities. Subcontracting of part of production process may also be permitted abroad with the approval of the Development Commissioner.
- (b) Sub-contracting by SEZ gems and jewellery units through other SEZ units or EOUs or units in DTA shall be subject to following conditions
  - i) Goods, finished or semi-finished, including studded jewellery, taken outside the zone for sub- contracting shall be brought back to the unit within **90 days**. No cut and polished diamonds, precious and semi-precious stones (except precious and semi precious stone having zero duty) shall be allowed to be taken outside the zone for sub-contracting.
  - ii) Receive plain gold/silver/platinum jewellery from DTA in exchange of equivalent quantity of gold/silver/ platinum, as the case may be, contained in the said jewellery.
  - iii) SEZ units shall be eligible for wastage as applicable for sub-contracting and against exchange
  - iv) The DTA unit undertaking job work or supplying jewellery against exchange of gold/silver/platinum shall not be entitled to export benefits.
- (c) All units, including gem and jewellery, may sub-contract part of the production or production process through other units in the same SEZ without permission of Customs authorities subject to records being maintained by both the supplying and receiving units.
- (d) SEZ units other than gems and jewellery units may be

allowed to undertake job-work for export, on behalf of DTA exporter, provided the finished goods are exported directly from SEZ units. For such exports, the DTA units will be entitled for refund of duty paid on the inputs by way of Brand Rate of duty drawback.

- (e) Scrap/waste/remnants generated through job work may either be cleared from the job worker's premises on payment of applicable duty or returned to the unit.
- (f) SEZ units engaged in production/processing of agriculture/horticulture products, may on the basis of annual permission from the Customs authorities take out inputs and equipments to the DTA farm subject to the procedure indicated in Chapter 7 of the Handbook (Vol-I).

**Exit from SEZ Scheme** 7.13

- (a) SEZ unit may opt out of the scheme with the approval of the Development Commissioner. Such exit from the scheme shall be subject to payment of applicable Customs and Excise duties on the imported and indigenous capital goods, raw materials etc. and finished goods in stock. In case the unit has not achieved positive NFE, the exit shall be subject to penalty, that may be imposed by the adjudicating authority under Foreign Trade (Development and Regulation) Act, 1992.
- (b) SEZ unit may also be permitted by the Development Commissioner, as one time option, to exit from SEZ scheme on payment of duty on capital goods under the prevailing EPCG Scheme, subject to the unit satisfying the eligibility criteria of that Scheme and standard conditions for exit indicated in Appendix 14-IL of the Handbook (Vol-I).

**Export through Exhibitions/Export Promotion Tours/Export show abroad/Duty Free Shops** 7.14

SEZ, units may :

- (i) Export goods for holding/ participating in exhibitions abroad with the permission of Development Commissioner.
- (ii) Personal carriage of gold/ silver/ platinum jewellery, precious, semi-precious stones, beads and articles.
- (iii) Export of jewellery is also permitted for display/ sale in the permitted shops set up abroad.
- (iv) Display/sell in the permitted shops set up abroad or in the show rooms of their distributors/agents.

- (v) Set up show rooms/retail outlets at the International Airports.

**Personal Carriage of  
Export/ Import parcel.** 7.15

Import/ export through personal carriage of gem and jewellery items may be under-taken as per the procedure prescribed by Customs. Import/export through personal carriage for units, other than gem and jewellery unit, shall be allowed provided the goods are not in commercial quantity

**Export /Import by  
post/ courier** 7.16

Goods including free samples, may be exported/imported by airfreight or through Foreign Post Office or through courier, subject to the procedure prescribed by Customs.

**Disposal of  
Rejects/Scrap/ Waste/  
Remnants** 7.17

Rejects/scrap/waste/remnants arising out of production process or in connection therewith may be sold in the DTA on payment of applicable duty. No duty shall be payable in case scrap/waste/ remnants/ rejects are destroyed within the Zone after intimation to the Custom authorities or destroyed outside the SEZ with the permission of Custom authorities. Destruction as stated above shall not apply to gold, silver, platinum, diamond, precious and semi precious stones.

**Replacement/ Repair of  
Goods** 7.18

- (a) The general provisions of Policy relating to export of replacement/ repaired goods shall apply equally to SEZ units, save that, cases not covered by these provisions shall be considered on merits by the Development Commissioner.
- (b) The goods sold in the DTA and found to be defective may be brought back for repair/ replacement under intimation to Development Commissioner.
- (c) Goods or parts thereof, including gem stones and precious metal components for jewellery making, on being imported/ indigenously procured and found defective or otherwise unfit for use or which have been damaged or become defective after import/ procurement may be returned and replacement obtained or destroyed. In the event of replacement, the goods may be brought back from the foreign suppliers or their authorised agents in India or the indigenous suppliers. Destruction shall however not apply to gem stones and precious metals.
- (d) Goods may be transferred to DTA/abroad for repair/ replacement, testing or calibration, quality testing and R & D purpose under intimation to Customs authorities and subject to maintenance of records.

**Management of SEZ** 7.19

- (a) SEZ will be under the administrative control of the Development Commissioner.
- (b) All activities of SEZ units within the Zone, unless otherwise specified, including export and re-import of

goods shall be through self certification procedure.

- Setting up of SEZ in Private/Joint/State Sector** 7.20 A SEZ may be set up in the public, private, joint sector or by state Government as per details indicated in Appendix 14-II O of the Handbook(Vol-I).
- Samples** 7.21 SEZ units may, on the basis of records maintained by them, and on prior intimation to Customs authorities:
- (i) Supply or sell samples in the DTA for display/ market promotion on payment of applicable duties.
  - (ii) Remove samples without payment of duty, on furnishing a suitable undertaking to Customs authorities for bringing the goods back within a stipulated period.
  - (iii) Export free samples, without any limit, including samples made in wax moulds, silver mould and rubber moulds through all permissible mode of export including through couriers agencies/post.
- Sale of Un-utilised Material/Obsolete goods** 7.22
- (a) In case an SEZ unit is unable, for valid reasons, to utilize the goods, including capital goods and spares, it may dispose them in the DTA in accordance with the import policy in force and on payment of applicable duties or export them.
  - (b) Capital goods and spares that have become obsolete/surplus may either be exported or disposed of in the DTA on payment of applicable duties. The benefit of depreciation, as applicable, will be available in case of disposal in DTA.
  - (c) 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 the Zone after intimation to the Custom authorities or destroyed outside the Zone with the permission of Custom authorities. However destruction shall not apply to precious and semi precious and precious metals
  - (d) SEZ unit may be allowed by Customs authorities concerned to donate imported/ indigenously procured computer and computer peripherals without payment of duty, two years after their import/procurement and use by the units, to recognized non-commercial educational institutions, registered charitable hospitals etc as per the details given in Chapter 7 of the Handbook (Vol-I).
- Entitlement for SEZ Developer** 7.23 For development, operation and maintenance of infrastructure facilities in SEZs, the developer shall be eligible for the following entitlements

- (a) Income tax exemption as per 80 IA of the Income Tax Act.
- (b) Import/ procure goods without payment of Customs/Excise duty.
- (c) Exemption from Service tax.
- (d) Exemption from CST.



## CHAPTER 7A

### FREE TRADE & WAREHOUSING ZONES

- Objective** 7A.1 The objective is to create trade-related infrastructure to facilitate the import and export of goods and services with freedom to carry out trade transactions in free currency. The scheme envisages creation of world-class infrastructure for warehousing of various products, state-of-the-art equipment, transportation and handling facilities, commercial office-space, water, power, communications and connectivity, with one-stop clearance of import and export formality, to support the integrated Zones as ‘international trading hubs’. These Zones would be established in areas proximate to seaports, airports or dry ports so as to offer easy access by rail and road.
- Status** 7A.2 The Free Trade & Warehousing Zones (FTWZ) shall be a special category of Special Economic Zones with a focus on trading and warehousing.
- Establishment of Zone** 7A.3
- (i) Proposals for setting up of FTWZs may be made by public sector undertakings or public limited companies or by joint ventures in technical collaboration with experienced infrastructure developers. The proposals shall be considered by the Board of Approval in the Department of Commerce. On approval, the developer will be issued a letter of permission for the development, operation and maintenance of such FTWZ.
  - (ii) Foreign Direct Investment would be permitted up to 100% in the development and establishment of the zones and their infrastructural facilities.
  - (iii) The proposal must entail a minimum outlay of Rs.100 crores for the creation and development of the infrastructure facilities, with a minimum built up area of five lakh sq.mts.
  - (iv) The developer shall be permitted to import duty free such building materials and equipment as may be required for the development and infrastructure of the zone. Such equipment and materials as are sourced from the DTA shall be considered as physical exports for the DTA suppliers.

- (v) Once it has developed the FTWZ, the developer shall also be permitted to sale/lease/rent out warehouses/workshops/office-space and other facilities in the FTWZ to traders/exporters.

**Maintenance of Zone**      7A.4      The developer shall itself or through suitable special purpose arrangements, ensure a reliable mechanism for the proper maintenance of the common facilities and security of the FTWZ.

**Functioning**                      7A.5      (i) The scheme envisages duty free import of all goods (except prohibited items, arms and ammunitions, hazardous wastes and SCOMET items) for ware housing. As far as bond towards customs duty on import is concerned, the units would be subject to similar provisions as are applicable to units in SEZs.

(ii) Such goods shall be permitted to be re-sold/re-invoiced or re-exported. Re-export shall be permitted without any restrictions. However export of SCOMET items shall not be permitted except with the permission of Inter-Ministerial Committee.

(iii) These goods shall also be permitted to be sold in the DTA on payment of customs duties as applicable on the date of such sale. Payment of duty will become due only when goods are sold/delivered to DTA and no interest will be charged as in the case of bonded warehouses.

(iv) Packing or re-packing without processing, and labeling as per customer or marketing requirements could be undertaken within the FTWZ.

(v) The maximum period that goods shall be permitted to be warehoused within the FTWZ will be two years, after which they shall necessarily have to be re-exported or sold in the DTA. On expiry of the two year period, customs duties as applicable would automatically become due unless the goods are re-exported within such grace period, not exceeding three months, as may be permitted.

**Entitlement of units**      7A.6      (i) Income Tax exemption as per 80 IA of the Income Tax Act.

(ii) Exemption from Service Tax.

(iii) Free foreign exchange currency transactions would be permitted.

(iv) Other benefits mutatis mutandi as applicable to units in SEZs.

**NFE criteria**                      7A.7      Units in FTWZs shall be net foreign exchange earners. Net foreign exchange earning shall be calculated cumulatively

for every block of five years from the commencement of warehousing and/or trading operations as per formula. applicable for SEZ units.



## CHAPTER-8

### DEEMED EXPORTS

- |                             |     |  |
|-----------------------------|-----|--|
| <b>Deemed Exports</b>       | 8.1 | "Deemed Exports" refers to those transactions in which the goods supplied do not leave the country and the payment for such supplies is received either in Indian rupees or in free foreign exchange.  |
| <b>Categories of Supply</b> | 8.2 | <p>The following categories of supply of goods by the main/sub-contractors shall be regarded as "Deemed Exports" under this Policy, provided the goods are manufactured in India:</p> <ul style="list-style-type: none"> <li>(a) Supply of goods against Advance Licence / Advance Licence for annual requirement/DFRC under the Duty Exemption /Remission Scheme;</li> <li>(b) Supply of goods to Export Oriented Units (EOUs) or Software Technology Parks (STPs) or Electronic Hardware Technology Parks (EHTPs) or Bio Technology Parks (BTP);</li> <li>(c) Supply of capital goods to holders of licences under the Export Promotion Capital Goods (EPCG) scheme;</li> <li>(d) Supply of goods to projects financed by multilateral or bilateral agencies/funds as notified by the Department of Economic Affairs, Ministry of Finance under International Competitive Bidding in accordance with the procedures of those agencies/funds, where the legal agreements provide for tender evaluation without including the customs duty;</li> <li>(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 the stage of commercial production and spares to the extent of 10% of the FOR value to fertilizer plants;</li> <li>(f) Supply of goods to any project or purpose in respect of which the Ministry of Finance, by a notification, permits the import of such goods at zero customs duty;</li> </ul> |

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

The benefits of deemed exports shall be available under paragraph (d), (e), (f) and (g) only if the supply is made under the procedure of International Competitive Bidding (ICB).

### **Benefits for Deemed Exports**

8.3 Deemed exports shall be eligible for any/all of the following benefits in respect of manufacture and supply of goods qualifying as deemed exports subject to the terms and conditions as given in Handbook (Vol.1):-

- (a) Advance Licence for intermediate supply/ deemed export/DFRC/ DFRC for intermediate supplies.
- (b) Deemed Export Drawback.
- (c) Exemption from terminal excise duty where supplies are made against International Competitive Bidding . 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 Licence in terms of paragraphs 8.2(a) of the Policy, the supplier shall be entitled to Advance Licence for intermediate supplies.

(ii) If the supplies are made against Advance Release Order (ARO) or Back to Back Letter of Credit issued against Advance Licence in terms of paragraphs 4.1.11 and 4.1.12 of the Policy, supplier shall be entitled to the benefits listed in paragraphs 8.3(b) and (c) of the Policy, whichever is applicable.

(iii) If the supplies are made against Advance Release Order (ARO) or Back to Back Letter of Credit issued against DFRC, the supplier shall be entitled to the benefit listed in paragraph 8.3(b) of the Policy.

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

8.4.3 In respect of supplies made under paragraph 8.2(c) of the Policy, the supplier shall be entitled to the benefits listed in paragraph 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 the Policy, the supplier shall be entitled to the 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 the projects funded by such agencies alone, as may be notified by Department of Economic Affairs, Ministry of Finance, shall be eligible for deemed export benefits. A list of such agencies/ funds is given in Appendix-13 of Handbook (Vol.I).

(iii) The benefits of deemed exports under para 8.2(f) of the Policy shall be applicable in respect of items, import of which is allowed by the Department of Revenue 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 the FOR value of the capital goods to the power projects in terms of paragraphs 8.2(g) shall be entitled for deemed export benefits provided the International Competitive Bidding procedures have been followed at Independent Power Producer (IPP)/Engineering and Procurement Contract(EPC) stage. The benefit of deemed exports shall also be available for renovation/ modernization of power plants. The supplier shall be eligible for benefits listed in paragraph 8.3(a) and (b) of the Policy, whichever is applicable. However, supply of goods required for setting up of any mega power projects as specified in S.No. 400 of Department of Revenue 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 the Policy, whichever is applicable, if such mega power project is –

(a) an inter state thermal power plant of capacity of 1000 MW 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 the Policy to the new refineries being set up during the Ninth plan period and spilled over to the 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.

- 8.4.5 In respect of supplies made under paragraph 8.2(e) of the Policy, the supplier shall be eligible for the benefits listed in paragraph 8.3(a) and (b) of the Policy, whichever is applicable. The 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 the Ninth Plan period. The benefit of deemed exports shall also be available on supplies made to Fertilizer plants, which have started in the 8th /9th Plan periods and spilled over to the 10th Plan period.
- 8.4.6 The supplies of goods to projects funded by UN agencies covered under Para 8.2(i) of the Policy are eligible for benefits listed in paragraph 8.3(a) and (b) of the Policy, whichever is applicable
- 8.4.7 In respect of supplies made to nuclear Power Projects under para 8.2(j) of the policy, the supplier would be eligible for benefits given in para 8.3 (a), (b) and (c) of the Policy, 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 440 MW or more as certified by an officer not below the rank of Joint Secretary to the Government of India in the Department of Atomic Energy shall be entitled for deemed exports benefits in cases where the procedure of competitive bidding (and not international competitive bidding) 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) of Policy provided the recipient of the 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 Policy on the Central Excise paid on inputs /components, provided CENVAT credit facility/rebate has not been availed by the applicant. Such supplies will however be eligible for deemed export drawback on the customs duty paid on the inputs/components.

**Supplies to be made by the main/sub-contractor**

- 8.6.1 In all cases of deemed exports, supplies shall be made directly to the designated Projects/ Agencies/ Units/ Advance Licence / EPCG licence holders. The sub-contractor may, however, make the supplies to the main contractor as per paragraph 8.4 of Handbook instead of designated projects/ agencies.
- 8.6.2 Supplies made by an Indian sub-contractor of an Indian or foreign main contractor, shall also be eligible for deemed export benefits provided the name of the sub-contractor is indicated either originally or subsequently in the contract, and payment certificate is issued by the project authority in

the name of the sub-contractor in the form given in Appendix 22C of Handbook (Vol.I).



## CHAPTER-9

### DEFINITIONS

- 9.1 For the purpose of this Policy, unless the context otherwise requires, the 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 the efficiency or effectiveness of a piece of equipment without changing its basic functions.
- 9.3 "Act" means the Foreign Trade (Development and Regulation) Act, 1992 (No.22 of 1992).
- 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 the 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 Handbook (Vol 1).
- 9.8 "ALC" means the Advance Licensing Committee in the Directorate General of Foreign Trade for recommending grant of licences under Duty Exemption Scheme and for recommending Input Output norms and value addition norms to be notified by Director General of Foreign Trade.
- 9.9 "Applicant" means the person on whose behalf the application is made and shall, wherever the context so requires, include the person signing the application.
- 9.10 "BOA" means the Board of Approval as notified by the Department of Commerce
- 9.11 "BTP" means Biotechnology Park as notified by Director

General of Foreign Trade on the recommendation of the 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. Capital goods also include 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 the 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 the Rules and Orders made thereunder or under this Policy.
- 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 the component.
- 9.15 "Consumables" means any item, which participates in or is required for a manufacturing process, but does not necessarily form part of the 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 the 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. The 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, maintain or manages a part or whole of the infrastructure and other facilities in the Special Economic Zones as approved by the Central Government.
- 9.19 "Development Commissioner" means the Development Commissioner of the Special Economic Zone.

- 9.20 "DFRC" means Duty Free Replenishment Certificate.
- 9.21 "Domestic Tariff Area" means area within India which is outside the Special Economic Zones and EOU/ EHTP/ STP/BTP.
- 9.22 "Drawback, " in relation to any goods manufactured in India and exported, means the rebate of duty chargeable on any imported material or excisable material used in the manufacture of such goods in India. The 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 the Development Commissioner.
- 9.25 "Excisable goods" means any goods produced or manufactured in India and subject to a duty of excise under the Central Excise and Salt Act 1944 (1 of 1944).
- 9.26 "Exporter" means a person who exports or intends to export and holds an Importer-Exporter Code number unless otherwise specifically exempted.
- 9.27 "Export Obligation" means the obligation to export the product or products covered by the licence or permission in terms of quantity, value or both, as may be prescribed or specified by the licensing or competent authority.
- 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 the voting rights in the other enterprise; or
- (ii) appoint more than fifty percent, of the members of the board of directors in the other enterprise; or
- For the group companies to claim benefits or have their exports counted for benefits to be claimed by another member of the group, the group company should have been in existence atleast 2 years prior to the date of application under any of the export promotion schemes notified in the Policy.
- 9.29 "Handbook (Vol.1)"means the Handbook of Procedures (Vol.1) and "Handbook (Vol.2)" means Handbook of Procedures (Vol.2) published under the provisions of paragraph 2.4 of the Policy.
- 9.30 "Importer" means a person who imports or intends to import and holds an Importer-Exporter Code number unless otherwise specifically exempted.
- 9.31 "Infrastructure facilities" means industrial, commercial and social infrastructure or any other facility for the development of the Special Economic Zone 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 the job worker so as to complete a part of the process resulting in the manufacture or finishing of an article or any operation which is essential for the aforesaid process.
- 9.34 "Licensing Authority" means the authority competent to grant a licence under the Act/Order.
- 9.35 "Licensing Year" means the period beginning on the 1<sup>st</sup> April of a year and ending on the 31<sup>st</sup> March of the 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 atleast three years between the operating hotel/ hotel chain and the hotel being managed. The management contract must necessarily cover the entire gamut of operations/ management of the 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 this Policy, shall also include agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining.
- 9.38 "Manufacturer Exporter" means a person who export goods manufactured by him or intends to export such goods.
- 9.39 "MAI" means Market Access Initiative Scheme notified by the Department of Commerce
- 9.40 "Merchant Exporter" means a person engaged in trading activity and exporting or intending to export goods.
- 9.41 "NFE" means Net Foreign Exchange Earning.
- 9.42 "Notification" means a notification published in the Official Gazette.
- 9.43 "Order" means an Order made by the 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.
- 9.46 "Policy" means the Foreign Trade Policy 2004-2009 as amended from time to time.

- 9.47 "Prescribed" means prescribed under the Foreign Trade (Development and Regulation) Act, 1992 (No. 22 of 1992) or the Rules or Orders made thereunder or under this Policy.
- 9.48 "Public Notice" means a notice published under the provisions of paragraph 2.4 of the Policy.
- 9.49 "Raw material" means:
- (i) basic materials which are needed for the 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.
- 9.50 "Registration-Cum-Membership Certificate" (RCMC) means the certificate of registration and membership granted by an Export Promotion Council/ Commodity Board/ Development Authority or other competent authority as prescribed in the Policy or Handbook (Vol.1).
- 9.51 "Rules" means Rules made by the Central Government under Section 19 of the Act.
- 9.52 "Services" include all the 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 the service consumer of any other country in India; and
  - (iii) Supply of a 'service' from India through commercial or physical presence in the 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 the 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 the Handbook (Vol.2), 2002-07/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 the provisions of this Policy.
- 9.59 "Status holder" means an exporter recognized as One to Five Star Export House by DGFT/ Development Commissioner.
- 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. The name of the supporting manufacturer as well as the exporter must be endorsed on the 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 etc shall indicate the name of both the manufacturing exporter/manufacturer and third party exporter(s). The BRC, GR declaration, export order and the invoice should be in the name of the third party exporter.
- 9.63 "Transaction Value" as defined in the Customs Valuation Rules of the Department of Revenue.
- 9.64 "Unit Approval Committee" means the Committee notified for Special Economic Zones to consider proposals on matters relating to Special Economic Zone unit under its jurisdiction.
- 9.65 "Wild Animal" means any wild animal as defined in Section 2(36) of the Wildlife (Protection) Act, 1972.