



Foreign Trade Policy

27th August 2009 – 31st March 2014

w.e.f. 05.06.2012

Government of India
Ministry of Commerce and Industry
Department of Commerce

Website: <http://dgft.gov.in>



सत्यमेव जयते

मंत्री
वाणिज्य एवं उद्योग
भारत
MINISTER
COMMERCE & INDUSTRY
INDIA

FOREWORD

The Foreign Trade Policy provides the overarching framework for catalyzing India's exports. The Foreign Trade Policy for the period 2009-14 was announced on 27th August 2009, in a difficult economic backdrop as the world was emerging from the shadows of a grim recessionary period. A multi-pronged strategy was adopted to arrest the fall and reverse the trend of declining exports. In the last three years, we have maintained a stable policy environment and have consciously adopted a market diversification plan reaching out to non-traditional destinations focusing on emerging markets in Africa, Latin America and Asia. We have remained conscious of the fact that exports is not just an end in itself but means of providing gainful employment to millions of people in the country. Therefore, employment intensive sectors have received our special attention. We have been administering the fiscal incentives under different schemes like Focus Market Scheme, Focus Product Scheme, Market Linked Focus Product Scheme to provide support to identified priority sectors.

We have also recognized the need of promoting domestic value addition and promoting value added exports from India and the zero duty EPCG Scheme has been a key instrumentality for achieving this objective.

We have significantly stepped up our external economic engagement with the world and in the last three years have signed a Free Trade Agreement with ASEAN, Comprehensive Economic Partnership Agreement with Republic of Korea, Japan, Malaysia and are now negotiating some Agreements with New Zealand, Australia, Canada and EU. We expect that as a result of these agreements, Indian exports will be able to gain significant market access in newer territories.

It was brought to our attention that Indian exporters face significant challenges on account of high transaction cost as compared to other countries. A Task Force on reduction of transaction cost gave its recommendations which will result in a benefit of Rs.3000 crores to the industry. Significant measures have been taken for procedural simplifications and reduction of human interface.

We can derive satisfaction from the fact that Indian exports which had declined to US\$ 178 billion in 2009-10 reached US\$ 303 billion in the last financial year. We are well on course to achieve the target which we set for ourselves to touch the US\$ 500 billion mark by 2014 and of doubling India's share in world trade by 2020. At the same time, we remain conscious of the fact that trade deficit as a percent of GDP has grown with time in the wake of increasing high international commodity prices specially petroleum prices. We expect that the measures being announced in this year's Annual Supplement will have a catalytic impact for boosting India's exports.


Anand Sharma

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GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE

**NOTIFICATION No. 1 (RE-2012)/ 2009-2014
NEW DELHI, DATED THE 5th June, 2012**

In exercise of powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992) read with paragraph 1.2 of the Foreign Trade Policy, 2009-2014, the Central Government hereby notifies the Foreign Trade Policy, 2009-2014 as updated upto 5th June 2012 and incorporating the Annual Supplement. This shall come into force w.e.f. 5th June, 2012.

Effect of Notification: The revised edition of the FTP incorporating the changes made upto 5th June, 2012 will become operational.



(Anup K. Pujari)
Director General of Foreign Trade and
Additional Secretary to the Government of India

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CONTENTS

CHAPTER	SUBJECT	PAGE
	GLOSSARY	1
1A	LEGAL FRAMEWORK	5
1B	SPECIAL FOCUS INITIATIVES	7
1C	BOARD OF TRADE	17
2	GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS	19
3	PROMOTIONAL MEASURES	35
4	DUTY EXEMPTION / REMISSION SCHEMES	53
5	EXPORT PROMOTION CAPITAL GOODS SCHEME	71
6	EXPORT ORIENTED UNITS (EOUs), ELECTRONICS HARDWARE TECHNOLOGY PARKS (EHTPs), SOFTWARE TECHNOLOGY PARKS (STPs) AND BIO- TECHNOLOGY PARKS (BTPs)	81
7	SPECIAL ECONOMIC ZONES	101
7A	FREE TRADE & WAREHOUSING ZONES	103
8	DEEMED EXPORTS	105
9	DEFINITIONS	111

GLOSSARY (ACRONYMS)

<u>Acronym</u>	<u>Explanation</u>
AA	Advance Authorisation
ACC	Assistant Commissioner of Customs
ACU	Asian Clearing Union
AEZ	Agri Export Zone
ANF	Aayaat Niryaat Form
ARO	Advance Release Order
ASIDE	Assistance to States for Infrastructure Development of Exports
BG	Bank Guarantee
BIFR	Board of Industrial and Financial Reconstruction
BOA	Board of Approval
BOT	Board of Trade
BRC	Bank Realisation Certificate
BTP	Biotechnology Park
CBEC	Central Board of Excise and Customs
CCP	Customs Clearance Permit
CEA	Central Excise Authority
CEC	Chartered Engineer Certificate
CIF	Cost, Insurance & Freight
CIS	Commonwealth of Independent States
CoD	Cash on Delivery
CoO	Certificate of Origin
CVD	Countervailing Duty
DA	Document against Acceptance
DoBT	Department of Bio Technology
DC	Development Commissioner
DEPB	Duty Entitlement Pass Book
DFIA	Duty Free Import Authorisation
DFRC	Duty Free Replenishment Certificate
DGCI&S	Director General, Commercial Intelligence & Statistics.
DGFT	Director General of Foreign Trade
DIPP	Department of Industrial Policy & Promotion
DoC	Department of Commerce
DoE	Department of Electronics
DoIT	Department of Information Technology
DoR	Department of Revenue
DoT	Department of Tourism
DTA	Domestic Tariff Area
EDI	Electronic Data Interchange

EEFC	Exchange Earners' Foreign Currency
EFC	Exim Facilitation Committee
EFT	Electronic Fund Transfer
EH	Export House
EHTP	Electronic Hardware Technology Park
EIC	Export Inspection Council
EO	Export Obligation
EOP	Export Obligation Period
EOU	Export Oriented Unit
EPC	Export Promotion Council
EPCG	Export Promotion Capital Goods
EPO	Engineering Process Outsourcing
FDI	Foreign Direct Investment
FIEO	Federation of Indian Export Organisation
FIRC	Foreign Exchange Inward Remittance Certificate
FMS	Focus Market Scheme
FOB	Free On Board
FPS	Focus Product Scheme
FT (D&R) Act	Foreign Trade (Development & Regulation) Act, 1992 (22 of 1992)
FTDO	Foreign Trade Development Officer
FTP	Foreign Trade Policy
GATS	General Agreement on Trade in Services
GRC	Grievance Redressal Committee
HACCP	Hazard Analysis and Critical Control Process
HBP v1	Handbook of Procedures (Vol.1)
HBP v2	Handbook of Procedures (Vol.2)
ICD	Inland Container Depot
ICM	Indian Commercial Mission
IEC	Importer Exporter Code
ISO	International Standards Organisation
ITC (HS)	Indian Trade Classification (Harmonised System) Classification for Export & Import Items
ITPO	India Trade Promotion Organisation
LoC	Line of Credit
LoI	Letter of Intent
LoP	Letter of Permit
LUT	Legal Undertaking
MAI	Market Access Initiative
MDA	Market Development Assistance
MEA	Ministry of External Affairs
MoD	Ministry of Defence

MoF	Ministry of Finance
NC	Norms Committee
NFE	Net Foreign Exchange
NOC	No Objection Certificate
PRC	Policy Relaxation Committee
PTH	Premier Trading House
PSU	Public Sector Undertaking
R&D	Research and Development
RA	Regional Authority
RBI	Reserve Bank of India
REP	Replenishment
RCMC	Registration-cum-Membership Certificate
RSCQC	Regional Sub-Committee on Quality Complaints
S/B	Shipping Bill
SEH	Star Export House
SEI CMM	Software Engineers Institute's Capability Maturity Model
SEZ	Special Economic Zone
SFIS	Served from India Scheme
SIA	Secretariat for Industrial Assistance
SION	Standard Input Output Norms
SSI	Small Scale Industry
STE	State Trading Enterprise
STH	Star Trading House
STP	Software Technology Park
TEE	Towns of Export Excellence
TH	Trading House
TRA	Telegraphic Release Advice
TRQ	Tariff Rate Quota
VA	Value Addition
VKGUY	Vishesh Krishi and Gram Udyog Yojana
WHOGMP	World Health Organisation Good Manufacturing Practices

CHAPTER 1A

LEGAL FRAMEWORK

1.1 The Foreword spells out the broad framework.

Foreword

1.2 (a) The Foreign Trade Policy (FTP) 2009-2014, incorporating provisions relating to export and import of goods and services, shall come into force with effect from 27th August, 2009 and shall remain in force upto 31st March, 2014 unless otherwise specified. All exports and imports upto 26th August 2009 shall be accordingly governed by the FTP 2004-2009.

Duration

(b) The Foreign Trade Policy, 2009-2014, incorporating the Annual Supplement as updated on 5th June, 2012 shall come into force with effect from 5th June, 2012, unless otherwise specified.

1.3 Central Government reserves right in public interest to make any amendments by notification to this Policy in exercise of powers conferred by Section 5 of FT(D&R) Act.

Amendment

1.4 Authorisation issued before commencement of FTP shall continue to be valid for the purpose and duration for which such Authorisation was issued, unless otherwise stipulated.

Transitional Arrangements

1.5 (a) In case an export or import that is permitted freely under FTP is subsequently subjected to any restriction or regulation, such export or import will ordinarily be permitted notwithstanding such restriction or regulation, unless otherwise stipulated, provided that shipment of export or import is made within original validity with respect to available balance and time period of an irrevocable commercial letter of credit, established before the date of imposition of such restriction.

- (b) However for operationalizing such irrevocable commercial letter of credit, the applicant shall have to register the Letter of Credit and contract with the concerned RA within 15 days of the issue of any such restriction or regulation.

CHAPTER 1B

SPECIAL FOCUS INITIATIVES

1B.1

Special Focus Initiatives

- (a) With a view to continuously increasing our percentage share of global trade and expanding employment opportunities, certain special focus initiatives have been identified/continued for Market Diversification, Technological Upgradation, Support to status holders, Agriculture, Handlooms, Handicraft, Gems & Jewellery, Leather, Marine, Electronics and IT Hardware manufacturing Industries, Green products, Exports of products from North-East, Sports Goods and Toys 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.
- (b) Further Sectoral Initiatives in other sectors will also be announced from time to time.

(i) Market Diversification

During 2008-09 to 2011-12, weaker demand in developed economies, triggered by falling asset prices and increased economic uncertainty had pulled down the growth of India's exports to developed countries. To insulate Indian exports from the decline in demand from developed countries, in this Policy focus is on diversification of Indian exports to other markets, specially those located in Latin America, Africa, parts of Asia and Oceania. To achieve diversification of Indian exports, following initiatives have been taken under this Policy.

- (a) 29 new countries have been included within the ambit of Focus Market Scheme.
- (b) The incentives provided under Focus Market Scheme have been increased from 2.5% to 3%.

- (c) There has been a significant increase in the outlay under 'Market Linked Focus Product Scheme' by inclusion of more markets and products. This ensures support for exports to all countries in Africa and Latin America, and major Asian markets like China and Japan.

(ii) Technological Upgradation

To usher in the next phase of export growth, India needs to move up in the value chain of export goods. This objective is sought to be achieved by encouraging technological upgradation of our export sector. A number of initiatives have been taken in this Policy to focus on technological upgradation; such initiatives include:

- (a) EPCG Scheme at zero duty has been introduced for certain engineering products, electronic products, basic chemicals and pharmaceuticals, apparel and textile, plastics, handicrafts, chemicals and allied products and leather and leather products. This scheme is being expanded to cover more export product groups including marine products, sports goods, toys, rubber & rubber products, additional chemicals / allied products and additional engineering products. The scheme is also being extended upto 31.3.2013.
- (b) The existing 3% EPCG Scheme has been considerably simplified, to ease its usage by the exporters.
- (c) The facility of EPCG Scheme for Annual Requirement has been introduced to reduce documentation and transaction time.
- (d) To encourage value added manufacture export, a minimum 15% value addition on imported inputs under Advance Authorisation Scheme has been stipulated.

- (e) A number of products including automobiles and other engineering products have been included for incentives under Focus Product and Market Linked Focus Product Schemes.
- (f) Steps to encourage Project Exports shall be taken.

(iii) Support to status holders

The Government recognized 'Status Holders' contribute approx. 60% of India's goods exports. To incentivise and encourage the status holders, as well as to encourage Technological upgradation of export production, additional duty credit scrip @ 1% of the FOB value of past export shall be granted for specified product groups including leather, specific sub-sectors in engineering, textiles, plastics, handicrafts and jute. This duty credit scrip can be used for import / domestic procurement of capital goods by these status holders. The SHIS scrip shall be subject to actual user condition. However, transferability amongst status holders having manufacturing facility has been allowed. The status holder incentive scrip scheme has been expanded to cover more export product groups including marine products, sports goods, toys, specified chemicals and allied products and additional engineering products. The scheme is also being extended upto 31.3.2013.

(iv) Agriculture and Village Industry

- (a) Vishesh Krishi and Gram Udyog Yojana
- (b) Capital goods imported under EPCG will be permitted to be installed anywhere in AEZ.
- (c) Import of restricted items, such as panels, are allowed under various export promotion schemes.
- (d) Import of inputs such as pesticides are permitted under Advance Authorisation for agro exports.

- (e) New towns of export excellence with a threshold limit of Rs 150 crore shall be notified.
- (f) Additional flexibility for agri-infra scrip by way of limited transferability to other status holders and the units in Food Parks allowed.
- (g) List of items allowed for import for “Park Houses” notified in Appendix 37 F.

(v) Handlooms

- (a) 2% bonus benefits under focus product scheme.
- (b) Specific funds are earmarked under MAI / MDA Schemes for promoting handloom exports.
- (c) Duty free import entitlement of specified trimmings and embellishments is 5% of FOB value of exports during previous financial year. Handloom made-ups have also been included for the entitlement.
- (d) Duty free import entitlement of hand knotted carpet samples is 1% of FOB value of exports during previous financial year.
- (e) Duty free import of old pieces of hand knotted carpets on consignment basis for re-export after repair is permitted.
- (f) New towns of export excellence with a threshold limit of Rs 150 crore shall be notified.
- (g) Machinery and equipment for effluent treatment plants is exempt from customs duty.

(vi) Handicrafts

- (a) Duty free import entitlement of tools, trimmings and embellishments is 5% of FOB value of exports during previous financial year. Entitlement is broad banded, and shall extend also to merchant exporters tied up with supporting manufacturers.
- (b) Handicraft EPC is authorized to import trimmings, embellishments and consumables on behalf of those exporters for whom directly importing may not be viable.
- (c) Specific funds are earmarked under MAI & MDA Schemes for promoting Handicraft exports.
- (d) CVD is exempted on duty free import of trimmings, embellishments and consumables.
- (e) New towns of export excellence with a reduced threshold limit of Rs 150 crore shall be notified.
- (f) Machinery and equipment for effluent treatment plants are exempt from customs duty.
- (g) All handicraft exports would be treated as special Focus products and entitled to higher incentives.
- (h) In addition to above, 2% bonus benefits under Focus Product Scheme for Handicraft exports.

(vii) Gems & Jewellery

- (a) Import of gold of 8k and above is allowed under replenishment scheme subject to import being accompanied by an Assay Certificate specifying purity, weight and alloy content.
- (b) Duty Free Import Entitlement (based on FOB value of exports during previous financial year) of

Consumables, Tools and additional items allowed for:

- (i) Jewellery made out of:
 - a) Precious metals (other than Gold & Platinum) – 2%
 - b) Gold and Platinum – 1%
 - c) Rhodium finished Silver – 3%
- (ii) Cut and Polished Diamonds – 1%
- (c) Duty free import entitlement of commercial samples shall be Rs. 300,000.
- (d) Duty free re-import entitlement for rejected jewellery shall be 2% of FOB value of exports.
- (e) Import of Diamonds on consignment basis for Certification/ Grading & re-export by the authorized offices/agencies of Gemological Institute of America (GIA) in India or other approved agencies will be permitted.
- (f) Personal carriage of Gems & Jewellery products in case of holding/participating in overseas exhibitions increased to US\$ 5 million and to US\$ 1 million in case of export promotion tours.
- (g) Extension in number of days for re-import of unsold items in case of participation in an exhibition in USA, increased to 90 days.
- (h) In an endeavour an endeavour to make India a diamond international trading hub, it is planned to establish “Diamond Bourse(s)”.

(viii) Leather and Footwear

- (a) Additional 2% bonus benefits under Focus Product Scheme.
- (b) Finished Leather exports to be incentivised under Focus Product Scheme.
- (c) Duty free import entitlement of specified items is 3% of FOB value of exports of leather garments during preceding financial year.
- (d) Duty free entitlement for import of trimmings, embellishments and footwear components for footwear (leather as well as synthetic), gloves, travel bags and handbags is 3% of FOB value of exports of previous financial year. Such entitlement shall also cover packing material, such as printed and non-printed shoeboxes, small cartons made of wood, tin or plastic materials for packing footwear.
- (e) Machinery and equipment for Effluent Treatment Plants shall be exempted from basic customs duty.
- (f) Re-export of unsuitable imported materials such as raw hides & skins and wet blue leathers is permitted.
- (g) CVD is exempted on lining and interlining material notified at S.No 168 of Customs Notification No 21/2002 dated 01.03.2002.
- (h) CVD is exempted on raw, tanned and dressed fur skins falling under Chapter 43 of ITC (HS).
- (i) Re-export of unsold hides, skins and semi finished leather shall be allowed from Public Bonded warehouse without payment of export duty.

(ix) Marine Sector

- (a) Imports for technological upgradation under EPCG in fisheries sector (except fishing trawlers, ships, boats and other similar items) exempted from maintaining average export obligation.
- (b) Duty free import of specified specialised inputs/chemicals and flavouring oils is allowed to the extent of 1% of FOB value of preceding financial year's export.
- (c) To allow import of monofilament longline system for tuna fishing at a concessional rate of duty and Bait Fish for tuna fishing at Nil duty.
- (d) A self removal procedure for clearance of seafood waste is applicable subject to prescribed wastage norms.
- (e) Marine sector included for benefits under zero duty EPCG scheme.

(x) Electronics and IT Hardware Manufacturing Industries

- (a) Export of electronic goods to be incentivized under Focus Product Scheme.
- (b) Expeditious clearance of approvals required from DGFT shall be ensured.
- (c) Exporters /Associations would be entitled to utilize MAI & MDA Schemes for promoting Electronics and IT Hardware Manufacturing Industries exports.
- (d) Electronics Sector included for benefits under SHIS scheme.

(xi) Sports Goods and Toys

- (a) Duty free import of specified specialised inputs allowed to the extent of 3% of FOB value of preceding financial year's export.
- (b) Sports goods and toys shall be treated as a Priority sector under MDA / MAI Scheme. Specific funds would be earmarked under MAI / MDA Scheme for promoting exports from this sector.
- (c) Applications relating to Sports Goods and Toys shall be considered for fast track clearance by DGFT.
- (d) Sports Goods and Toys are treated as special focus products and entitled to higher incentives.
- (e) In addition to above, 2% bonus benefits under Focus Product Scheme for Sports Goods & Toys.
- (f) Sports Goods & Toys included for benefits under zero duty EPCG and SHIS schemes.

(xii) Green products and technologies

India aims to become a hub for production and export of green products and technologies. To achieve this objective, special initiative will be taken to promote development and manufacture of such products and technologies for exports. To begin with, focus would be on items relating to transportation, solar and wind power generation and other products as may be notified which will be incentivized under Reward Schemes of Chapter 3 of FTP.

(xiii) Incentives for Exports from the North Eastern Region

In order to give a fillip to exports of products from the north-eastern States, notified products of this region would be incentivized under Reward Schemes of Chapter 3 of FTP.

CHAPTER 1C

BOARD OF TRADE

1C.1 BOT has a clear and dynamic role in advising government on relevant issues connected with Foreign Trade.

Board of Trade (BOT)

1C.2 BOT has following terms of reference:

Terms of Reference

- (i) To advise Government on Policy measures for preparation and implementation of both short and long term plans for increasing exports in the light of emerging national and international economic scenarios;
- (ii) To review export performance of various sectors, identify constraints and suggest industry specific measures to optimize export earnings;
- (iii) To examine existing institutional framework for imports and exports and suggest practical measures for further streamlining to achieve desired objectives;
- (iv) To review policy instruments and procedures for imports and exports and suggest steps to rationalize and channelize such schemes for optimum use;
- (v) To examine issues which are considered relevant for promotion of India's foreign trade, and to strengthen international competitiveness of Indian goods and services; and
- (vi) To commission studies for furtherance of above objectives.

1C.3 Commerce & Industry Minister will be the Chairman of the Board of Trade (BOT). Government shall also nominate upto 25 persons, of whom at least 10 will be experts in trade policy. In addition, Chairmen of recognized EPCs and

President or Secretary-Generals of National Chambers of Commerce will be ex-officio members. BOT will meet at least once every quarter.

CHAPTER 2

GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS

- 2.1**
Exports and Imports – ‘Free’, unless regulated
- (a) Exports and Imports shall be ‘Free’, except when regulated. Such regulation would be as per FTP and/or ITC (HS).
 - (b) ITC (HS) contains the item wise export and import policy regimes. The ITC (HS) is aligned with international Harmonized System goods nomenclature maintained by World Customs Organization (<http://www.wcoomd.org>).
 - (c) Schedule 1 of ITC (HS) gives the Import Policy Regime and Schedule 2 of ITC (HS) gives the Export Policy Regime.
 - (d) Except where it is clearly specified in Schedule 1 of ITC (HS), Import Policy is for new goods and not for Second Hand goods. For Second Hand goods, the Import Policy Regime is given in Para 2.17 on this FTP.

2.1.1
Prohibition on Import and Export of ‘Arms and related material’ from / to Iraq

Despite the policy for ‘Arms and related material’ as is given in Chapter 93 of ITC (HS), the import / export of arms and related material from / to Iraq shall be ‘Prohibited’.

2.1.2
Prohibition on Direct or Indirect Import and Export from

Direct or indirect export and import of following items, whether or not originating in Democratic People’s Republic of Korea (DPRK), to / from, DPRK is ‘Prohibited’:

All items, materials equipment, goods and technology including as set out in lists in documents S/2006/814,

**/ to Democratic
People's
Republic of
Korea**

S/2006/815 (including S/2009/205), S/2009/364 and S/2006/853 (United Nations Security Council Documents) INFCIRC/254/Rev.9/Part1a and INFCIRC/254/Rev.7/Part 2a (IAEA documents) which could contribute to DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes.

2.1.3

**Prohibition on
Direct or
Indirect Import
and Export from
/ to Iran**

(a) Direct or indirect export and import of all items, materials, equipment, goods and technology which could contribute to Iran's enrichment-related, reprocessing or heavy water related activities, or to development of nuclear weapon delivery systems, as mentioned below, whether or not originating in Iran, to / from Iran is 'Prohibited':

- (i) Items listed in INFCIRC/254/Rev.9/Part 1 and INFCIRC/254/Rev.7/Part 2 (IAEA Documents)
- (ii) Items listed in S/2006/263 (UN Security Council Document)

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

**2.1.4 Prohibition
on Import of
Charcoal from
Somalia**

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

2.2

**Compliance of
Imports with
Domestic Laws**

In line with the National Treatment proviso of World Trade Organization (<http://www.wto.org>), Domestic Laws/ Rules/ Orders/ Regulations/ technical specifications/ environmental/ safety and health norms applicable to domestically produced goods shall apply, mutatis mutandis, to imports, unless specifically exempted.

- 2.3 Interpretation of Policy**
- (a) The decision of DGFT shall be final and binding on all matters relating to interpretation of Policy, or provision in HBP v1, HBP v2 or classification of any item for import / export policy in the ITC (HS).
- (b) A Policy Interpretation Committee (PIC) may be constituted to aid and advice DGFT.

2.4 Procedure

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

2.5 Exemption from Policy/ Procedure

DGFT may pass such orders or grant such relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade. DGFT may, in public interest, exempt any person or class or category of persons from any provision of FTP or any procedure and may, while granting such exemption, impose such conditions as he may deem fit. Such request may be considered only after consulting committees as under:

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

- 2.6** DGFT may, through a notification, adopt and enforce any measure necessary for: -
- Principles of Restriction**
- (a) Protection of public morals;
 - (b) Protection of human, animal or plant life or health;
 - (c) Protection of patents, trademarks and copyrights, and the prevention of deceptive practices;
 - (d) Prevention of use of prison labour;
 - (e) Protection of national treasures of artistic, historic or archaeological value;
 - (f) Conservation of exhaustible natural resources;
 - (g) Protection of trade of fissionable material or material from which they are derived;
 - (h) Prevention of traffic in arms, ammunition and implements of war.
- 2.7** Any goods / service, the export or import of which is 'Restricted' may be exported or imported only in accordance with an Authorisation / Permission/ License or in accordance to the procedure prescribed in a notification / public notice issued in this regard.
- Export / Import of Restricted Goods/ Services**
- 2.8** Every Authorisation shall contain such terms and conditions as may be specified by RA which may include:
- Terms and Conditions of an Authorisation**
- (a) Description, quantity and value of goods;
 - (b) Actual User condition;
 - (c) Export Obligation;
 - (d) Minimum Value addition to be achieved;
 - (e) Minimum export/import price;
 - (f) Validity period as specified in HBP v1.
- 2.9** No person may claim an Authorisation as a right and DGFT or RA shall have power to refuse to grant or renew the same in accordance with provisions of FT (D&R) Act, Rules made there under and FTP.
- Authorisation - not a Right**

- 2.10**
Penalty
- If an Authorisation holder violates any condition of such Authorisation or fails to fulfil export obligation, he shall be liable for action in accordance with FT (D&R) Act, the Rules and Orders made there under, FTP and any other law for time being in force.
- 2.11**
State Trading
- Any goods, import or export of which is governed through exclusive or special privileges granted to State Trading Enterprises (STE(s)), may be imported or exported by STE(s) as per conditions specified in ITC (HS). DGFT may, however, grant an Authorisation to any other person to import or export any of these goods. Such STE(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale in a non discriminatory manner and shall afford enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.
- 2.12**
**Importer-
Exporter Code
(IEC) Number**
- (a) No export or import shall be made by any person without an IEC number unless specifically exempted. An IEC number shall be granted on application by competent authority in accordance with procedure specified in HBP v1.
- (b) Exempt Categories and Permanent IEC numbers are given in Para 2.8 of HBP v1.
- 2.13**
**Trade with
Neighbouring
Countries**
- DGFT may issue instructions or frame schemes as may be required to promote trade and strengthen economic ties with neighbouring countries.
- 2.14**
Transit Facility
- Transit of goods through India from / or to countries adjacent to India shall be regulated in accordance with bilateral treaties between India and those countries and will be subject to such restrictions as may be specified by DGFT in accordance with International Conventions.

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

Trade with Russia under Debt-Repayment Agreement

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

Actual User Condition

2.17 For Second Hand goods, the Import Policy Regime is given as under:

Second Hand Goods

	Import Policy	Conditions, if any
I. Second Hand Capital Goods Group		
(a) Restricted Category:		
(i) Personal computers / laptops (ii) Photocopier machines / Digital multifunction Print & Copying Machines (iii) Air conditioners (iv) Diesel generating sets	Restricted	Allowed to be imported only as per provisions of FTP, ITC (HS), HBP v1, Public Notice or an Authorisation issued for import of the specified second hand item.

(b) Free Category:		
(i) Refurbished / re-conditioned spares of Capital Goods	Free	Subject to conditions specified in para 2.33 of HBPv1
(ii) All other second hand capital goods	Free	
II. All other Second Hand Goods	Restricted	

2.17A

Removal of Scrap / Waste from SEZ

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

2.18

Import of Samples

Import of samples shall be governed by Chapter 2 of HBP v1.

2.19

Import of Gifts

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

2.20

Passenger Baggage

(a) Bona fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.

(b) Samples of such items that are otherwise freely importable under FTP may also be imported as part of

passenger baggage without an Authorisation.

- (c) Exporters coming from abroad are also allowed to import drawings, patterns, labels, price tags, buttons, belts, trimming and embellishments required for export, as part of their passenger baggage without an Authorisation.

2.21 Import on Export Basis	Freely exportable new or second hand capital goods, equipments, components, parts and accessories, containers meant for packing of goods for exports, jigs, fixtures, dies and moulds may be imported for export without an Authorisation on execution of LUT / BG with Customs Authorities.
2.22 Re-import of goods repaired abroad	Capital goods, equipments, components, parts and accessories, whether imported or indigenous, except those restricted under ITC (HS) may be sent abroad for repairs, testing, quality improvement or upgradation or standardization of technology and re-imported without an Authorisation.
2.23 Import of goods used in projects abroad	Project contractors after completion of projects abroad, may import without an Authorisation, goods including capital goods used in the project, provided they have been used for at least one year.
2.24 Sale on High Seas	Sale of goods on high seas for import into India may be made subject to FTP or any other law in force.
2.25 Import under Lease Financing	No specific permission of RA is required for lease financed capital goods.
2.26 Clearance of Goods from Customs	Good already imported / shipped / arrived, in advance, but not cleared from Customs may also be cleared against an Authorisation issued subsequently.

- 2.27**
Execution of BG /LUT
- (a) Wherever any duty free import is allowed or where otherwise specifically stated, importer shall execute prescribed LUT/BG/Bond with Customs Authority before clearance of goods.
- (b) In case of indigenous sourcing, Authorisation holder shall furnish LUT/BG/Bond to RA concerned before sourcing material from indigenous supplier/nominated agency as prescribed in Chapter 2 of HBP v1.
- 2.28**
Private/Public Bonded Warehouses for Imports
- (a) Private / Public bonded warehouses may be set up in DTA as per terms and conditions of notification issued by DoR. Any person may import goods except prohibited items, arms and ammunition, hazardous waste and chemicals and warehouse them in such bonded warehouses.
- (b) Such goods may be cleared for home consumption in accordance with provisions of FTP and against Authorisation, wherever required. Customs duty as applicable shall be paid at the time of clearance of such goods.
- (c) If such goods are not cleared for home consumption within a period of one year or such extended period as the custom authorities may permit, importer of such goods shall re-export the goods.
- 2.29**
Free Exports
- All goods may be exported without any restriction except to the extent that such exports are regulated by ITC (HS) or any other provision of FTP or any other law for the time being in force. DGFT may, however, specify through a public notice such terms and conditions according to which any goods, not included in ITC (HS), may be exported without an Authorisation.
- 2.30**
Export of Samples
- Export of Samples and Free of charge goods shall be governed by provisions given in Chapter 2 of HBP v1.

- 2.31** (a) Bona fide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger's departure from India. However, items mentioned as restricted in ITC (HS) shall require an Authorisation. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry along with their personal baggage, food items (free, restricted or prohibited) strictly for their personal consumption.
- Export of Passenger Baggage**
- (b) Samples of such items that are otherwise freely exportable under FTP may also be exported as part of passenger baggage without an Authorisation.
- 2.32** Goods, including edible items, of value not exceeding Rs.500000/- in a licensing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC (HS) shall not be exported as a gift, without an Authorisation.
- Export of Gifts**
- 2.33** Warranty spares (whether indigenous or imported) of plant, equipment, machinery, automobiles or any other goods, (except those restricted under ITC (HS)) may be exported along with main equipment or subsequently but within contracted warranty period of such goods subject to approval of RBI.
- Export of Spares**
- 2.34** Third party exports, as defined in Chapter 9 shall be allowed under FTP.
- Third Party Exports**
- 2.35** (a) Goods imported, in accordance with FTP, may be exported in same or substantially the same form without an Authorisation provided that item to be imported or exported is not restricted for import or export in ITC (HS).
- Export of Imported Goods**
- (b) 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’ for import (except ‘Prohibited’ items) may be imported under Customs Bond for export in freely convertible currency without an Authorisation provided that item is freely exportable without any conditionality / requirement of Authorisation / Licence / permission as may be required under Schedule 2 – Export Policy of the ITC (HS).
- Export of Imported Goods under Bond Procedures**
- 2.36A** Hides, Skins and semi finished leather may be imported in the Public Bonded warehouse for the purpose of DTA sale and the unsold items thereof can be re-exported from such bonded warehouses at 50% of the applicable export duty. However, this facility shall not be allowed for import under Private Bonded warehouse.
- 2.37** Goods or parts thereof on being exported and found defective/ damaged or otherwise unfit for use may be replaced free of charge by the exporter and such goods shall be allowed clearance by Customs authorities, provided that replacement goods are not mentioned as restricted items for exports in ITC (HS).
- Export of Replacement Goods**
- 2.38** Goods or parts, except restricted under ITC (HS) thereof, on being exported and found defective, damaged or otherwise unfit for use may be imported for repair and subsequent re-export. Such goods shall be allowed clearance without an Authorisation and in accordance with customs notification.
- Export of Repaired Goods**
- 2.39** (a) Private bonded warehouses exclusively for exports may be set up in DTA as per terms and conditions of notifications issued by DoR.
- Private Bonded Warehouses for Exports** (b) Such warehouses shall be entitled to procure goods from domestic manufacturers without payment of duty. Supplies made by a domestic supplier to such notified warehouses shall be treated as physical exports provided payments are made in free foreign exchange.

- 2.40**
Denomination of Export Contracts
- (a) All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency.
- (b) However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of ACU or Nepal or Bhutan. Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account. Free foreign exchange remitted by buyer to his non-resident bank (after deducting the bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.
- (c) Contracts (for which payments are received through Asian Clearing Union (ACU) shall be denominated in ACU Dollar. Central Government may relax provisions of this paragraph in appropriate cases. Export contracts and Invoices can be denominated in Indian rupees against EXIM Bank / Government of India line of credit.
- 2.40A**
Export to Iran – Realisations in Indian Rupees
- Export proceeds against specific exports to Iran realized in Indian rupees are permitted to avail exports benefits/ incentives under the Foreign Trade Policy, 2009-14, at par with export proceeds realized in freely convertible currency.
- 2.41**
Realisation of Export Proceeds
- If an exporter fails to realize export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to action in accordance with provisions of FT (D&R) Act, Rules and Orders made there under and FTP.
- 2.42**
Free movement of export goods
- Consignments of items meant for exports shall not be withheld / delayed for any reason by any agency of Central / State Government. In case of any doubt, authorities concerned may ask for an undertaking from exporter.

2.42.1 No seizure of Stock	No seizure of stock shall be made by any agency so as to disrupt manufacturing activity and delivery schedule of exports. In exceptional cases, concerned agency may seize the stock on basis of prima facie evidence. However, such seizure should be lifted within 7 days.
2.43 Export Promotion Councils (EPC)	Basic objective of Export Promotion Councils (EPCs) is to promote and develop Indian exports. Each Council is responsible for promotion of a particular group of products, projects and services as given in HBP v1.
2.44	Any person, applying for:
Registration-cum-Membership Certificate (RCMC)	<ul style="list-style-type: none"> (a) An Authorisation to import / export, (except items) listed as 'Restricted' items in ITC (HS) or (b) Any other benefit or concession under FTP shall be required to furnish RCMC granted by competent authority in accordance with procedure specified in HBP v1 unless specifically exempted under FTP. Certificate of Registration as Exporter of Spices (CRES) issued by Spices Board shall be treated as Registration-Cum-Membership Certificate (RCMC) for the purposes under this Policy.
2.45 Trade Facilitation through EDI Initiatives	A secure EDI Message Exchange system for various documents i.e. Authorisations, Shipping Bills, IEC, Application Fee, RCMCs has been established with trade partners i.e. Customs, Banks and Export Promotion Councils. These documents are no longer required to be physically filed with DGFT or transmitted physically to the concerned partners. Therefore, it has reduced the transaction cost for the exporters. It is the endeavour of DGFT to enlarge the scope and domain of EDI exchange continuously.
2.45.1 DGCI &S	DGCI&S has put in place a Data Suppression Policy. Transaction level data would not be made publically available to protect privacy. DGCI&S trade data shall be made

Commercial Trade Data available at aggregate level with a minimum possible time lag in a query based structured format on commercial criteria.

2.45.2 Fiscal Incentives to promote EDI Initiatives adoption To encourage usage of 'on-line' filing of applications for authorizations/IEC, incentives are provided to applicants through a reduced application fee as detailed in the Hand Book of Procedures.

2.46 Regularization of EO default and settlement of customs duty and interest through Settlement Commission With a view to providing assistance to firms who have defaulted under FTP for reasons beyond their control as also facilitating merger, acquisition and rehabilitation of sick units, it has been decided to empower Settlement Commission in Central Board of Excise and Customs to decide such cases also with effect from 01.04.2005.

2.47 Easing of Documentation Requirement DGFT has provided 'on-line' facility for filing applications to obtain various authorizations / IECCode. The authorizations are issued and transmitted electronically to Customs for clearance so as to reduce the required documentation. DGFT has also become India's first digital signature enabled department in Government of India, which has introduced a higher level of Encrypted 2048 bit Digital Signature for enhanced security in communications with essential features like authentication, Privacy, non-repudiation and integrity in the virtual world.

2.48 Exemption / Remission of Service Tax in DTA For all goods and services which are exported from units in DTA and units in EOU / EHTP / STP / BTP exemption / remission of service tax levied and related to exports, shall be allowed, as per prescribed procedure in Chapter 4 of HBP v1.

2.48.1 Units in SEZ shall be exempted from service tax.
Exemption from Service Tax in SEZ

2.48.2 For all goods and services exported from India, services received / rendered abroad, where ever possible, shall be exempted from service tax.
Exemption from Service Tax on Services received abroad

GRIEVANCE REDRESSAL

2.49 DGFT has a commitment to function as a facilitator of exports and imports. Focus is on good governance, which depends on clean, transparent and accountable delivery systems.
DGFT as a facilitator of exports / imports

2.49.1 DGFT has in place a Citizen's Charter, giving time schedules for providing services to clients, and details of grievance committees at different levels.
Citizen's Charter

2.49.2 (a) In order to facilitate speedy redressal of grievances of trade and industry, a new grievance redressal mechanism has been put in place in the form of GRC by a Government Resolution.
Grievance Redressal Committee (GRC)

(c) The Government is committed to resolving all outstanding problems and disputes pertaining to past policy periods through GRC set up on 27.10.2004, for condoning delays, regularizing breaches by exporters in bonafide cases, resolving disputes over entitlements, granting extensions for utilization of Authorisations.

- 2.50**
Export of perishable agricultural products
- To reduce transaction and handling costs, a single window system to facilitate export of perishable agricultural produce has been introduced. The system will involve creation of multi-functional nodal agencies to be accredited by Agricultural and Processed Food Products Export Development Authority (APEDA), New Delhi. The detailed procedures have been notified at Appendix 40 to HBP v1.
- 2.51**
Niryat Bandhu
- A novel 'Niryat Bandhu' scheme for mentoring first generation entrepreneurs has been conceptualised. The Officer (Niryat Bandhu) would primarily mentor interested individuals in the arena of international business. Such hand-holding by officers of DGFT would help the new exporters/importers by leveraging the knowledge base of officers and by providing timely and appropriate guidance.
- 2.52**
e-BRC
- Bank Realization Certificates (BRCs), evidencing receipt of export proceeds would be transmitted electronically from the respective banks to the DGFT. This will bring down transaction cost to the exporters as they will not be required to obtain physical copies of BRCs from the banks and then submit such physical copy to DGFT.

CHAPTER 3

PROMOTIONAL MEASURES

PROMOTIONAL MEASURES IN DEPARTMENT OF COMMERCE

- 3.1 Assistance to States for Developing Export Infrastructure and Allied Activities (ASIDE)**
- (a) The objective of ASIDE scheme is to establish a mechanism for involving the State Governments to participate in funding of infrastructure critical for growth of exports by providing export performance linked financial assistance to them. The Scheme is administered by Department of Commerce (DoC).
- (b) The activities aimed at development of infrastructure for exports can be funded from the scheme provided such activity has overwhelming export content and their linkage with exports is fully established. The specific purposes for which funds can be sanctioned and utilized under the Scheme are as follows:
- (i) Creation of new Export Promotion Industrial Parks/Zones (SEZs/Agri. Business Zones) and augmenting facilities in the existing ones.
 - (ii) Setting up of electronics and other related infrastructure in export conclave.
 - (iii) Equity participation in infrastructure projects including the setting up of SEZs.
 - (iv) Meeting requirements of capital outlay of EIPs/EPZs/SEZs.
 - (v) Development of complementary infrastructure such as, roads connecting the production centers with the ports, setting up of Inland Container Depots and Container Freight Stations.
 - (vi) Stabilizing power supply through additional transformers and islanding of export production centre etc.
 - (vii) Development of minor ports and jetties to serve export purpose.
 - (viii) Assistance for setting up Common Effluent

- Treatment facilities and
- (ix) Any other activity as may be notified by DoC.

Details of ASIDE Scheme are available at:

<http://www.commerce.nic.in>

3.2

Market Access Initiative(MAI)

- (a) Under MAI scheme, Financial assistance is provided for export promotion activities on focus country, focus product basis. Financial assistance is available for Export Promotion Councils (EPCs), Industry and Trade Associations (ITAs), Agencies of State Government, Indian Commercial Missions (ICMs) abroad and other national level institutions/eligible entities as may be notified.
- (b) The activities that can be funded under MAI scheme include, amongst others,
 - (i) Market studies/surveys,
 - (ii) Setting up of showroom / warehouse,
 - (iii) Participation in international trade fairs,
 - (iv) Displays in International departmental stores,
 - (v) Publicity campaigns,
 - (vi) Brand promotion,
 - (vii) Reimbursement of registration charges for pharmaceuticals and expenses for carrying out clinical trials etc., in fulfillment of statutory requirements in the buyer country,
 - (viii) Testing charges for engineering products abroad,
 - (ix) Assistance for contesting Anti Dumping litigations etc.
- (c) Each of these export promotion activities can receive financial assistance from Government ranging from 25% to 100% of total cost depending upon activity and implementing agency. Full text of guidelines is available at <http://commerce.nic.in>.

3.3

Marketing Development Assistance (MDA)

- (a) Under MDA Scheme, financial assistance is provided for a range of export promotion activities implemented by EPCs and Trade Promotion Organizations on the basis of approved annual action plans. The scheme is administered by DoC. Assistance includes, amongst others, participation in:
- (i) Trade Fairs and Buyer Seller meets abroad or in India, and
 - (ii) Export promotions seminars.
 - (iii) Financial assistance with travel grant is available to exporters traveling to focus areas, viz., Latin America, Africa, CIS region, ASEAN countries, Australia and New Zealand. In other areas, financial assistance without travel grant is available.
- (b) MDA assistance is available for exporters having an annual export turnover as prescribed in MDA guidelines. Full text of guidelines is available at <http://www.commerce.nic.in>.

3.4

Meeting expenses for statutory compliances in buyer country for Trade Related Matters

DoC may reimburse expenses/charges for fulfilling statutory requirements in the buyer country, including registration charges for product registration for pharmaceuticals, biotechnology and agro-chemicals products on recommendation of EPCs. Financial assistance is also provided for contesting litigation(s) in the foreign country concerning restrictions/anti dumping duties etc. on product(s) of Indian origin, as provided under the Market Access Initiative (MAI) Scheme of DoC. Guidelines are available at <http://www.commerce.nic.in>.

3.5

Towns of Export Excellence (TEE)

- (a) A number of towns have emerged as dynamic industrial clusters contributing handsomely to India's exports. It is necessary to grant recognition to these industrial clusters with a view to maximize their potential and enable them to move up the value chain and also to tap new markets.
- (b) Selected towns producing goods of Rs. 750 Crore or more will be notified as TEE based on potential for

growth in exports. However for TEE in Handloom, Handicraft, Agriculture and Fisheries sector, threshold limit would be Rs 150 Crores. The following facilities will be provided to such TEE's:

- (i) Recognized associations of units will be provided financial assistance under MAI scheme, on priority basis, for export promotion projects for marketing, capacity building and technological services.
 - (ii) Common Service Providers in these areas shall be entitled for EPCG scheme.
 - (iii) The projects received from TEEs shall be accorded priority by SLEPC (State Level Export Promotion Committee) for financial assistance under ASIDE.
- (c) Notified Towns (TEEs) are listed in Appendix 7 of HBPv1.

3.6

Brand Promotion and Quality

- (a) IBEF (originally called India Brand Equity Fund and later renamed as India Brand Equity Foundation) was set up by the Ministry of Commerce on 11th July, 1996, with the primary objective to promote and create international awareness of the "Made in India" label in markets overseas. IBEF aims to promote India as a business opportunity by creating positive economic perceptions of India globally as well as effectively present the India business partnerships in a globalised market-place.
- (b) DOC provides funds to national level Institutions and EPCs for capacity building, up-gradation of quality, organizing training programs for skill improvement of exporters for quality up-gradation, reduction in rejection and product improvement etc. as provided under the Market Access Initiative (MAI) Scheme of DOC.

Details are available at www.commerce.nic.in

3.7

Test Houses

Central Government will assist in modernization and up gradation of test houses and laboratories to bring them at par with international standards.

Details of scheme are available at www.commerce.nic.in

PROMOTIONAL MEASURES IN DGFT

3.8 Regional Sub-Committee on Quality Complaints (RSCQC) set up at Regional Offices of this Directorate shall investigate quality complaints received from foreign buyers. Guidelines for settlement of quality and other complaints, in general, are given in Appendix-16 of HBPv1

Quality Complaints/ Disputes

3.9 (a) If anything comes to notice of DGFT or he has reason to believe that an export or import has been made in a manner that

Trade Disputes affecting Trade Relations

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

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

3.10 EXPORT AND TRADING HOUSES

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

Eligibility for Export and Trading Houses Status

3.10.2 Status recognition depends upon export performance. An applicant shall be categorized as status holder upon achieving export performance indicated in table below. The export performance will be counted on the basis of FOB value of export proceeds realized during current plus previous three years (taken together). For Export House (EH) Status, export performance is necessary in at least two out of four years.

Status Category

Status Category	Export Performance FOB / FOR Value (Rupees in Crores)
Export House (EH)	20
Star Export House (SEH)	100
Trading House (TH)	500
Star Trading House (STH)	2500
Premier Trading House (PTH)	7500

3.10.3

Double Weightage and other conditions for Grant of Status

- (a) Exporters in Small Scale Industry (SSI) / Tiny Sector / Cottage Sector, Units registered with KVICs / KVIBs, Units located in North Eastern States, Sikkim and Jammu & Kashmir, Units exporting handloom/handicrafts / hand knotted or silk carpets, exporters exporting to countries in Latin America / CIS / sub-Saharan Africa as listed in Appendix-9, Units having ISO 9000 (series) / ISO 14 000 (series) / WHOGMP/ HACCP / SEI CMM level-II and above status granted by agencies listed in Appendix-6 of HBP v1, exports of services and exports of agro products shall be entitled for double weightage on exports made for grant of status. Double Weightage shall be admissible to Merchant as well as Manufacturer Exporters. However, a shipment can get double weightage only once in any one of above categories.
- (b) Transfer of export performance from one to another is not permitted. Therefore disclaimer system shall not be allowed for counting of export turnover.
- (c) Exports made on re-export basis shall not be counted for recognition.
- (d) Exports made by subsidiary of a limited company shall be counted towards export performance of limited company for recognition only if limited company has a majority share holding in subsidiary company.

3.10.4

A Status Holder shall be eligible for privileges as under:

Privileges of Export and Trading Houses Status Holders

- (a) Authorization and Customs Clearances for both imports and exports on self-declaration basis;
- (b) Fixation of Input-Output norms on priority within 60 days;
- (c) Exemption from compulsory negotiation of documents through banks. Remittance / Receipts, however, would be received through banking channels;
- (d) Exemption from furnishing of BG in Schemes under FTP;
- (e) SEHs and above shall be permitted to establish Export Warehouses, as per DoR guidelines.
- (f) For status holders, a decision on conferring of ACP Status shall be communicated by Customs within 30 days from receipt of application with Customs.
- (g) As an option, for Premier Trading House (PTH), the average level of exports under EPCG Scheme shall be the arithmetic mean of export performance in last 5 years, instead of 3 years.
- (h) Status Holders of specified sectors shall be eligible for Status Holder Incentive Scrip under Para 3 .16 of FTP.
- (i) Status Holders of Agri. Sector (Chapter 1 to 24) shall be eligible for Agri. Infrastructure Incentive Scrip under VKGUY - Para 3.13.4 of FTP

3.11

SERVICES EXPORTS

3.11.1

Services Exports

- (a) All 161 tradable services covered under General Agreement on Trade in Services (GATS) are listed in Appendix 10 of HBP v1. If consideration is received in free foreign exchange, these would be considered as service exports.

(b) All provisions of this Policy shall apply mutatis mutandis to export of services as they apply to goods.

**3.11.2
Registration
cum
Membership
Certificate
(RCMC) for
Service
Providers**

Software exporters shall register themselves with Electronics and Software EPC. Exporters of 14 specific services listed at Sl. No. 22 of Appendix 2 of HBPv1 are required to register themselves with Services EPC. Other service exporters shall register themselves with Federation of Indian Export Organisations (FIEO).

**3.11.3
Common
Facility Centers**

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

REWARD/INCENTIVE SCHEMES IN DGFT

3.12 SERVED FROM INDIA SCHEME (SFIS)

**3.12.1
Objective**

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

**3.12.2
Eligibility**

Indian Service Providers, of services listed in Appendix 41 of HBPv1, who have free foreign exchange earning of at least Rs. 10 lakhs in current financial year will be eligible for Duty Credit Scrip. For Individual Indian Service Providers, minimum free foreign exchange earnings would be Rs 5 Lakhs.

**3.12.3
Ineligible
Services and
Service
Providers**

Services and Service Providers as listed in Para 3 .6.1 of HBPv1 shall not be entitled for benefits under the SFIS scheme.

- 3.12.4** Service Providers of services listed in Appendix 41 of HBPv1 would alone be eligible. Such eligible service providers will be entitled to Duty Credit Scrip equivalent to 10% of free foreign exchange earned during current financial year (w.e.f 1.1.2011). For services rendered prior to 1.1.2011, Appendix 10 of HBPv1 would be applicable.
- Entitlement**
- 3.12.5** Free foreign exchange earned through International Credit Cards and through any instrument as permitted by RBI for rendering of services shall also be taken into account for computation of Duty Credit Scrip.
- Eligible Remittances**
- 3.12.6** (a) Duty Credit Scrip may be used for import of any capital goods including spares, office equipment and professional equipment, office furniture and consumables; that are otherwise freely importable and / or restricted under ITC (HS). Imports shall relate to any service sector business of applicant.
- Imports Allowed**
- (b) Utilization of Duty Credit Scrip shall be permitted for payment of duty in case of import of only those vehicles, which are in the nature of professional equipment to the service provider.
- (c) Duty Credit Scrip in case of hotels, clubs having residential facility of minimum 30 rooms, golf resorts and stand-alone restaurants having catering facilities, may also be used for import of consumables including food items and alcoholic beverages.
- 3.12.7** Entitlement /goods (imported / procured) shall be non transferable (except within group company and managed hotels) and be subject to Actual User condition.
- Non Transferability**
- 3.12.8** Duty Credit Scrip shall be permitted to be utilised for payment of excise duty in terms of DoR notification issued in this behalf for procurement from domestic sources, in respect of items permitted for imports under SFIS Duty Credit Scrip.
- Procurement from Domestic Sources**

**3.13 VISHESH KRISHI AND GRAM UDYOG YOJANA (VKGUY)
(SPECIAL AGRICULTURE AND VILLAGE INDUSTRY
SCHEME)**

3.13.1 Objective Objective of VKGUY is to compensate high transport costs and offset other disadvantages to promote exports of the following products :

- (i) Agricultural Produce and their value added products;
- (ii) Minor Forest Produce and their value added variants;
- (iii) Gram Udyog Products;
- (iv) Forest Based Products; and
- (v) Other Products, as notified from time to time.

3.13.2 Entitlement (a) Products listed in Appendix 37A of HBPv1, shall be entitled for Duty Credit Scrip equivalent to 5 % of FOB value of exports (in free foreign exchange) for export made from 27.8.2009 onwards, unless a specific date of export/period is specified by a public notice/notification.

- (b) However, for exports made w.e.f 27.8.2009 (unless a specific date of export/ period is specified by a public notice/ notification), some Flowers and Fruits, as listed in Table 1 of Appendix 37A shall be entitled to an additional Duty Credit Scrip equivalent to 2 % of FOB value of exports; over and above the 5 % or 3 % reduced rate VKGUY entitlement as per para 3.13.3 below.

3.13.3 Applicability of Reduced Rate Duty Credit Scrip under VKGUY scheme shall be granted only at a reduced rate of 3 % of FOB value of exports in cases where exporter has also availed following benefits:

- (i) Drawback at rates higher than 1%; and/or
- (ii) Specific DEPB rate (i.e. other than Miscellaneous Category – Sr. Nos. 22 C & 22 D of Product Group 90); and/or
- (iii) Advance Authorization or Duty Free Import Authorization for Import of inputs (other than catalysts,

consumables and packing materials) for the export product for which Duty Credit Scrip under VKGUY is being claimed.

3.13.4

**Agri.
Infrastructure
Incentive Scrip**

- (a) Status Holders (having status recognition for the current year) exporting products covered under ITC HS Chapters 1 to 24 , shall be granted Duty Credit Scrip equal to 10% of FOB value of agricultural exports (including VKGUY benefits entitled under Policy Para 3.13.2) for exports made during a particular year. This shall be subject to the condition that the total benefits for all status holders put together does not exceed Rs 100 Cr (i.e. Rs 50 Cr for each half year) and the conditions specified in Para 3.7.2 of HBPv1 are satisfied.
- (b) Zonal Office, CLA, New Delhi shall be the licensing office for grant of Duty Credit Scrip to all status holders under this para.
- (c) The following capital goods / equipments shall be permitted for import:
 - (i) Cold storage units (including Controlled Atmosphere (CA) and Modified Atmosphere (MA) Stores); Precooling Units and Mother Storage Units for Onions, etc.;
 - (ii) Pack Houses (including facilities for handling, grading, sorting and packaging etc.); for items notified in Appendix 37 F.
 - (iii) Reefer Van / Containers; and
 - (iv) Other Capital Goods / Equipment as may be notified in Appendix 37 F.
- (d) Imported capital goods/equipment shall be utilized for storage, packing etc. (as in (ii) above) and transportation of agricultural products (including agro-

processed perishable products).

- (e) This additional benefit shall be subject to actual user condition and hence non-transferable.
- (f) For import of Cold Chain Equipment this Scrip shall be freely transferable amongst Status Holders as well as to Units (the term 'Units' shall not include Developers) in the Food Parks.

3.14 FOCUS MARKET SCHEME (FMS)

3.14.1 Objective Objective of FMS is to offset high freight cost and other externalities to select international markets with a view to enhance India's export competitiveness in these markets.

3.14.2 Entitlement

- (a) Exporters of all products to countries notified in Table 1 and 2 of Appendix 37C of HBPv1 shall be entitled for Duty Credit Scrip equivalent to 3 % of FOB value of exports (in free foreign exchange) for exports made from 27.8.2009 onwards, unless a specific date of export/period is specified by a public notice/notification.
- (b) Export of products to countries notified in Table 3 of Appendix 37 C of HBP v1 will be entitled for additional Duty Credit Scrip @ 1% of FOB value of exports (in free foreign exchange) for export made with effect from 01.04.2011.

3.14.3 Ineligible Exports Categories / Sectors for FMS The following categories of export products / sectors shall be ineligible for Duty Credit Scrip, under FMS:

- (i) Supplies made to SEZ units;
- (ii) Service Exports;
- (iii) Diamonds and other precious, semi precious stones;
- (iv) Gold, silver, platinum and other precious metals in any form, including plain and studded Jewellery;
- (v) Ores and Concentrates, of all types and in all forms;
- (vi) Cereals, of all types;
- (vii) Sugar, of all types and in all forms;

- (viii) Crude / Petroleum Oil & Crude / Petroleum based Products covered under ITC HS codes 2709 to 2715, of all types and in all forms; and
- (ix) Export of Milk and Milk Products covered under ITC HS Codes 0401 to 0406, 1 9011 001, 1 9011 010, 2105 & 3501.

3.15 FOCUS PRODUCT SCHEME (FPS)

3.15.1 Objective Objective of FPS is to promote export of products which have high export intensity / employment potential, so as to offset infrastructural inefficiencies and other associated costs involved in marketing of these products.

3.15.2 Entitlement

- (a) Export of products (listed in Table 1 of Appendix 37D of HBPv1) to all countries (including SEZ units) shall be entitled for Duty Credit Scrip equivalent to 2 % or 5% of FOB value of exports (in free foreign exchange) for exports made from 27.8.2009 onwards, unless a specific date of export/period is specified by public notice/notification.
- (b) Certain Focus Product(s)/sector(s) listed in Appendix 37D shall be granted bonus benefit in the form of an additional Duty Credit Scrip equivalent to 2% of FOB value of exports (in free foreign exchange) over and above the existing rate for that product/sector from the admissible date of export/period specified in the public notice issued to notify the product/sector.

3.15.3 Market Linked Focus Products Scrip (MLFPS)

Export of Product/Sectors of high export intensity/employment potential (which are not covered under present FPS List) would be incentivized @ 2 % of FOB value of exports (in free foreign exchange) for exports made from 27.8.2009 onwards, unless a specific date of export/period is specified by public notice/notification, under FPS when exported to the Linked Markets (countries), which are not covered in the present FMS list. Such products are listed in Table 2 of Appendix 37D of HBPv1.

3.16 Status Holders Incentive Scrip (SHIS)

- 3.16.1** (a) Objective of SHIS is to promote investment in upgradation of technology.
- (b) Status Holders of sectors specified in Para 3.16.4 below, shall be entitled to a Duty Credit Scrip @1% of FOB value of exports made during 2009-10 ,2010-11,2011-12 and 2012-13.
- (c) Status Holders of additional sectors listed in Para 3.10.8 of HBPv1 2009-14 (RE-2010) shall also be eligible for this Status Holders Incentive Scrip on exports made during 2010-11, 2011-12 and 2012-13.
- (d) This shall be over and above any Duty Credit Scrip claimed/availed under this chapter.
- 3.16.2** Status Holders availing Technology Upgradation Fund Scheme (TUFS) benefits (administered by Ministry of Textiles) during a particular year shall not be eligible for Status Holders Incentive Scrip for exports of that year.
- 3.16.3** The Status Holders Incentive Scrip will be subject to actual user condition. However transferability will be permitted amongst status holders subject to the condition that the transferee status holder is a manufacturer. Status Holder Incentive Scrip shall be used for import of capital goods (as defined in FTP) relating to sectors specified in Para 3.16.4 below and para 3.10.8 of HBP. Only in respect of CG imported earlier, upto 10% value of the Duty Credit Scrip can be used for import of components, spares/parts of such CG.
- 3.16.4** Status Holders of the following Sectors shall be eligible for the Status Holders Incentive Scrip:
- (i) Leather Sector (excluding finished leather);
 - (ii) Textiles and Jute Sector;
 - (iii) Handicrafts;
 - (iv) Engineering Sector (excluding Iron & Steel,

Nonferrous Metals in primary or intermediate forms, Automobiles & two wheelers, nuclear reactors & parts and Ships, Boats and Floating Structures);

- (v) Plastics; and
- (vi) Basic Chemicals (excluding Pharma Products).

**3.17
Special
Provisions**

Common Provisions of Duty Credit Scrip, except where specifically provided for.

3.17.1

- (a) Government reserves the right in public interest, to specify export products or services or exports to such countries, which shall not be eligible for computation of entitlement.
- (b) Further Government reserves the right to impose / change the rate / ceiling on Duty Credit Scrip under this chapter.
- (c) Similarly, Government may also notify goods (in Appendix 37B of HBPv1), which shall not be allowed for import under Duty Credit Scrip.

3.17.2

**Ineligible
Exports
Categories/
Sectors**

For VKGUY, FMS, FPS (including MLFPS) and Status Holders Incentive Scrip, the following exports / categories/sectors shall be ineligible for Duty Credit Scrip entitlement:

- (i) EOUs / EHTPs / BTPs who are availing direct tax benefits / exemption;
- (ii) Export of imported goods covered under Para 2.35 of FTP;
- (iii) Exports through transshipment, meaning thereby that exports originating in third country but transshipped through India;
- (iv) Deemed Exports;
- (v) Exports made by SEZ units or SEZ products exported through DTA units; and

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

3.17.3 FOB Value of Exports (in free foreign exchange) shall include up to 12.5% Foreign Agency Commission for computation of Duty Credit Scrip Benefit.

Counting of Commission in FOB value of Exports (in free foreign exchange)

3.17.4 (a) Duty Credit Scrip (FPS including MLFPS, FMS and VKGUY) and items imported against it would be freely transferable.

Free Transferability

(b) Duty Credit Scrip under SFIS (Para 3.12) shall not be freely transferable.

(c) Status Holder Incentive Scrip shall not be transferable except as permitted under Para 3.16.3 above.

3.17.5 (a) Duty Credit Scrip may be used for import of inputs or goods including capital goods, provided same is freely importable and / or restricted under ITC (HS). However, import of items listed in Appendix 37B of HB Pv1 shall not be permitted to be debited.

Imports Allowed/ Domestic Procurement

(b) Duty Credit Scrip under Chapter 3 of FTP can also be utilized for payment of duty against imports under EPCG scheme, provided the item is importable against the Scrip.

(c) Duty Credit Scrip can also be utilised for payment of Excise Duty on domestic procurement of such items as permitted to be imported under respective scheme.

3.17.6 Additional customs duty/excise duty paid in cash or through debit under Duty Credit Scrip shall be adjusted as CENVAT Credit or Duty Drawback as per DoR rules, except under SFIS.

CENVAT / Drawback

- 3.17.7** Utilization of Duty Credit Scrip for imports from a port other than port of registration shall be allowed under Telegraphic Release Advice (TRA) facility as per DoR notification.
- TRA Facility**
- 3.17.8** Only one benefit under Chapter 3 schemes can be claimed by an exporter for a particular shipment.
- Exclusivity of Entitlement**
- 3.17.9** Duty Credit Scrip can be utilised for payment of duty in case of import of capital goods under lease financing in terms of provision in Para 2.25 of FTP.
- Import under Lease financing**
- 3.17.10** (a) Transfer of export performance from one to another shall not be permitted. Thus, a shipping bill containing name of applicant shall be counted in export performance / turnover of applicant only if export proceeds from overseas are realized in applicant's bank account and this shall be evidenced from BRC / FIRC.
- Transfer of Export Performance**
- (b) However, for VKGUY, FMS and FPS (including MLFPS), benefits can be claimed either by the supporting manufacturer (along with disclaimer from the company /firm who has realized the foreign exchange directly from overseas) or by the company / firm who has realized the foreign exchange directly from overseas.
- 3.17.11** Duty Credit Scrip can also be utilised / debited for payment of Custom Duties in case of EO defaults for Authorizations issued under Chapters 4 and 5 of this Policy. However, penalty / interest shall be required to be paid in cash.
- Facility of Payment of Customs Duties in case of E.O. defaults**

CHAPTER 4

DUTY EXEMPTION & REMISSION SCHEMES

- 4.1** **Duty Exemption and Remission Schemes**
- (a) Duty exemption schemes enable duty free import of inputs required for export production. Duty Exemption Schemes consist of:
- (i) Advance Authorisation; and
 - (ii) Duty Free Import Authorisation (DFIA).
- (b) Duty Remission Scheme enables post export replenishment / remission of duty on inputs used in export product. Duty remission schemes consist of:
- (i) Duty Entitlement Passbook (DEPB) Scheme (discontinued for exports made on or after 1.10.2011); and
 - (ii) Duty Drawback (DBK) Scheme.

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

Goods exported under Advance Authorisation / DFIA / DEPB may be re-imported in same or substantially same form subject to conditions as may be specified by DoR. The RA which has issued AA / DFIA /DEPB, should also be kept informed of such re-importation within one month of the re-importation.

4.1.2 **Value Addition**

Value addition (VA) for the purpose of this Chapter (Except for Gems and Jewellery Sector) shall be:-

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

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

B = CIF value of inputs covered by authorisation, plus value of any other input used on which benefit of DBK is claimed or intended to be claimed.

ADVANCE AUTHORISATION SCHEME

4.1.3.1 An Advance Authorisation is issued to allow duty free import of inputs, which are physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, energy, catalysts which are consumed / utilised to obtain export product, may also be allowed. DGFT, by means of Public Notice, may exclude any product(s) from the purview of Advance Authorisation.

Advance Authorisation

4.1.3.2 Mandatory spares which are required to be exported / supplied with the resultant product can be allowed duty free but upto 10% of CIF value of Authorisation.

4.1.3.3 Advance Authorisations are issued for inputs and export items given under SION. These can also be issued on the basis of Adhoc norms or self declared norms as per para 4.7 of HBP v1.

4.1.3.4 (a) Advance Authorisation can be issued either to a manufacturer exporter or a merchant exporter tied to supporting manufacturer(s). However, advance authorisation under paragraph 4.7A of HBP. v1 [for pharmaceutical products manufactured through Non-Infringing (NI) process] shall be issued to Manufacturer exporter only.

(b) Advance Authorisation shall be issued for:

- (i) Physical exports (including exports to SEZ); and/or
- (ii) Intermediate supplies; and/or
- (iii) Such supply of goods that are allowed in Chapter 8 of the FTP;

- (iv) Supply of 'stores' on board of foreign going vessel / aircraft subject to condition that there is specific SION in respect of item(s) supplied.

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

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

4.1.3.7 However, Advance Authorization for import of raw sugar can be issued either to a manufacturer exporter or merchant exporter tied to supporting manufacturer(s). Exports can also be made by procurement of white sugar from any other factory(ies). This provision shall be applicable for exports from 17.02.2009.

4.1.4 Advance Authorisations are exempted from payment of basic customs duty, additional customs duty, education cess, anti dumping duty and safeguard duty, if any. However, imports for supplies covered under paragraph 8.2 (h) & (i) will not be exempted from payment of applicable anti-dumping and safeguard duty, if any.

4.1.5 (a) Advance Authorisation and / or materials imported thereunder will be with actual user condition. It will not be transferable even after completion of export obligation. However, Authorisation holder will have option to dispose off product manufactured out of duty free inputs once export obligation is completed. In case where CENVAT credit facility on inputs have been availed for the exported goods, even after completion of export obligation, the goods imported against Advance Authorisation shall be utilized only in the manufacture of dutiable goods whether within the same factory or outside (by a supporting

manufacturer), for which the authorisation holder shall produce a certificate from either the jurisdictional Central Excise Superintendent or Chartered Accountant, at the option of the exporter, at the time of filing application for EODC to RA concerned.

(b) Further the manufacturing wastes / scrap, as allowed, can be disposed off with the payment of applicable duty even before fulfilment of export obligation.

4.1.6

Minimum Value Addition

(a) Advance Authorisation necessitates exports with a minimum value addition of 15%, except for items specified in Appendix 11B of HBP v1 and for items in Gems & Jewellery Sector, for which value addition would be as per paragraph 4A.2.1 of HBP v1. Exports to SEZ Units / supplies to Developers / Co-developers, irrespective of currency of realization, would also be covered.

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

(c) In case of Authorisation for import of Tea, minimum value addition under Advance Authorisation shall be 50%.

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

4.1.7

Validity

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

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

- 4.1.8**
Free of Cost Supply by Foreign Buyer
- Facility of Advance Authorisation shall also be available where some or all inputs are supplied free of cost to exporter by foreign buyer. In such cases, for calculation of value addition, notional value of free of cost inputs along with value of other duty-free inputs shall be taken into consideration.
- 4.1.9**
Export Obligation
- Period for fulfillment of export obligation under Advance Authorisation shall be as prescribed in HBP v1.
- 4.1.9 A**
Provision for BIFR units
- Any firm / company registered with BIFR or any firm / company acquiring a unit, which is under BIFR shall be allowed Export Obligation Period (EOP) extension as per rehabilitation package prepared subject to approval of BIFR or 5 years if not specified, without payment of composition fee. This facility will also be made available to SSI units as per rehabilitation scheme of concerned State government.
- 4.1.10**
Advance Authorisation for Annual Requirement
- (a) Advance Authorisation can also be issued for annual requirement. Imports are exempted from payment of basic customs duty, additional customs duty, education cess, anti-dumping duty and safeguard duty, if any.
- (b) Exporters having past export performance (in atleast preceding two years) shall be entitled for Advance Authorisation for annual requirement.
- (c) Entitlement in terms of CIF value of imports shall be upto 300% of the FOB value of physical export and / or FOR value of deemed export in preceding licensing year or Rs 1 crore, whichever is higher.
- 4.1.11**
Advance Release Orders (ARO) and
- (a) Holder of Advance Authorisation, Advance Authorisation for annual requirement and Duty Free Import Authorisation intending to source inputs from indigenous sources / State Trading Enterprises in lieu of direct import has option to source them either

Invalidation Letter

against Advance Release Order (ARO) or Invalidation letter denominated in free foreign exchange / Indian rupees. However, supplies may be obtained against Authorisation from EOU / EHTP / BTP / STP / SEZ units, without conversion into ARO or Invalidation letter.

- (b) Transferee of DFIA shall also be eligible for ARO / invalidation letter facility. Validity period of ARO shall be as prescribed in HBP v1.

4.1.12

Back-to-Back Inland Letter of Credit

Holder of Advance Authorisation, Advance Authorisation for Annual Requirement and DFIA may, instead of applying for an ARO or Invalidation letter, avail of the facility of Back-to-Back Inland Letter of Credit in accordance with procedure specified in HBP v1.

4.1.13

Importability /Exportability of items that are Prohibited / Restricted/ STE

- (a) No export or import of an item shall be allowed under Advance Authorisation / DFIA if the item is prohibited for exports or imports respectively.
- (b) Items reserved for imports by STEs cannot be imported against Advance Authorisation / DFIA. However those items can be procured from STEs against ARO or Invalidation letter. STEs are also allowed to sell goods on High Sea Sale basis to holders of Advance Authorisation / DFIA holder. STEs are also permitted to issue "No Objection Certificate (NOC)" for import by advance Authorisation / DFIA holder. Authorisation Holder would be required to file Quarterly Returns of imports effected against such NOC to concerned STE and STE would submit half-yearly import figures of such imports to concerned administrative Department for monitoring with a copy endorsed to DGFT.
- (c) Items reserved for exports by STEs can be exported under Advance Authorisation / DFIA only after obtaining a 'No Objection Certificate' from the concerned STE.

- (d) Import of restricted items shall be allowed under Advance Authorisation / DFIA.
- (e) Export of restricted / SCOMET items however, shall be subject to all conditionalities or requirements of export Authorisation or permission, as may be required, under Schedule 2 of ITC (HS).

4.1.14

Admissibility of Drawback

In case of an Advance Authorisation, drawback shall be available for any duty paid material, whether imported or indigenous, used in goods exported, as per drawback rate fixed by DoR, Ministry of Finance (Directorate of Drawback). Drawback shall however, be allowed only for such duty paid items which have been endorsed on Authorisation by RA.

DUTY FREE IMPORT AUTHORISATION (DFIA) SCHEME

4.2.1

Scheme

DFIA is issued to allow duty free import of inputs, fuel, oil, energy sources, catalyst which are required for production of export product. DGFT, by means of Public Notice, may exclude any product(s) from purview of DFIA.

4.2.2

Entitlement

- (a) Provisions of paragraph 4.1.3 shall be applicable in case of DFIA. However, these Authorisations shall be issued only for products for which Standard Input and Output Norms (SION) have been notified.
- (b) DFIA shall be issued in accordance with Policy and procedure in force on date of issue of Authorisation.
- (c) In case of post export DFIA, a merchant exporter shall be required to mention only name (s) and address(s) of manufacturer(s) of the export product(s). Applicant is required to file application to concerned RA before effecting exports under DFIA.

- (d) Pre-export Authorisation shall be issued with actual user condition and shall be exempted from payment of basic customs duty, additional customs duty / excise duty, education cess, anti-dumping duty and safeguard duty, if any.
- (e) In case of actual user DFIA and where CENVAT credit facility on inputs have been availed for the exported goods, even after completion of export obligation, the goods imported against such DFIA shall be utilized in the manufacture of dutiable goods whether within the same factory or outside (by a supporting manufacturer).

**4.2.3
Import items**

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

**4.2.4
Value Addition**

A minimum 20% value addition shall be required for issuance of DFIA. However, for items in gems and jewellery sector value addition as prescribed under paragraph 4A.2.1 of HBP v1. shall apply. Similarly, for items where a higher value addition has been prescribed under Advance Authorisation Scheme, the same value addition for DFIA shall be applied.

**4.2.5
Export
Obligation**

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

**4.2.6
Transferability**

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

- (b) Wherever SIONs prescribe actual user condition and in case of Acetic Anhydride, Ephedrine and Pseudo Ephedrine, DFIA shall be issued with actual user condition for these inputs and no transferability shall be allowed for these inputs even after fulfillment of export obligation.
- (c) After endorsement of transferability, imports / domestic procurement against authorisation or transfer of imported inputs / domestically procured inputs shall be subject to payment of applicable additional customs duty / excise duty. While endorsing transferability, authorisation would bear a note as to liability of such additional customs duty / excise duty. However, in case where CENVAT facility has not been availed, exemption from additional customs duty / excise duty would be available even after endorsement of transferability on DFIA.

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

DUTY ENTITLEMENT PASSBOOK (DEPB) SCHEME

4.3 Duty Entitlement Passbook Scheme (DEPB) Objective of DEPB is to neutralise incidence of customs duty on import content of export product. Component of customs duty on fuel (appearing as consumable in the SION) shall also be factored in DEPB rate. Component of Special Additional Duty shall also be allowed under DEPB (as brand rate) in case of non-availment of CENVAT credit. Neutralisation shall be provided by way of grant of duty credit against export product. The DEPB Scheme stands discontinued in respect of exports made on or after 1.10.2011.

- 4.3.1** (a) An exporter may apply for credit, at specified percentage of FOB value of exports, made in freely convertible currency. In case of supply by a DTA

unit to a SEZ unit / SEZ Developer/Co- developer, an exporter may apply for credit for exports made in freely convertible currency or payment made from foreign currency account of SEZ Unit/SEZ Developer/Co-Developer. In addition, the exporter shall also be entitled for DEPB benefit in case payment is made in Indian Rupees by SEZ Developer/Co-Developer for supplies received w.e.f 10.2.2006.

- (b) Credit shall be available against such export products and at such rates as may be specified by DGFT by way of Public Notice. Credit may be utilized for payment of Customs Duty on freely importable items and/or restricted items. DEPB Scrips can also be utilized for payment of duty against imports under EPCG Scheme. Further, DEPB Scrips can also be used / debited towards payment of Customs Duty in case of E.O. defaults for authorizations issued under Chapters 4 and 5 of this policy. However, penalty / interest shall be required to be paid in cash.
- (c) Prohibited items of exports mentioned in ITC(HS) Book (as amended from time to time) shall not be entitled for DEPB credit except for the exports effected under transitional facility, wherever allowed, in terms of paragraph 1.5 of FTP.

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

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

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

- (b) Imports from a port other than the port of export shall

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

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

Applicability of Drawback

GEMS AND JEWELLERY

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

Scheme for Gems and Jewellery

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

Replenishment Authorisation

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

4A.2 The authorised offices/agencies in India of Gemological Institute of America (GIA) or any other agency approved in this regard shall be permitted to import diamonds to their laboratories for the purpose of certification/grading reports by them with a condition that the same should be re-exported with the certification/grading reports issued by them without any import duty as per the procedure laid down in HBP v1.

Import of Diamonds for Certification / Grading & Re-export

4A.2.1 Following are authorized laboratories for certification/grading of diamonds of 0.25 carat and above:

Export of Cut & Polished Diamonds for Certification/ Grading & Re-import

- (i) Indian Diamond Institute, Surat, Gujarat;
- (ii) American Gem Society Laboratories (AGS Laboratories), 8917 West Sahara Avenue, Las Vegas, Nevada 89117;

- (iii) Central Gem Laboratory, Miyagi Building, 5-15-14 Ueno Taito-Ku, Tokyo, Japan;
- (iv) Diamond Trading Company, Maidenhead, UK;
- (v) European Gemological Laboratory (EGL), USA;
- (vi) Gemological Institute of America (GIA), USA;
- (vii) Hoge Road Voor Diamond, Antwerp, (HRD);
- (viii) International Diamond Laboratories DMCC, Dubai.
- (ix) The Robert Mouawad Campus, International Gemological Institute (IGI) USA; and
- (x) World Diamond Centre of Diamonds High Council, Antwerp, Belgium.

4A.2.2

An exporter (with annual export turnover of Rs 5 crores for each of the last three years) may export cut & polished diamonds (each of 0.25 carat or more) abroad to any of the above agencies/ laboratories with re-import facility at zero duty within 3 months from the date of export. Such facility of export and subsequent re-import at zero duty will be subject to guidelines issued by CBEC, Department of Revenue.

4A.3

Schemes for Gold/ Silver/ Platinum Jewellery

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.

4A.4

Nominated Agencies

- (a) Nominated agencies are MMTC Ltd, Handicraft and Handloom Export Corporation (HHEC), State Trading Corporation (STC), the Project and Equipment Corporation of India Ltd (PEC), STCL

Ltd, MSTC Ltd, Diamond India Limited (DIL), Gems & Jewellery Export Promotion Council (G&J EPC), Star Trading House (only for Gems & Jewellery sector) and Premier Trading House under Paragraph 3.10.2 of FTP and any other agency authorised by RBI. Exporters (except EOUs and units in SEZ) may obtain gold / silver / platinum from nominated agency(ies).

- (b) Procedure for import of precious metal by these agencies (other than those authorized by RBI and the Gems & Jewellery units operating under EOU and SEZ schemes) and the monitoring mechanism thereof shall be as per the provisions laid down in HBP v1 in this regard.
- (c) A bank authorised by RBI is allowed export of gold scrap for refining and import standard gold bars as per RBI guidelines.

4A.5

Following items, if exported, would be eligible for facilities:

Items of Export

- (a) Gold jewellery, including partly processed jewellery and articles including medallions and coins (excluding legal tender coins), whether plain or studded, containing gold of 8 carats and above;
- (b) Silver jewellery including partly processed jewellery, silverware, silver strips and articles including medallions and coins (excluding legal tender coins and any engineering goods) containing more than 50% silver by weight;
- (c) Platinum jewellery including partly processed jewellery and articles including medallions and coins (excluding legal tender coins and any engineering goods) containing more than 50% platinum by weight.

4A.6**Value Addition**

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

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

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

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

4A.7**Wastage Norms**

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

4A.8**Export against Supply by Foreign Buyer**

- (a) Where export orders are placed on nominated agencies / status holder / exporters of three years standing having an annual average turnover of Rs. Five Crores during preceding three licensing years, foreign buyer may supply in advance and free of charge, gold / silver / platinum, alloys, findings and mountings of gold / silver / platinum for manufacture and export.
- (b) Such supplies can also be in advance and may involve semi-finished jewellery including findings / mountings / components for repairs / re-make and export subject to minimum value addition as prescribed under para 4A.2.1 of HBP v1. In such cases of export, wastage norms as per para 4A.2 shall apply.

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

4A.9

Export Against Supply by Nominated Agencies

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

4A.10

Export Against Advance Authorisation

An Advance Authorisation may be granted for duty free import of:

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

4A.11

Such authorisations shall carry an export obligation to be fulfilled as per procedure specified in paragraph 4A.2.1 of HBP v1. Value addition shall be as per paragraph 4A.2.1 of the HBPv1. Advance Authorisation holder may obtain gold / silver / platinum from nominated agencies in lieu of direct import.

4A.12 Gem Replenishment Authorisation	Gem Replenishment (Gem & Jewellery REP) Authorisation may be issued as given in paragraph 4A.8, 4A.9 and 4A.10 above. In case of plain or studded gold / silver / platinum jewellery and articles, value of such Authorisations shall be determined with reference to realisation in excess of prescribed minimum VA. Such Gem REP Authorisations shall be freely transferable.
4A.13 Gem REP Rate and Item	Replenishment Rate and item of import will be as prescribed in Appendix 12B of HBP v1.
4A.14 Export Promotion Tours/ Export of Branded Jewellery	<p>(a) Nominated agencies and their associates, with approval of Department of Commerce, and others, with approval of Gem & Jewellery EPC (GJEPC), may export gold / silver / platinum jewellery and articles thereof for exhibitions abroad.</p> <p>(b) Personal carriage of gold / silver / platinum jewellery, precious, semi-precious stones, beads and articles and export of branded jewellery is also permitted, subject to conditions as in HBP v1.</p>
4A.15 Personal Carriage of Export / Import Parcels	Personal carriage of gems and jewellery export parcels by foreign bound passengers and import parcels by an Indian importer/foreign national may be permitted as in HBP v1.
4A.16 Export by Post	In case of exports through Foreign Post Office (including via Speed Post), the jewellery parcels shall not exceed 20 kg. by weight.
4A.17 Diamond & Jewellery Dollar Accounts	(a) Firms and companies dealing in purchase / sale of rough or cut and polished diamonds / precious metal jewellery plain, minakari and / or studded with / without diamond and / or other stones with a track record of at least two 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. 3 crore or above during preceding three licensing years may also carry out their business through designated Diamond Dollar Accounts (DDA).

- (b) Dollars in such accounts available from bank finance and / or export proceeds shall be used only for:
 - (i) Import / purchase of rough diamonds from overseas / local sources;
 - (ii) Purchase of cut and polished diamonds, coloured gemstones and plain gold jewellery from local sources;
 - (iii) Import / purchase of gold from overseas / nominated agencies and repayment of dollar loans from the bank; and
 - (iv) Transfer to Rupee Account of exporter. Details of this DDA Scheme are given in HBP v1.
- (c) A non DDA holder is also permitted to supply cut and polished diamonds to DDA holder, receive payment in dollars and convert same into Rupees within 7 days. Cut and polished diamonds and coloured gemstones so supplied by non-DDA holder will also be counted towards discharge of his export obligation and / or entitle him to replenishment Authorisation.

**4A.18
Export of cut &
polished
precious and
semi-precious
stones for
treatment and re-
import**

Gems and Jewellery exporters shall be allowed to export cut and polished precious and semi-precious stones for the treatment and re-import as per customs rules and regulations. In case of re-export, the exporter shall be entitled for duty drawback as per rules.

4A.19 Gems & Jewellery exporters shall be allowed to re-import
Re-import of rejected precious metal jewellery as per para 4A.32 of HBP
rejected jewellery v1.

4A.20 Gems & Jewellery exporters shall be allowed to export and
Export and import diamond, gemstones & jewellery on consignment
imports on basis as per HBP v1 and Customs rules and regulations.
consignment
basis

CHAPTER 5

EXPORT PROMOTION CAPITAL GOODS (EPCG) SCHEME

5.1

Zero Duty EPCG Scheme

- (a) Zero duty EPCG scheme allows import of capital goods for preproduction, production and post production (including CKD/SKD thereof as well as computer software systems) at zero Customs duty, subject to an export obligation equivalent to 6 times of duty saved on capital goods imported under EPCG scheme, to be fulfilled in 6 years reckoned from Authorization issue-date.
- (b) The scheme will be available for exporters of engineering & electronic products, basic chemicals & pharmaceuticals, apparels & textiles, plastics, handicrafts, chemicals & allied products, leather & leather products, paper & paperboard and articles thereof, ceramic products, refractories, glass & glassware, rubber & articles thereof, plywood and allied products, marine products, sports goods and toys.
- (c) However, zero duty EPCG Scheme shall not be available for import of capital goods relating to export of products covered under following chapters / headings of ITC(HS) classification:
 - (i) Chapters 1, 2, 4 to 24, 25 to 27, 31, 43, 44 (except plywood and allied products), 45, 47, 68, 71, 81 (metals in primary and intermediate forms only), 89, 93, 97, 98.
 - (ii) ITC(HS) 4011 to 4013, ITC(HS) 7401 to 7406, 7501 to 7504, 7601 to 7603, 7801,7802, 7901 to 7903, 8001, 8002 and 8401. However, zero duty EPCG Scheme will be available for handicraft exports under Chapters 5, 68, 97.

- (d) Zero duty scheme shall also not be available for units who are currently availing any benefits under Technology Upgradation Fund Scheme (TUFS) administered by Ministry of Textiles, Government of India.
- (e) Zero Duty Scheme shall also be available to such exporters who may have obtained benefit under TUFS
 - (i) but the exact line of business in TUFS (say cotton yarn) is different from the line of business under EPCG (say machinery for blast furnace); or
 - (ii) if the exporter refunds such benefits availed under TUFS with applicable interest, before availing EPCG.
- (f) Zero duty EPCG scheme shall not be available to exporters, who avail in that year, the benefit of Status Holder Incentive Scheme under Paragraph 3.16 of FTP. In case they have already availed SHIS benefit they would be eligible for Zero Duty Scheme if they surrender or refund SHIS on similar lines as given at (e) (ii) above.
- (g) All other provisions pertaining to concessional 3% duty EPCG scheme under this Chapter, to the extent they are not inconsistent with the above provisions of zero duty EPCG scheme, shall be applicable to the zero duty EPCG scheme also.
- (h) The zero duty EPCG scheme shall be in operation till 31.3.2013, unless decided otherwise.

5.2

Concessional 3% Duty EPCG Scheme

- (a) Import of capital goods for pre-production, production and post production (including CKD/SKD thereof as well as computer software systems) are allowed under this Scheme subject to payment of 3% Basic Customs Duty (BCD). Export obligation (EO) shall be 8 times of duty saved amount (i.e. difference between duty payable and 3% BCD). The Export Obligation Period (EOP) shall be 8 years reckoned from

Authorization issue-date.

- (b) EO of 6 times of duty saved and EOP of 12 years is applicable to:
 - (i) agro units, and
 - (ii) units in cottage or tiny sector.
- (c) EO of 6 times of duty saved and EOP of 8 years is applicable to those SSI units whose total investment in plant and machinery does not exceed SSI limit and landed CIF value is upto Rs. 50 lakhs.
- (d) In case of EPCG Authorization with a duty saved amount of Rs. 100 crores or more, EOP shall be 12 years.
- (e) In case countervailing duty (CVD) is paid in cash on imports under EPCG, incidence of CVD would not be taken for computation of net duty saved, provided the same is not CENVATed.
- (f) Capital Goods shall include spares (including refurbished/reconditioned spares), tools, jigs, fixtures, dies and moulds.
- (g) Second hand capital goods, without any restriction on age, may also be imported under EPCG scheme.
- (h) Import of motor cars, sports utility vehicles/all purpose vehicles shall be allowed only to hotels, travel agents, tour operators or tour transport operators and companies owning/operating golf resorts, subject to the condition that:
 - (i) Total foreign exchange earning from hotel, travel & tourism and golf tourism sectors in current and preceding three licensing years is Rs. 1.5 crores or more.
 - (ii) 'Duty saved' amount on all EPCG Authorizations issued in a licensing year for import of motor cars, sports utility vehicles/ all

purpose vehicles shall not exceed 50% of average foreign exchange earnings from hotel, travel & tourism and golf tourism sectors in preceding three licensing years.

(iii) Vehicles imported shall be so registered that the vehicle is used for tourist purpose only. A copy of the Registration certificate should be submitted to concerned RA as confirmation of import of vehicle. However, parts of motor cars, sports utility vehicles/all purpose vehicles such as chassis etc. cannot be imported under the EPCG Scheme.

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

5.2 A

(a) Spares (including refurbished/reconditioned spares), moulds, dies, jigs, fixtures, tools, refractory for initial lining and catalyst for initial charge as well as catalyst for subsequent charge upto a maximum 2 times during Export Obligation Period (EOP); for existing plant and machinery (imported earlier, under EPCG or otherwise), shall be allowed to be imported under the EPCG scheme subject to an export obligation equivalent to 50% of the export obligation prescribed in para 5.1 and 5.2 above (for import of capital goods), to be fulfilled in 8 years (6 years for zero duty EPCG), reckoned from Authorization issue date. This would however be subject to the condition that the c.i.f. value of import of the above spares etc. will be limited to 10% of the value of plant and machinery imported under the EPCG scheme. In case of plant and machinery not imported under the EPCG scheme, c.i.f. value of import of the spares etc. will be limited to 10% of the book value of the plant and machinery.

(b) Provision of this para will not be applicable for import of spares in respect of capital goods sourced indigenously.

- 5.2B**
EPCG for Projects
- (a) Import of capital goods under Scheme for Project Imports notified by the Central Board of Excise and Customs under S. No. 441 of Customs exemption Notification No. 21/2002 dated 01.03.2002 can also avail EPCG Authorization.
- (b) Export obligation for such EPCG Authorizations would be eight times (6 times for zero duty EPCG scheme) of duty saved. Duty saved would be difference between the effective duty under aforesaid Customs Notification and concessional duty under the EPCG Scheme.
- 5.2C**
EPCG for Retail Sector
- To create modern infrastructure in retail sector, concessional duty benefits under EPCG scheme shall be extended for import of capital goods required by retailers having minimum area of 1000 sq. meters. Such retailer shall fulfill export obligation i.e. 8 times of duty saved, in 8 years.
- 5.2 D**
EPCG Authorization for Annual Requirement
- Status Holders, exporters having past export performance (in preceding two years) can also avail EPCG Authorization for Annual Requirement, both under zero duty and 3% duty schemes. The annual entitlement in terms of duty saved amount shall be upto 50% of FOB value of Physical Export and / or FOR value of Deemed Export, in preceding licensing year.
- 5.3**
Eligibility
- (a) EPCG scheme covers manufacturer exporters with or without supporting manufacturer(s)/ vendor(s), merchant exporters tied to supporting manufacturer(s) and service providers.
- (b) Export Promotion Capital Goods (EPCG) Scheme also covers a service provider who is designated / certified as a Common Service Provider (CSP) by the DGFT, Department of Commerce or State Industrial Infrastructural Corporation in a Town of Export Excellence subject to provisions of Foreign Trade Policy/Handbook of Procedures with the following conditions:-

- (i) Exports by Users of the common service, to be counted towards fulfillment of EO of the CSP shall (i) contain the EPCG Authorization details of the CSP in the respective Shipping bills and (ii) concerned RA must be informed about the details of the Users prior to such export;
- (ii) Such exports will not count towards fulfillment of other specific export obligations; and
- (iii) Bank Guarantee (BG) shall not exceed the duty saved. BG can be given by CSP or by any one of the users or a combination thereof, at the option of the CSP.

**5.4
Conditions for
import of Capital
Goods**

Import of capital goods shall be subject to Actual User condition till export obligation is completed.

5.5

Following conditions shall apply to the fulfillment of the EO:-

**Export
Obligation (EO)**

- (a) EO shall be fulfilled by export of goods manufactured / services rendered by the applicant.
- (b) EO under the scheme shall be, over and above, the average level of exports achieved by him in the preceding three licensing years for the same and similar products within the overall EO period including extended period, if any; except for categories mentioned in paragraph 5.7.6 of HBP Vol. I. Such average would be the arithmetic mean of export performance in the last three years for the same and similar products provided that Premier Trading House (PTH) shall have option of fixing average level of exports based on arithmetic mean of export performance in the last five years instead of three years.
- (c) Upto 50% EO 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 authorization. However, EPCG authorizations issued prior to 01.04.2008 will be governed by earlier policy provisions.

- (d) However, in such cases, additional export obligation imposed shall be over and above 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), despite exemptions in Para 5.7.6 of HBP v1.
- (e) Shipments under Advance Authorization, DFRC, DFIA, or Drawback scheme, or incentive schemes under Chapter 3 of FTP; would also count for fulfillment of EPCG EO.
- (f) EO can also be fulfilled by the supply of ITA-I items to DTA, provided realization is in free foreign exchange.
- (g) Exports shall be physical exports. However, deemed exports as specified in paragraph 8.2 (a), (b), (d), (f), (g) & (j) of FTP shall also be counted towards fulfillment of export obligation, alongwith usual benefits available under paragraph 8.3 of FTP.
- (h) Royalty payments received in freely convertible currency and foreign exchange received for R&D services shall also be counted for discharge under EPCG. Payment received in rupee terms for port handling services, in terms of Chapter 9 of FTP shall also be counted for EO discharge.

5.5.1

Provision for BIFR units

- (a) Any firm/ company registered with BIFR or any firm/ company acquiring a unit, which is under BIFR, may be allowed EO extension, as per rehabilitation package prepared by operating agency and approved by BIFR / Rehabilitation Department of State Government, upto 12 years if not specified.
- (b) Above provisions apply also to SSI units as per rehabilitation scheme of concerned State government.

- 5.5.2**
EPCG for Agro units
- LUT/Bond or 15% BG (as applicable) may be given for EPCG Authorization granted to units in Agri Export Zones provided EPCG Authorization is taken for export of primary agricultural product(s) notified in Appendix 8 or their value added variants.
- 5.6**
Indigenous Sourcing of Capital Goods and benefits to Domestic Supplier
- A person holding an EPCG Authorization may source capital goods from a domestic manufacturer. Such domestic manufacturer shall be eligible for deemed export benefit under paragraph 8.3 of FTP. Such domestic sourcing shall also be permitted from EOUs and these supplies shall be counted for purpose of fulfillment of positive NFE by said EOU as provided in Para 6.9 (a) of FTP.
- 5.7**
Fixation of Export Obligation (EO)
- In case of direct imports, EO shall be reckoned with reference to actual duty saved amount. In case of domestic sourcing, EO shall be reckoned with reference to notional Customs duties saved on FOR value.
- 5.8**
Technological Upgradation of existing EPCG machinery
- EPCG Authorization holders can opt for 'Technological Upgradation' of existing capital good imported under EPCG Authorization(s). Conditions governing are as under:
- (a) Minimum time period for applying for 'Technological Upgradation' is 5 years from earlier EPCG Authorization issue-date.
 - (b) Minimum exports made must be 40% of total export obligation imposed on earlier EPCG Authorization(s).
 - (c) EO would be re-fixed such that
 - (i) total EO shall be sum total of 6 times of duty saved of earlier EPCG and the new one, and
 - (ii) EOP is 8 years from EPCG authorization issue-date under this Para.
 - (d) Facility for technological up-gradation shall be available only once and the minimum imports to be made shall be at least 10% of the existing investment

in plant and machinery by applicant.

- (e) Capital Goods to be imported must be new and technologically superior to earlier CG (to be certified by Chartered Engineer).

5.9

Incentive for Fast Track Companies

To incentivize fast track companies with a view to accelerate exports, in cases where Authorization holder has fulfilled 75% or more of specific export obligation and 100% of Average Export Obligation till date, if any, in half or less than half the original export obligation period specified, remaining export obligation shall be condoned and the Authorization redeemed by RA concerned. However no benefits under Para 5.12 of HBP v1 shall be available in such cases.

5.10

EPCG for Green Technology Products - reduced EO

For exporters of Green Technology Products, Specific EO shall be 75% of EO as stipulated in Para 5.1 or Para 5.2, as applicable. There shall be no change in average EO as stipulated in Para 5.5, if any. The list of Green Technology Products is given in Para 5.24 of HBP v1.

5.11

Post Export EPCG Duty Credit Scrip(s)

- (a) EPCG Duty Remission Scheme shall be available to exporters who intend to import / procure capital goods on full payment of applicable duties and choose to opt for this scheme.
- (b) Duty paid on Capital Goods (excluding portion CENVATed / Rebated) shall be remitted in the form of freely transferable duty credit scrip(s).
- (c) Specific EO under this Scheme shall be 85% of the applicable specific EO, if the imports of such Capital Goods had taken benefit of duty exemption. Average EO continues to remain unchanged.
- (d) Duty remission shall be in proportion to the EO fulfilled.
- (e) These Duty Credit Scrip(s) can be used for payment of applicable custom duties for imports and applicable

excise duties for domestic procurement.

- (f) All provisions of the existing EPCG Scheme shall apply insofar as they are not inconsistent with this scheme.

5.12

**Reduced EO for
North East
Region**

For units located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura, Specific EO shall be 25% of the EO, as stipulated in Para 5.1 or Para 5.2, as applicable. There shall be no change in average EO as stipulated in Para 5.5, if any.

CHAPTER 6

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

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

clients. Import of capital goods will be on a self certification basis. Goods imported by a unit shall be with actual user condition and shall be utilized for export production.

- (c) State Trading regime shall not apply to EOU manufacturing units. However, in respect of Chrome Ore / Chrome concentrate, State Trading Regime as stipulated in export policy of these items, will be applicable to EOUs.
- (d) EOU / EHTP / STP / BTP units may import / procure from DTA, without payment of duty, certain specified goods for creating a central facility. Software EOU / DTA units may use such facility for export of software.
- (e) An EOU engaged in agriculture, animal husbandry, aquaculture, floriculture, horticulture, pisciculture, viticulture, poultry or sericulture may be permitted to remove specified goods in connection with its activities for use outside bonded area.
- (f) Gems and jewellery EOUs may source gold / silver / platinum through nominated agencies on loan / outright purchase basis. Units obtaining gold / silver / platinum from nominated agencies, either on loan basis or outright purchase basis shall export gold / silver / platinum within 90 days from date of release.
- (g) EOU / EHTP / STP / BTP units, other than service units, may export to Russian Federation in Indian Rupees against repayment of State Credit / Escrow Rupee Account of buyer subject to RBI clearance, if any.
- (h) Procurement and export of spares / components, upto 5% of FOB value of exports, may be allowed to same consignee / buyer of the export article, subject to the condition that it shall not count for NFE and direct tax benefits

- (i) BoA may allow, on a case to case basis, requests of EOU / EHTP / STP / BTP units in sectors other than Gems & Jewellery, for consolidation of goods related to manufactured articles and export thereof along with manufactured article. Such goods may be allowed to be imported / procured from DTA by EOU without payment of duty, to the extent of 5% FOB value of such manufactured articles exported by the unit in preceding financial year. Details of procured / imported goods and articles manufactured by the EOU will be listed separately in the export documents. In such cases, value of procured / imported goods will not be taken into account for calculation of NFE, DTA sale entitlement & profits accruing out of such procured / imported goods will not be eligible for income tax benefits. Such procured / imported goods shall not be allowed to be sold in DTA. BoA may also specify any other conditions.

**6.3
Second Hand
Capital Goods**

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

**6.4
Leasing of
Capital Goods**

- (a) An EOU / EHTP / STP / BTP unit may, on the basis of a firm contract between parties, source capital goods from a domestic / foreign leasing company without payment of customs / excise duty. In such a case, EOU / EHTP / STP / BTP unit and domestic / foreign leasing company shall jointly file documents to enable import / procurement of capital goods without payment of duty.
- (b) An EOU / EHTP / BTP / STP unit may sell capital goods and lease back the same from a Non Banking Financial Company (NBFC), subject to the following conditions:
 - (i) The unit should obtain permission from the jurisdictional Deputy / Assistant Commissioner of Customs or Central Excise, for entering into

transaction of 'Sale and Lease Back of Assets', and submit full details of the goods to be sold and leased back and the details of NBFC;

- (ii) The goods sold and leased back shall not be removed from the unit's premises;
- (iii) The unit should be NFE positive at the time when it enters into sale and lease back transaction with NBFC;
- (iv) A joint undertaking by the unit and NBFC should be given to pay duty on goods in case of violation or contravention of any provision of the notification under which these goods were imported or procured, read with Customs Act, 1962 or Central Excise Act, 1944, and that the lien on the goods shall remain with the Customs / Central Excise Department, which will have first charge over the said goods for recovery of sum due from the unit to Government under provision of Section 142(b) of the Customs Act, 1962 read with the Customs (Attachment of Property of Defaulters for Recovery of Govt. Dues) Rules, 1995.

6.5

Net Foreign Exchange Earnings

EOU / EHTP / STP / BTP unit shall be a positive net foreign exchange earner except for sector specific provision of Appendix 14-I-C of HBP v 1, where a higher value addition shall be required. NFE Earnings shall be calculated cumulatively in blocks of five years, starting from commencement of production. Whenever a unit is unable to export due to prohibition / restriction imposed on export of any product mentioned in LoP, the five year block period for calculation of NFE earnings may be suitably extended by BoA. BoA may also consider extension of block period by another one year, for calculation of NFE, on case to case basis, for those units which complete 5 years block period in between 30.09.2008 and 30.09.2009, keeping in view the decline in exports in that particular unit, due to economic slow down only.

6.6.1

Letter of Permission / Letter of Intent and Legal Undertaking

- (a) On approval, a Letter of Permission (LoP) / Letter of Intent (LoI) shall be issued by DC / designated officer to EOU / EHTP / STP / BTP unit. LoP / LoI shall have an initial validity of 3 years, by which time unit should have commenced production. Its validity may be extended further up to 3 years by competent authority. However, proposals for extension beyond six years shall be considered in exceptional circumstances, on a case-to-case basis by BoA. Once unit commences production, LoP / LoI issued shall be valid for a period of 5 years for its activities. This period may be extended further by DC for a period of 5 years at a time.
- (b) LoP / LoI issued to EOU / EHTP / STP / BTP units by concerned authority, subject to compliance of provision in para 6.2 above, would be construed as an Authorisation for all purposes.
- (c) Unit shall execute an LUT with DC concerned. Failure to ensure positive NFE or to abide by any of the terms and conditions of LoP / LoI / IL / LUT shall render the unit liable to penal action under provisions of the FT (D&R) Act and Rules and Orders made thereunder, without prejudice to action under any other law / rules and cancellation or revocation of LoP / LoI / IL.

6.6.2

Investment Criteria

Only projects having a minimum investment of Rs. 1 Crore in plant & machinery shall be considered for establishment as EOUs. However, this shall not apply to existing units and units in EHTP / STP / BTP, Handicrafts / Agriculture / Floriculture / Aquaculture / Animal Husbandry / Information Technology, Services, Brass Hardware and Handmade jewellery sectors. BoA may also allow establishment of EOUs with a lower investment criteria.

6.7**Application & Approvals**

- (a) Applications for setting up of units under EOU scheme, other than proposals for setting up of units in services sector (except R&D, software and IT enabled services, or any other service activity as may be delegated by BoA), shall be approved or rejected by the Units Approval Committee within 15 days as per criteria indicated in HBP v1.
- (b) In other cases, approval may be granted by BoA set up for this purpose as indicated in HBP v1.
- (c) Proposals for setting up EOU requiring industrial licence may be granted approval by DC after clearance of proposal by BoA and DIPP within 45 days.
- (d) Applications for conversion into an EOU / EHTP / STP / BTP unit from existing DTA units, having an investment of Rs. 50 crores and above in plant and machinery or exporting Rs. 50 crores and above annually, shall be placed before BoA for a decision.

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

Entire production of EOU / EHTP / STP / BTP units shall be exported subject to 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 entitlement of DTA sale, unit may sell in DTA, its products similar to goods which are exported or expected to be exported from units. However, units which are manufacturing and exporting more than one product can sell any of these products into DTA, upto 90% of FOB value of export of the specific products, subject to the condition that total DTA sale does not exceed the overall entitlement of 50% of FOB value of exports for the unit, as stipulated above. No DTA sale at concessional duty shall be permissible in respect of motor cars, alcoholic liquors, books, tea (except instant tea), pepper & pepper products, marble and such other items as may be notified from time to time.

Such DTA sale shall also not be permissible to units engaged in activities of packaging / labeling / segregation / refrigeration / compacting / micronisation / pulverization / granulation / conversion of monohydrate form of chemical to anhydrous form or vice-versa. Sales made to a unit in SEZ shall also be taken into account for purpose of arriving at FOB value of export by EOU provided payment for such sales are made from Foreign Exchange Account of SEZ unit. Sale to DTA would also be subject to mandatory requirement of registration of pharmaceutical products (including bulk drugs). An amount equal to Anti Dumping duty under section 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.

- (b) For services, including software units, sale in DTA in any mode, including on line data communication, shall also be permissible up to 50% of FOB value of exports and /or 50% of foreign exchange earned, where payment of such services is received in foreign exchange.
- (c) Gems and jewellery units may sell upto 10% of FOB value of exports of the preceding year in DTA, subject to fulfillment of positive NFE. In respect of sale of plain jewellery, recipient shall pay concessional rate of duty as applicable to sale from nominated agencies. In respect of studded jewellery, duty shall be payable as applicable.
- (d) Unless specifically prohibited in LoP, rejects within an overall limit of 50% may be sold in DTA on payment of duties as applicable to sale under sub-para 6.8(a) on prior intimation to Customs authorities. Such sales shall be counted against DTA sale entitlement. Sale of rejects upto 5% of FOB value of exports shall not be subject to achievement of NFE.

- (e) Scrap / waste / remnants arising out of production process or in connection therewith may be sold in DTA, as per SION notified under Duty Exemption Scheme, on payment of concessional duties as applicable, within overall ceiling of 50% of FOB value of exports. Such sales of scrap / waste / remnants shall not be subject to achievement of positive NFE. In respect of items not covered by norms, DC may fix ad-hoc norms for a period of six months and within this period, norms should be fixed by Norms Committee. Ad-hoc norms will continue till such time norms are fixed by Norms Committee. Sale of waste / scrap / remnants by units not entitled to DTA sale, or sales beyond DTA sale entitlement, shall be on payment of full duties. Scrap / waste / remnants may also be exported.
- (f) There shall be no duties / taxes on scrap / waste / remnants, in case same are destroyed with permission of Customs authorities.
- (g) By-products included in LoP may also be sold in DTA subject to achievement of positive NFE, on payment of applicable duties, within the overall entitlement of sub-para 6.8(a). Sale of by-products by units not entitled to DTA sales, or beyond entitlements of sub-para 6.8 (a), shall also be permissible on payment of full duties.
- (h) EOU / EHTP / STP / BTP units may sell finished products, except pepper and pepper products and marble, which are freely importable under FTP in DTA, under intimation to DC, against payment of full duties, provided they have achieved positive NFE. An amount equal to Anti Dumping duty under section 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.

- (i) In case of units manufacturing electronics hardware and software, NFE and DTA sale entitlement shall be reckoned separately for hardware and software.
- (j) In case of DTA sale of goods manufactured by EOU / EHTP / STP / BTP, where basic duty and CVD is nil, such goods may be considered as non-excisable for payment of duty.
- (k) In case of new EOUs, advance DTA sale will be allowed not exceeding 50% of its estimated exports for first year, except pharmaceutical units where this will be based on its estimated exports for first two years.
- (l) Units in Textile and Granite sectors shall have an option to sell goods into DTA in terms of sub- paras 6.8 (a), (d), (e), (g) and (k) above, on payment of an amount equal to aggregate of duties of excise leviable under section 3 of the Central Excise Act, 1944 or under any other law for the time being in force, on like goods produced or manufactured in India other than in an EOU, subject to the condition that they have not used duty paid imported inputs in excess of 3% of the FOB value of exports of the preceding year and they have achieved positive NFE. Once this option is exercised, the unit will not be allowed to import any duty free inputs for any purpose.

6.9

Other Supplies

Following supplies effected from EOU/EHTP/STP/BTP units will be counted for fulfillment of positive NFE. Such supplies shall not include “marble”, except if such supply of marble is an inter unit supply as provided at paragraph (c) below:

- (a) Supplies effected in DTA to holders of Advance Authorisation / Advance Authorisation for annual requirement / DFIA under duty exemption / remission scheme / EPCG scheme. However, printing sector EOUs (or any other sector that may be notified in HBP v 1), can not supply goods, where basic customs duty and CVD is nil or exempted otherwise, to holders of Advance Authorisation / Advance Authorization for annual requirement.

- (b) Supplies effected in DTA against foreign exchange remittance received from overseas.
- (c) Supplies to other EOU / EHTP / STP / BTP / SEZ units, provided that such goods are permissible for procurement in terms of para 6.2 of FTP.
- (d) Supplies made to bonded warehouses set up under FTP and / or under section 65 of Customs Act and free trade and warehousing zones, where payment is received in foreign exchange.
- (e) Supplies of goods and services to such organizations which are entitled for duty free import of such items in terms of general exemption notification issued by MoF, as may be provided in HBP v1.
- (f) Supplies of Information Technology Agreement (ITA - 1) items and notified zero duty telecom / electronics items.
- (g) Supplies of items like tags, labels, printed bags, stickers, belts, buttons or hangers to DTA unit for export.
- (h) Supply of LPG produced in an EOU refinery to Public Sector domestic oil companies for being supplied to household domestic consumers at subsidized prices under the Public Distribution System (PDS) Kerosene and Domestic LPG Subsidy Scheme, 2002, as notified by the Ministry of Petroleum and Natural Gas vide notification No. E-20029/18/2001-PP dated 28.01.2003 (hereinafter referred to as PDS Scheme) subject to the following conditions:-
 - (i) Only supply of such quantity of LPG would be eligible for which Ministry of Petroleum and Natural Gas declines permission for export and requires the LPG to be cleared in DTA; and

- (ii) The Ministry of Finance by a notification has permitted duty free imports of LPG for supply under the aforesaid PDS Scheme.

6.10
Export through others

An EOU / EHTP / STP / BTP unit may export goods manufactured / software developed by it through another exporter or any other EOU / EHTP / STP / SEZ unit subject to conditions mentioned in para 6.18 of HBP v1.

6.11
Entitlement for supplies from the DTA

(a) Supplies from DTA to EOU / EHTP / STP / BTP units will be regarded as “deemed exports” and DTA supplier shall be eligible for relevant entitlements under chapter 8 of FTP, besides discharge of export obligation, if any, on the supplier. Notwithstanding the above, EOU / EHTP / STP / BTP units shall, on production of a suitable disclaimer from DTA supplier, be eligible for obtaining entitlements specified in chapter 8 of FTP. For claiming deemed export duty drawback, they shall get brand rates fixed by DC wherever All Industry Rates of Drawback are not available.

(b) Suppliers of precious and semi-precious stones, synthetic stones and processed pearls from DTA to EOU shall be eligible for grant of Replenishment Authorisations at rates and for items mentioned in HBP v1.

(c) In addition, EOU / EHTP / STP / BTP units shall be entitled to following:-

(i) Reimbursement of Central Sales Tax (CST) on goods manufactured in India. Simple interest @ 6% per annum will be payable on delay in refund of CST, if the case is not settled within 30 days of receipt of complete application (as in paragraph 9.10.1 of HBP v1).

(ii) Exemption from payment of Central Excise Duty on goods procured from DTA on goods manufactured in India.

- (iii) Reimbursement of duty paid on fuel procured from domestic oil companies / Depots of domestic oil Public Sector Undertakings as per drawback rate notified by DGFT from time to time. Reimbursement of additional duty of excise levied on fuel under the Finance Acts would also be admissible.
- (iv) CENVAT Credit on service tax paid.

6.12 Other entitlements of EOU / EHTP / STP / BTP units are as under:

Other Entitlements

- (a) Exemption from Income Tax as per Section 10A and 10B of Income Tax Act.
- (b) Exemption from industrial licensing for manufacture of items reserved for SSI sector.
- (c) Export proceeds will be realized within 12 months.
- (d) Units will be allowed to retain 100% of its export earning in the EEFC account.
- (e) Unit will not be required to furnish bank guarantee at the time of import or going for job work in DTA, where unit has
 - (i) a turnover of Rs. 5 crores or above;
 - (ii) unit is in existence for at least three years; and
 - (iii) The unit:
 - a) has achieved positive NFE / export obligation wherever applicable;
 - b) has not been issued a show cause notice or a confirmed demand, during the preceding 3 years, on grounds other than procedural

violations, under the penal provision of the Customs Act, the Central Excise Act, the Foreign Trade (Development & Regulation) Act, the Foreign Exchange Management Act, the Finance Act, 1994 covering Service Tax or any allied Acts or the rules made thereunder, on account of fraud / collusion / willful mis-statement / suppression of facts or contravention of any of the provisions thereof;

- (f) 100% FDI investment permitted through automatic route similar to SEZ units.
- (g) Units shall pay duty on the goods produced or manufactured and cleared into DTA on monthly basis in the manner prescribed in the Central Excise Rules.

6.13

Inter Unit Transfer

- (a) Transfer of manufactured goods from one EOU / EHTP / STP / BTP unit to another EOU / EHTP / STP / BTP unit is allowed with prior intimation to concerned DC and Customs authorities, following procedure of in-bond movement of goods. Transfer of manufactured goods shall also be allowed from EOU / EHTP / STP / BTP unit to a SEZ developer or unit following procedure prescribed in SEZ Rules, 2006.
- (b) Capital goods may be transferred or given on loan to other EOU / EHTP / STP / BTP / SEZ units, with prior intimation to concerned DC and Customs authorities.
- (c) Goods supplied by one unit of EOU / EHTP / STP / BTP to another unit shall be treated as imported goods for second unit for payment of duty, on DTA sale by second unit.

6.14

**Sub-
Contracting**

(a) (i) EOU / EHTP / STP / BTP units, including gems and jewellery units, may on the basis of annual permission from Customs authorities, subcontract production processes to DTA through job work which may also involve change of form or nature of goods, through job work by units in DTA.

(ii) These units may subcontract upto 50% of overall production of previous year in value terms in DTA with permission of Customs authorities.

(b) (i) EOU may, with annual permission from Customs authorities, undertake job work for export, on behalf of DTA exporter, provided that goods are exported directly from EOU and export document shall jointly be in name of DTA / EOU. For such exports, DTA units will be entitled for refund of duty paid on inputs by way of brand rate of duty drawback.

(ii) Duty free import of goods for execution of export order placed on EOU by foreign supplier on jobwork basis, would be allowed subject to condition that no DTA clearance shall be allowed.

(iii) Subcontracting of both production and production processes may also be undertaken without any limit through other EOU / EHTP / STP / BTP / SEZ units, on the basis of records maintained in unit.

(iv) EOU / EHTP / STP / BTP units may subcontract part of production process abroad and send intermediate products abroad as mentioned in LoP. No permission would be required when goods are sought to be exported from subcontractor premises abroad. When goods are sought to be brought back, prior intimation to concerned DC and Customs authorities shall be given.

(c) Scrap / waste / remnants generated through job work may either be cleared from job worker's premises on

payment of applicable duty on transaction value or destroyed in presence of Customs / Central Excise authorities or returned to unit. Destruction shall not apply to gold, silver, platinum, diamond, precious and semi precious stones.

- (d) Sub-contracting / exchange by gems and jewellery EOUs through other EOUs or SEZ units or units in DTA, shall be as per procedure indicated in HBP v1.

6.15

Sale of Unutilized Material

- (a) In case an EOU / EHTP / STP / BTP unit is unable to utilize goods and services, imported or procured from DTA, it may be
 - (i) transferred to another EOU / EHTP / STP / BTP / SEZ unit; or
 - (ii) disposed off in DTA with approval of Customs authorities on payment of applicable duties and submission of import authorization; or
 - (iii) exported. Such transfer from EOU / EHTP / STP / BTP unit to another such unit would be treated as import for receiving unit.
- (b) Capital goods and spares that have become obsolete / surplus, may either be exported, transferred to another EOU / EHTP / STP / BTP / SEZ unit or disposed off in DTA on payment of applicable duties. Benefit of depreciation, as applicable, will be available in case of disposal in DTA only when the unit has achieved positive NFE taking into consideration the depreciation allowed. No duty shall be payable in case capital goods, raw material, consumables, spares, goods manufactured, processed or packaged, and scrap / waste / remnants / rejects are destroyed within unit after intimation to Customs authorities or destroyed outside unit with permission of Customs authorities. Destruction as stated above shall not apply to gold, silver, platinum, diamond, precious and semi precious

stones.

- (c) In case of textile sector, disposal of left over material / fabrics upto 2% of cif value or quantity of import, whichever is lower, on payment of duty on transaction value, may be allowed, subject to certification of Central Excise / Customs officers that these are leftover items.
- (d) Disposal of used packing material will be allowed on payment of duty on transaction value.

6.16

Reconditioning / Repair and Re-engineering

EOU / EHTP / STP / BTP units may be set up with approval of BoA to carry out reconditioning, repair, remaking, testing, calibration, quality improvement, up-gradation of technology and re-engineering activities for export in foreign currency. Provisions of paragraphs 6.8, 6.9, 6.10, 6.13, 6.14 of FTP and para 6.28 of HBP v1 shall not, however, apply to such activities.

6.17

Replacement / Repair of imported / Indigenous Goods

- (a) General provisions of FTP relating to export / import of replacement / repair of goods would also apply equally to EOU / EHTP / STP / BTP units. Cases not covered by these provisions shall be considered on merits by DC.
- (b) Goods sold in DTA and not accepted for any reasons, may be brought back for repair / replacement, under intimation to concerned jurisdictional Customs / Central Excise authorities.
- (c) Goods or parts thereof, on being imported / indigenously procured and found defective or otherwise unfit for use or which have been damaged or become defective subsequently, may be returned and replacement obtained or destroyed. In the event of replacement, goods may be brought back from foreign suppliers or their authorized agents in India or indigenous suppliers. The unit can take free of cost replacement (duty paid) from the authorized agents in

India of foreign suppliers, provided the defective part is re-exported or destroyed. However destruction shall not apply to precious and semi precious stones and precious metals.

6.18

Exit from EOU Scheme

- (a) With approval of DC, an EOU may opt out of scheme. Such exit shall be subject to payment of Excise and Customs duties and industrial policy in force.
- (b) If unit has not achieved obligations, it shall also be liable to penalty at the time of exit.
- (c) In the event of a gems and jewellery unit ceasing its operation, gold and other precious metals, alloys, gems and other materials available for manufacture of jewellery, shall be handed over to an agency nominated by DoC, at price to be determined by that agency.
- (d) An EOU / EHTP / STP / BTP unit may also be permitted by DC to exit from the scheme at any time on payment of duty on capital goods under the prevailing EPCG Scheme for DTA Units. This will be subject to fulfillment of positive NFE criteria under EOU scheme, eligibility criteria under EPCG scheme and standard conditions indicated in HBP v1.
- (e) Unit proposing to exit out of EOU scheme shall intimate DC and Customs and Central Excise authorities in writing. Unit shall assess duty liability arising out of debonding and submit details of such assessment to Customs and Central Excise authorities. Customs and Central Excise authorities shall confirm duty liabilities on priority basis, subject to the condition that the unit has achieved positive NFE, taking into consideration the depreciation allowed. After payment of duty and clearance of all dues, unit shall obtain "No Dues Certificate" from Customs and Central Excise authorities. On the basis of "No Dues

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

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

- 6.19 Conversion**
- (a) Existing DTA units may also apply for conversion into an EOU / EHTP / STP / BTP unit, and Income Tax benefits under Section 10A and 10B will be available for plant, machinery and equipment already installed.
 - (b) Existing EHTP / STP units may also apply for conversion / merger to EOU unit and vice-versa. In such cases, units will remain in bond and avail exemptions in duties and taxes as applicable.
- 6.20 Monitoring of NFE**
- Performance of EOU / EHTP / STP / BTP units shall be monitored by Units Approval Committee as per guidelines in HBP v1.
- 6.21 Export through Exhibitions / Export Promotion Tours / showrooms abroad / Duty Free Shops**
- EOU / EHTP / STP / BTP are permitted to:
- (i) Export goods for holding / participating in exhibitions abroad with permission of DC.
 - (ii) Personal carriage of gold / silver / platinum jewellery, precious, semi-precious stones, beads and articles.
 - (iii) Export goods for display / sale in permitted shops set up abroad.
 - (iv) Display / sell in permitted shops set up abroad, or in showrooms of their distributors / agents.
 - (v) Set up showrooms / retail outlets at International Airports.
- 6.22 Personal Carriage of Import / Export Parcels including through Foreign bound Passengers**
- Import / export through personal carriage of gems and jewellery items may be undertaken as per Customs procedure. However, export proceeds shall be realized through normal banking channel. Import / export through personal carriage by units, other than gems and jewellery units, shall be allowed provided goods are not in commercial quantity. An authorized person of Gems & Jewellery EOU may also import gold in primary form, upto 10 Kgs in a financial year through personal carriage, as per guidelines prescribed by RBI and DoR.

- 6.23** Goods including free samples, may be exported / imported by airfreight or through foreign post office or through courier, as per Customs procedure.
- Export / Import by Post/Courier**
- 6.24** Details of administration of EOUs and powers of DC are given in HBP v1.
- Administration of EOUs / Powers of DC**
- 6.25** Subject to a unit being declared sick by appropriate authority, proposals for revival of the unit or its take over may be considered by BoA.
- Revival of Sick Units**
- 6.26** In case of units under EHTP / STP schemes, necessary approval / permission under relevant paragraphs of this Chapter shall be granted by officer designated by Ministry of Communication and Information Technology, Department of Information Technology, instead of DC, and by Inter-Ministerial Standing Committee (IMSC) instead of BoA.
- Approval of EHTP / STP**
- 6.27** Bio-Technology Parks (BTP) would be notified by DGFT on recommendations of Department of Biotechnology. In case of units in BTP, necessary approval / permission under relevant provisions of this chapter will be granted by designated officer of Department of Biotechnology.
- Approval of BTP**

CHAPTER 7

SPECIAL ECONOMIC ZONES

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

CHAPTER 7 A

FREE TRADE & WAREHOUSING ZONES

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

CHAPTER 8

DEEMED EXPORTS

- 8.1** “Deemed Exports” refer to those transactions in which goods supplied do not leave country, and payment for such supplies is received either in Indian rupees or in free foreign exchange. Supply of goods as mentioned in Paragraph 8.2 below shall be regarded as “Deemed Exports” provided goods are manufactured in India.
- Deemed Exports**
- 8.2** Following categories of supply of goods by main / sub-contractors shall be regarded as “Deemed Exports”:
- Categories of Supply**
- (a) Supply of goods against Advance Authorisation / Advance Authorisation for annual requirement / DFIA;
 - (b) Supply of goods to EOU / STP / EHTP / BTP;
 - (c) Supply of capital goods to EPCG Authorisation holders;
 - (d) (i) Supply of goods to projects financed by multilateral or bilateral Agencies / Funds as notified by Department of Economic Affairs (DEA), MoF under International Competitive Bidding (ICB) in accordance with procedures of those Agencies / Funds, where legal agreements provide for tender evaluation without including customs duty;
 - (ii) Supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral Agencies / Funds as notified by DEA, MoF under ICB, in accordance with procedures of those Agencies / Funds, which bids may have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad.

(iii) A list of such Agencies/Funds, as notified by DEA, MoF, is given in Appendix 13 of HBP, Vol. I ;

- (e) Deleted;
- (f) (i) Supply of goods to any project or purpose in respect of which the MoF, by notification No. 12/2012 –Customs dated 17.3.2011 (earlier Notification No.21/2002-Custom dated 1.3.2002), as amended from time to time, permits import of such goods at zero customs duty subject to conditions specified in this Notification.

(ii) Benefits of deemed exports shall be available only if the supply is made under procedure of ICB. However, in regard to mega power projects, the requirement of ICB would not be mandatory, if the requisite quantum of power has been tied up through tariff based competitive bidding or if the project has been awarded through tariff based competitive bidding. Supply of goods required for setting up of any mega power project as specified in S.No. 507 of DoR Notification No. 12/2012- Customs dated 17.03.2012, as amended, shall be eligible for deemed export benefits as mentioned in paragraph 8.3(a), (b) and (c) of FTP, whichever is applicable, if such mega power project complies with the threshold generation capacity specified in Customs Notification.

- (g) Deleted;
- (h) Supply of marine freight containers by 100% EOU (Domestic freight containers-manufacturers) provided said containers are exported out of India within 6 months or such further period as permitted by customs;
- (i) Supply to projects funded by UN Agencies; and
- (j) Supply of goods to nuclear power projects through

competitive bidding as opposed to ICB. Supply of only those goods required for setting up any Nuclear Power Project as specified in list 33, S. No. 511 of Notification No. 12/2012-Customs dated 17.3.2012, as amended from time to time, having a capacity of 440MW or more, as certified by an officer not below rank of Joint Secretary to Government of India, in Department of Atomic Energy, shall be entitled for deemed export benefits, in cases where procedure of competitive bidding (and not ICB) has been followed.

8.3

Benefits for Deemed Exports

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

- (a) Advance Authorisation / Advance Authorisation for annual requirement / DFIA.
- (b) Deemed Export Drawback.
- (c) Exemption from terminal excise duty where supplies are made against ICB. In other cases, refund of terminal excise duty will be given. Exemption from TED shall also be available for supplies made by an Advance Authorisation holder to a manufacturer holding another Advance Authorization if such manufacturer, in turn, supplies the product(s) to an ultimate exporter.

8.4**Benefits to the Supplier**

Following table shows the benefits available to different categories of supplies as mentioned in Para 8.2 above. In respect of such supplies supplier shall be entitled to the benefits listed in paragraphs 8.3 (a), (b) & (c) of the Policy, whichever is applicable.

Relevant sub-para of 8.2	Benefit available as given in Para 8.3, whichever is applicable		
	(a)	(b)	(c)
(a)	Yes (for intermediate supplies)	Yes (against ARO or Back to Back letter of credit)	Yes (Against ARO or Back to Back letter of Credit)
(b)	Yes	Yes	Yes
(c)	Yes	Yes	Yes
(d)	Yes	Yes	Yes
(f)	Yes	Yes	Yes
(h)	No.	Yes	Yes
(i)	Yes	Yes	No
(j)	Yes	Yes	Yes

8.4.1

This paragraph is deleted because the contents of this paragraph reflected in table given in paragraph 8.4 above.

8.4.2

This paragraph is deleted because the contents of this paragraph reflected in table given in paragraph 8.4 above.

8.4.3

This paragraph is deleted because the contents of this paragraph reflected in table given in paragraph 8.4 above.

8.4.4

- (i) This paragraph is deleted because the contents of this paragraph reflected in table given in paragraph 8.4 above.
- (ii) This paragraph is deleted because the contents of this paragraph reflected in paragraphs 8.2(d) and 8.4

above.

- (iii) This paragraph is deleted because the contents of this paragraph reflected in paragraph 8.2 (f) above.
- (iv) This paragraph is deleted because the contents of this paragraph reflected in paragraphs 8.2 and 8.4 above.
- (v) Deleted

8.4.5 Deleted.

8.4.6 This paragraph is deleted because the contents of this paragraph reflected in table given in paragraph 8.4 above.

8.4.7 This paragraph is deleted because the contents of this paragraph reflected in paragraphs 8.2 and 8.4 above.

8.5 Supply of goods will be eligible for refund of terminal excise duty in terms of Para 8.3(c) of FTP, provided recipient of goods does not avail CENVAT credit/rebate on such goods. A declaration to this effect, in Annexure II of ANF 8, from recipient of goods, shall be submitted by applicant. Similarly, supplies will be eligible for deemed export drawback in terms of para 8.3 (b) of FTP of Central Excise duty paid on inputs/components, provided CENVAT credit /rebate has not been availed of such duty paid by supplier of goods. A declaration to this effect, in Annexure III of ANF 8, from supplier of goods, shall be submitted by applicant. Such supplies shall however be eligible for deemed export drawback on customs duty paid on inputs/components.

Eligibility for refund of terminal excise duty / drawback

8.5.1 Simple interest @ 6% per annum will be payable on delay in refund of duty drawback and terminal excise duty under deemed export scheme if the case is not settled within 30 days of receipt of complete application (as in paragraph 9.10.1 of HBP v1).

8.6.1 In all cases of deemed exports, supplies shall be made directly to designated Projects / Agencies / Units / Advance

Supplies to be made by the main / sub-contractor Authorisation / EPCG Authorisation holders. Sub-contractor may, however, make supplies to main contractor instead of supplying directly to designated projects / Agencies. Such Supplies shall be eligible for deemed export benefits as per procedure laid down in paragraph 8.4 of HBP v1.

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

8.7 Deleted.

8.8.1 On 'Cement', deemed export benefits shall be available for supplies under Para 8.2(d) only.

Miscellaneous

8.8.2 On 'Steel', deemed export benefit shall be available only for supply (a) under Para 8.2 (d); or (b) as an input under an Advance Authorisation/Annual Advance Authorisation/DFIA; or (c) as an input to an EOU for making goods.

8.8.3 On 'Fuel', deemed export benefit is available only for supplies to (a) petroleum operations under Sr. No. 356, 358 to 360 of Customs Notification No.12/2012 – Cus dated 17.03.2012, Para 8.2 (f) of FTP; or (b) to EOUs; or (c) to Advance Authorisation holder/Annual Advance Authorisation holder.

CHAPTER 9

DEFINITIONS

- 9.1 For purpose of FTP, unless 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 efficiency or effectiveness of a piece of equipment without changing its basic functions.
- 9.3 "Act" means Foreign Trade (Development and Regulation) Act, 1992 (No.22 of 1992) [FT(D&R) Act].
- 9.4 "Actual User" means an actual user who may be either industrial or non-industrial.
- 9.5 "Actual User (Industrial)" means a person who utilises imported goods for manufacturing in his own industrial unit or manufacturing for his own use in another unit including a jobbing unit.
- 9.6 "Actual User (Non-Industrial)" means a person who utilises the imported goods for his own use in
- (a) any commercial establishment carrying on any business, trade or profession; or
 - (b) any laboratory, Scientific or Research and Development (R&D) institution, university or other educational institution or hospital; or
 - (c) any service industry.
- 9.7 "AEZ" means Agricultural Export Zones notified by DGFT in Appendix 8 of HBP v1.
- 9.8 "Appeal" is an application filed under section 15 of the Act and includes such applications preferred by DGFT officials in government

interest against decision by designated adjudicating / appellate authorities.

- 9.9 "Applicant" means person on whose behalf an application is made and shall, wherever context so requires, includes person signing the application.
- 9.9.1 "Authorisation" means a permission as included in Section 2 (g) of the Act to import or export as per provisions of FTP.
- 9.10 "BoA" means the Board of Approval as notified by DoC.
- 9.11 "BTP" means Biotechnology Park as notified by DGFT on recommendation of Department of Biotechnology.
- 9.12 "Capital Goods" means any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, of goods or for rendering services, including those required for replacement, modernisation, technological upgradation or expansion. It also includes packaging machinery and equipment, refractories for initial lining, refrigeration equipment, power generating sets, machine tools, catalysts for initial charge, equipment and instruments for testing, research and development, quality and pollution control.
- Capital goods may be for use in manufacturing, mining, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture and viticulture as well as for use in services sector.
- 9.13 "Competent Authority" means an authority competent to exercise any power or to discharge any duty or function under the Act or the Rules and Orders made thereunder or under FTP.
- 9.14 "Component" means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved. A component includes an accessory or attachment to another component.
- 9.15 "Consumables" means any item, which participates in or is required for a manufacturing process, but does not necessarily form part of

end-product. Items, which are substantially or totally consumed during a manufacturing process, will be deemed to be consumables.

- 9.16 "Consumer Goods" means any consumption goods, which can directly satisfy human needs without further processing and includes consumer durables and accessories thereof.
- 9.17 "Counter Trade" means any arrangement under which exports/imports from/to India are balanced either by direct imports/exports from importing/exporting country or through a third country under a Trade Agreement or otherwise.
Exports / Imports under Counter Trade may be carried out through Escrow Account, Buy Back arrangements, Barter trade or any similar arrangement. Balancing of exports and imports could wholly or partly be in cash, goods and/or services.
- 9.18 "Developer" means a person or body of persons, company, firm and such other private or government undertaking, who develops, builds, designs, organises, promotes, finances, operates, maintains or manages a part or whole of infrastructure and other facilities in SEZ as approved by Central Government and also includes a co-developer.
- 9.19 "Development Commissioner" means Development Commissioner of SEZ.
- 9.20 "DFRC" means Duty Free Replenishment Certificate (as given in FTP 2004-09).
- 9.21 "Domestic Tariff Area (DTA)" means area within India which is outside SEZs and EOU/ EHTP/ STP/BTP.
- 9.22 "Drawback" in relation to any goods manufactured in India and exported, means rebate of duty chargeable on any imported material or excisable material used in manufacture of such goods in India. Goods include imported spares, if supplied with capital goods manufactured in India.
- 9.23 "EHTP" means Electronic Hardware Technology Park.

- 9.24 "EOU" means Export Oriented Unit for which an LOP has been issued by Development Commissioner.
- 9.25 "Excisable goods" means any goods produced or manufactured in India and subject to a duty of excise under Central Excise and Salt Act 1944 (1 of 1944).
- 9.26 "Exporter" means a person who exports or intends to export and holds an IEC number, unless otherwise specifically exempted.
- 9.27 "Export Obligation" means obligation to export product or products covered by Authorisation or permission in terms of quantity, value or both, as may be prescribed or specified by Regional or competent authority.
- 9.27.1 "FTP" means the Foreign Trade Policy which specifies policy for exports and imports under Section 5 of the Act.
- 9.28 "Group Company" means two or more enterprises which, directly or indirectly, are in a position to :-
- (a) exercise twenty-six per cent, or more of voting rights in other enterprise; or
 - (b) appoint more than fifty percent, of members of board of directors in the other enterprise.
- For group companies to claim benefits or have their exports counted for benefits to be claimed by another member of group, the group company should have been in existence at least 2 years prior to date of application under any of export promotion schemes notified in FTP.
- 9.29 "HBP v1" means the Handbook of Procedures (Volume 1) containing the procedures (including Appendices & Aayat Niryat Forms), "HBP v2" means Handbook of Procedures (Volume 2) containing the SIONS; both published under provisions of paragraph 2.4 of FTP.
- 9.30 "Importer" means a person who imports or intends to import and holds an IEC number, unless otherwise specifically exempted.
- 9.31 "Infrastructure facilities" means industrial, commercial and social

infrastructure or any other facility for development of SEZ as notified.

- 9.32 "ITC (HS)" means ITC (HS) Classifications of Export and Import Items.
- 9.33 "Jobbing" means processing or working upon of raw materials or semi-finished goods supplied to job worker, so as to complete a part of process resulting in manufacture or finishing of an article or any operation which is essential for aforesaid process.
- 9.34 "Licensing Year" means period beginning on the 1st April of a year and ending on 31st March of following year.
- 9.35 "Managed Hotel" means hotels managed by a three star or above hotel/ hotel chain under an operating management contract for a duration of at least three years between operating hotel/ hotel chain and hotel being managed. Management contract must necessarily cover the entire gamut of operations/ management of managed hotel.
- 9.36 "Manufacture" means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, re-packing, polishing, labelling, Re-conditioning repair, remaking, refurbishing, testing, calibration, re-engineering.
- Manufacture, for the purpose of FTP, shall also include agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining.
- 9.37 "Manufacturer Exporter" means a person who exports goods manufactured by him or intends to export such goods.
- 9.38 "MAI" means Market Access Initiative Scheme notified by Department of Commerce.
- 9.39 "Merchant Exporter" means a person engaged in trading activity and exporting or intending to export goods.
- 9.40 "NC" means the Norms Committee in the Directorate General of Foreign Trade, for recommending grant of Authorisations under Duty

Exemption Scheme and for recommending Input Output norms and value addition norms to be notified by DGFT.

- 9.41 "NFE" means Net Foreign Exchange.
- 9.42 "Notification" means a notification published in Official Gazette.
- 9.43 "Order" means an Order made by Central Government under the Act.
- 9.44 "Part" means an element of a sub-assembly or assembly not normally useful by itself, and not amenable to further disassembly for maintenance purposes. A part may be a component, spare or an accessory.
- 9.45 "Person" includes an individual, firm, society, company, corporation or any other legal person including the DGFT officials.
- 9.46 "Policy" means FTP 2009-2014 as amended from time to time.
- 9.47 "Prescribed" means prescribed under the Act or the Rules or Orders made thereunder or under FTP.
- 9.48 "Public Notice" means a notice published under provisions of paragraph 2.4 of FTP.
- 9.49 "Raw material" means basic materials which are needed for manufacture of goods, but which are still in a raw, natural, unrefined or unmanufactured state; and for a manufacturer, any materials or goods which are required for his manufacturing process, whether they have actually been previously manufactured or are processed or are still in a raw or natural state.
- 9.49.1 "Regional Authority" means authority competent to grant an Authorisation under the Act / Order.
- 9.50 "Registration-Cum-Membership Certificate" (RCMC) means certificate of registration and membership granted by an Export Promotion Council / Commodity Board / Development Authority or other competent authority as prescribed in FTP or HBP v1.

- 9.51 "Rules" means Rules made by Central Government under Section 19 of the Act.
- 9.52 "Services" include all tradable services covered under General Agreement on Trade in Services (GATS) and earning free foreign exchange.
- 9.53 "Service Provider" means a person providing
- (i) Supply of a 'service' from India to any other country;
 - (ii) Supply of a 'service' from India to service consumer of any other country in India;
 - (iii) Supply of a 'service' from India through commercial or physical presence in territory of any other country.
 - (iv) Supply of a 'service' in India relating to exports paid in free foreign exchange or in Indian Rupees which are otherwise considered as having being paid for in free foreign exchange by RBI.
- 9.54 "SEZ" means Special Economic Zone notified by Ministry of Commerce & Industry, Department of Commerce.
- 9.55 "Ships" mean all types of vessels used for sea borne trade or coastal trade, and shall include second hand vessels.
- 9.56 "SION" means Standard Input Output Norms notified by DGFT in HBP v2 / 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 through Notification / Public Notice.
- 9.59 "Status holder" means an exporter recognized as Export House / Trading House /Star Trading House / Premier Trading House by DGFT / Development Commissioner.
- 9.59.1 "Stores" means goods for use in a vessel or aircraft and includes fuel and spares and other articles of equipment, whether or not for immediate fitting.

- 9.60 "STP" means Software Technology Park
- 9.61 "Supporting Manufacturer" means any person who manufactures any product or part/accessories/components of that product. Name of supporting manufacturer as well as the exporter must be endorsed on export documents.
- 9.62 "Third-party exports" means exports made by an exporter or manufacturer on behalf of another exporter(s). In such cases, export documents such as shipping bills shall indicate name of both manufacturing exporter/manufacturer and third party exporter(s). BRC, GR declaration, export order and invoice should be in the name of third party exporter.
- 9.63 "Transaction Value" is as defined in Customs Valuation Rules of Department of Revenue.
- 9.64 "Wild Animal" means any wild animal as defined in Section 2(36) of Wildlife (Protection) Act, 1972.