



# **Paper 18: Indirect Tax Laws & Practice**

**Statutory updates for**

**December 2023 examination**

**From 1st December 2022 to 31st May 2023**

**PART - II**

**Foreign Trade Policy 2023**

**Foreign Trade Policy 2023****Foreign Trade Policy – 2023 (w.e.f. 1st April 2023):**

Section 3 of Foreign Trade (Development and Regulation) Act, 1992 [FT(D&R) Act, 1992]	Empowers Central Government to the make provisions for development and regulation of foreign trade.
Section 5 of FT (D&R) Act, 1992	Empowers Central Government to formulate and announce by notification in Official gazette, the Foreign Trade Policy (FTP) and also amend the same by issuing a notification.  In India, the Union Ministry of Commerce and Industry governs the affairs relating to the promotion and regulation of foreign trade.

The Foreign Trade Policy (FTP) 2023 is notified by Central Government, in exercise of powers conferred under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992) [FT (D&R) Act], as amended.

**Duration of FTP:**

The Foreign Trade Policy (FTP) 2023 incorporating provisions relating to export and import of goods and services, shall come into force with effect from 1st April, 2023 and shall continue to be in operation unless otherwise specified or amended. All exports and imports made up to 31.03.2023 shall, accordingly, be governed by the relevant FTP, unless otherwise specified.

It means unlike of earlier FTP, there is no end date to the new policy.

Any License/ Authorisation/ Certificate/ Scrip/ instrument bestowing financial or fiscal benefit issued before commencement of FTP 2023 shall continue to be valid for the purpose and duration for which it was issued, unless otherwise stipulated.

The Foreign Trade Policy is closely knit with the Customs, GST Laws and Excise/ state laws of India. However, the policy provisions per-se do not override tax laws.

**Authorization:**

It means “permission for import or export of goods and services” in terms of FT (D&R) Act, 1992. DGFT issues authorization for import or export. Decision of DGFT is final and binding in respect of any authorization issued under the FTP.



## Foreign Trade Policy

### Salient Features of the Foreign Trade Policy (FTP) - 2023:

1. Export-Import is free unless specifically regulated by the provisions of the FTP.
2. Export and Import goods are broadly categorized as
  - a. Free (i.e. general goods freely import or export without any authorization).
  - b. Restricted (i.e. goods allowed to import or export only with authorization).
  - c. Prohibited (i.e. goods are not allowed to import or export)
3. There are restrictions on exports and imports for various strategic, health, and other reasons.
4. Exports are promoted through various promotional schemes.
5. There should be no taxes on exports.
6. Capital goods can be imported at NIL duty for the purpose of exports under the scheme of Export Promotion Capital Goods (EPCG) Scheme.
7. EOU'S and SEZ units are exempted from payment of taxes.
8. Deemed exports concept introduced.
9. Duty credit scrip's schemes are designed to promote exports of some specified goods to specified markets and to promote export of specified services.

### Scope of Foreign Trade Policy - 2023:

1. Legal Framework and Trade Facilitation
2. General Provisions Regarding Imports and Exports
3. Developing Districts as Export Hubs
4. Duty Exemption / Remission Schemes
5. Export Promotion Capital Goods (EPCG) Scheme
6. Export Oriented Units (EOUs), Electronics Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) and Bio-Technology Parks (BTPs)
7. Deemed Exports
8. Quality Complaints and Trade Disputes
9. Promoting Cross Border Trade in Digital Economy
10. SCOMET: Special Chemicals, Organisms, Materials, Equipment and Technologies
11. Definitions

Provisions relating to Special Economic Zone (SEZ) are contained in a separate Act and are not part of FTP. However, provisions of SEZ are closely related to Foreign Trade Policy.



## Foreign Trade Policy

### The Director General of Foreign Trade (DGFT):

The Director General of Foreign Trade (DGFT) advises Central Government in formulating policy and exercise specified powers under the Foreign Trade (Development and Regulation) Act, 1992. DGFT issues public notices, policy circulars, notifications or decisions from time to time.

In order to facilitate international trade, DGFT consults various Export Promotion Councils as well as Trade and Industry bodies from time to time.

DGFT is to work in close coordination with other agencies like CBIC, RBI etc.

DGFT issues authorisation for import/export. It also grants Importer Exporter Code (IEC) Number to importers and Exporter. Import and Export without IEC number is not permitted, unless specifically exempted.

The decision of DGFT shall be final and binding on all matters relating to interpretation of Policy, or provision in Handbook of Procedures, Appendices and Aayat Niryat Forms or classification of any item for import / export in the ITC (HS).

A Policy Interpretation Committee (PIC) may be constituted to aid and advice DGFT. The composition of the PIC would be as follows:

- (i) DGFT: Chairman
- (ii) All Additional DGFTs in Headquarters: Members
- (iii) All Joint DGFTs in Headquarters looking after Policy matters: Members
- (iv) Joint DGFT (PRC/PIC): Member Secretary
- (v) Any other person / representative of the concerned Ministry / Department, to be co-opted by the Chairman.

While granting exemption from Policy/Procedures, DGFT may impose such conditions as he may deem fit after consulting the Committees as under:

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

## Foreign Trade Policy

### Personal Hearing by DGFT for Grievance Redressal:

Government is committed to easy and speedy redressal of grievances from Trade and Industry.



**Step 1:** A specific request for Personal Hearing (PH) along with prescribed fee has to be made to DGFT.



**Step 2:** DGFT may consider request for relaxation after consulting concerned Norms Committee, EPCG Committee or Policy Relaxation Committee (PRC) and the decision conveyed in pursuance to the personal hearing shall be final and binding.

**Note:** The opportunity for Personal Hearing will not apply to a decision/order made in any proceeding, including an adjudication proceeding, whether at the original stage or at the appellate stage, under the relevant provisions of FT (D&R) Act, 1992, as amended from time to time.

The Settlement Commission set up by the Department of Revenue has been empowered to settle matters of default in export obligation (EO) also.

### Hand Book of Procedures (HBP) and Appendices & Aayat Niryat Forms (ANF):

Director General of Foreign Trade (DGFT) may, by means of a Public Notice, notify Hand Book of Procedures, including Appendices and Aayat Niryat Forms or amendment thereto, if any, laying down the 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 provisions of FTP.

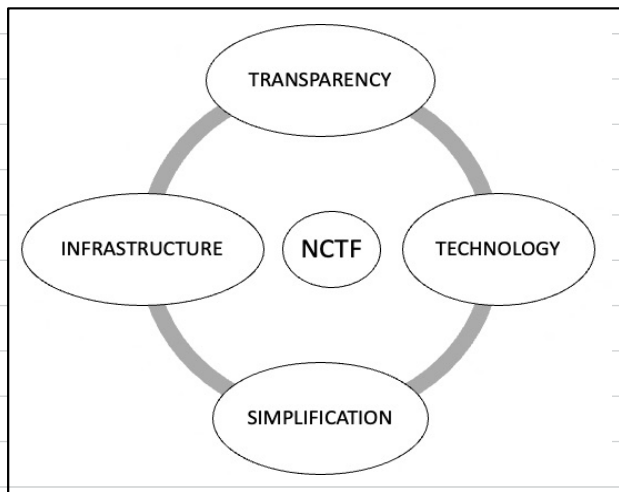
## Foreign Trade Policy

### TRADE FACILITATION AND EASE OF DOING BUSINESS:

#### 1. National Committee on Trade Facilitation (NCTF):

India has ratified the World Trade Organization's Trade Facilitation Agreement (TFA) in April 2016. To facilitate coordination and implementation of the TFA provisions, an inter-ministerial body i.e. National Committee on Trade Facilitation (NCTF) has been constituted.

TFA emanates from the following four pillars:



National Trade Facilitation Action Plan aims to achieve : -

- Improvement in Ease of Doing Business through reduction in transaction cost and time
- Reduction in cargo release time
- A paperless regulatory environment
- A transparent and predictable legal regime
- Improved investment climate through better infrastructure

#### 2. Free passage of Export Consignment:

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 and release such consignment.

## Foreign Trade Policy

3. **Niryat Bandhu – Hand Holding Scheme for new export/ import entrepreneurs:**  
DGFT is implementing the Niryat Bandhu Scheme for mentoring new and potential exporter on the intricacies of foreign trade through counseling, training and outreach programmes including the 'Districts as Export Hubs' initiative with 'industry partners', 'knowledge partners' and other stakeholders to create vibrant District-Product-Market relevant knowledge ecosystem.
4. **DGFT Online Customer Portal:**  
Export Import related information including Acts, Rules, Policy and Procedures etc. are available online at DGFT portal <https://dgft.gov.in/>.
5. **Issue of e-IEC (Electronic-Importer Exporter Code):**  
Importer Exporter Code (IEC) is mandatory for export/ import from/to India as detailed in paragraph 2.05 of this Policy. DGFT issues Importer Exporter Code in electronic form (e-IEC). For issuance of e-IEC, application can be made on DGFT website (<https://dgft.gov.in>).
6. **Online facility for e-RCMC/RC Related Processes:**  
DGFT has created a common digital platform for application of issuance, renewal, amendment and related processes pertaining to Registration Cum Membership Certificate (RCMC)/ Registration Certificate (RC) issued by Registering Authorities in electronic form as per Chapter 2 of HBP.
7. **Online facility for e-Certificate of Origin (e-CoO).**
8. **Online facility to file Quality Control and Trade Disputes (QCTD).**
9. **Electronic record of export proceeds through eBRC & EDPMS:**
  - (a) e-BRC (Electronic Bank Realisation Certificate) has enabled DGFT to capture details of realisation of export proceeds directly from the Banks through secured electronic mode. This has facilitated the implementation of various export promotion schemes without any physical interface with the stake holders.
  - (b) RBI has also developed a comprehensive IT-based system called Export Data Processing and Monitoring System (EDPMS) for monitoring of export of goods and software and facilitating AD banks to report various returns through a single platform. RBI EDPMS data available in DGFT IT System can also be used by exporters on DGFT portal.





## Foreign Trade Policy

10. 24 X 7 Helpdesk Facility.

11. Authorised Economic Operator (AEO) Programme:

Authorised Economic Operator (AEO) programme' has been developed by Indian Customs to enable business involved in the international trade to reap the following benefits:

- (i) Secure supply chain from point of export to import;
- (ii) Ability to demonstrate compliance with security standards when contracting to supply overseas importers /exporters;
- (iii) Enhanced border clearance privileges in Mutual Recognition Agreement (MRA) partner countries;
- (iv) Minimal disruption to flow of cargo after a security related disruption;
- (v) Reduction in dwell time and related costs; and
- (vi) Customs advice / assistance if trade faces unexpected issues with Customs of countries with which India have MRA.

12. Towns of Export Excellence (TEE):

Selected towns which are contributing handsomely to India's exports by producing goods of specified amount may be granted recognition as TEE. They will be provided targeted support and infrastructure development to maximize their export competitiveness and enable them to move up the value chain and also to tap new markets by granting specified privileges to them.

13. Status Holder Certification:

The objective behind certifying certain exporter firms as "Status Holder" is to recognize such exporter firms as business leaders who have excelled in international trade and have successfully contributed to country's foreign trade.

**Status holder Categories:**

Status category	Export Performance FOB/FOR (as converted) Value (in US \$ Million) during current year and preceding three financial years
One Star Export House	3
Two Star Export House	15
Three Star Export House	50
Four Star Export House	200
Five Star Export House	800





## Foreign Trade Policy

The export performance shall be counted on the basis of FOB of export earnings in freely convertible foreign currencies or in Indian Rupees.

For deemed export, FOR value of exports in Indian Rupees shall be converted in USD at the exchange rate notified by CBIC, as applicable on 1st April of each Financial Year.

For granting status, an export performance would be necessary in all the three preceding financial years.

Export performance is not transferrable among IEC holders.

Export made on re-export basis shall not be counted for recognition.

Export of items under authorisation, including Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) items, would be included for calculation of export performance.

### Grant of double weightage:

For calculating export performance for grant of One Star Export House Status category, exports by IEC holders under Micro and Small Enterprises, manufacturing units having ISO/BIS certification, units located in Northeastern States including Sikkim and Union Territories of Jammu, Kashmir and Ladakh and export of fruits and vegetables shall be granted double weightage once in any of these categories.

### Privileges of Status Holders:

- (a) Authorisation and Customs Clearances for both imports and exports may be granted on self-declaration basis;
- (b) Input-Output norms may be fixed on priority within 60 days by the Norms Committee;
- (c) Exemption from furnishing of Bank Guarantee for Schemes under FTP, unless specified otherwise anywhere in FTP or HBP;
- (d) Exemption from compulsory negotiation of documents through banks. Remittance / receipts, however, would be received through banking channels;
- (e) Two star and above Export houses shall be permitted to establish Export Warehouses as per Department of Revenue guidelines.
- (f) The status holders would be entitled to preferential treatment and priority in handling of their consignments by the concerned agencies.

## Foreign Trade Policy

(g) Manufacturers who are also status holders (Three Star/Four Star/Five Star) will be enabled to self-certify their manufactured goods (as per their Industrial Entrepreneurs Memorandum (IEM) / Industrial License (IL) / Letter of Intent (LOI) as originating from India with a view to qualify for preferential treatment under specified agreements.

(h) Status holders shall be entitled to export freely exportable items (excluding Gems and Jewelry, Articles of Gold and precious metals) on free of cost basis for export promotion subject to an annual limit of

Rupees One Crore or @2% of average annual export realization during preceding three licensing years, whichever is lower.

For export of pharma products by pharmaceutical companies, the annual limit would be 2% of the average annual export realisation during preceding three licensing years. In case of supplies of pharmaceutical products, vaccines and lifesaving drugs to health programmes of international agencies such as UN, WHO-PAHO and Government health programmes, the annual limit shall be upto 8% of the average annual export realisation during preceding three licensing years. Such free of cost supplies shall not be entitled to Duty Drawback or any other export incentive under any export promotion scheme.

### Miscellaneous provisions:

1. Every district has products and services which are being exported, and can be further promoted, along with new products/ services, to increase production, grow exports, generate economic activity and achieve the goal of Atma Nirbhar Bharat, Vocal for local and Make in India. DGFT Regional Authorities will be engaging with all the relevant State and Central agencies to take forward this initiative in each district.
2. Further, a mechanism has been laid down to resolve complaints/ trade disputes between foreign buyer/supplier and Indian exporter/importer in respect of quality of goods/services/technology supplied or unethical commercial dealings including non-supply/ partial supply/ wrong supply/ non- payment; non- adherence to delivery schedules, etc.

Committee on Quality complaints and Trade Disputes (CQCTD) will be responsible for enquiring and investigating into all quality related complaints and other trade related complaints falling under the jurisdiction of the respective RAs. It will take prompt and effective steps to redress and resolve the grievances of the importers / exporters and overseas buyers / suppliers.



## Foreign Trade Policy

### 3. SPECIAL CHEMICALS, ORGANISMS, MATERIALS, EQUIPMENT AND TECHNOLOGIES:

India is a signatory to international conventions on disarmament and non-proliferation and is a member of major multilateral export control regimes. Resultantly, export of dual-use items, including software and technologies, having potential civilian/ industrial applications as well as use in weapons of mass destruction is regulated under FTP. It is either prohibited or is permitted under an Authorization unless specifically exempted. SCOMET list is our National Export Control List of dual use items munitions and nuclear related items, including software and technology and is aligned to the control lists of the all the multilateral export control regimes and conventions



## Foreign Trade Policy

### General Provisions Regarding Imports and Exports:

Exports and Imports shall be 'Free' except when regulated by way of 'Prohibition', 'Restriction' or 'Exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports. The list of 'Prohibited', 'Restricted', and STE items can be viewed under 'Regulatory Updates' at <https://dgft.gov.in>

Further, there are some items which are 'Free' for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force

### Other general provisions:

#### 1. Indian Trade Classification (Harmonized System) [ITC (HS)]:

##### Schedule I - Import Policy - ITC(HS) 2023

Rules and guidelines relating to import policies

##### Schedule II - Export Policy - ITC(HS) 2023

Rules and guidelines relating to export policies

Based on ITC (HS) we can find which product is

- 1 Free,
- 2 Restricted or
- 3 Prohibited

for export or import

Schedule I of the ITC-HS code is divided into 21 sections and each section is further divided into chapters. The total number of chapters in the schedule I is 98. The chapters are further divided into sub-heading under which different HS codes are mentioned.

Export Policy Schedule II of the ITC-HS code contain 97 chapters giving all the details about the guidelines related to the export policies.

Based on ITC (HS) we can find which product is Free, Restricted or Prohibited for import or export.

#### 2. State Trading Enterprises (STEs):

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

## Foreign Trade Policy

Some of the STEs are

- ✓ Food Corporation of India,
- ✓ Oil and Natural Gas Corporation Ltd,
- ✓ National Fertilizers Limited,
- ✓ Indian Rare Earth Ltd.,
- ✓ National Dairy Development Board,
- ✓ National Agricultural Cooperative Marketing Federation of India (NAFED), State Cooperative Marketing Federation, etc.

### 3. Importer-Exporter Code (IEC):

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

IEC details have to be electronically updated every year, even if there are no changes; failing which it will be de-activated till updation.

### 4. Mandatory documents for export/ import of goods from/into India:

For Export of goods from India	For Import of goods into India
1. Bill of Lading/ Airway Bill/ Lorry Receipt/ Railway Receipt/ Postal Receipt	1. Bill of Lading/Airway Bill/ Lorry Receipt/ Railway Receipt/ Postal Receipt in form CN-22 or CN 23 as the case may be.
2. Commercial Invoice cum Packing List*	2. Commercial Invoice cum Packing List**
3. Shipping Bill/Bill of Export/ Postal Bill of Export	3. Bill of Entry

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

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

For import/export of specific goods or in specific cases of export or import, additional documents may be notified/sought.

## Foreign Trade Policy

### 5. Penal action and placing of an entity in Denied Entity List (DEL):

In following situations, a person shall be liable to penal action under FT (D&R) Act and rules and orders made thereunder, FTP and any other law for time being in force:

(i) Authorisation holder:-

- Violation of condition of such authorisation
- Fails to fulfil export obligation
- fails to deposit the requisite amount within the period specified in demand notice.

(ii) any information/particulars furnished by applicant subsequently found untrue / incorrect



#### Denied Entity List (DEL):

A firm may be placed under DEL, by the concerned Regional Authority (RA) of the DGFT. In such a case:

- (i) firm may be refused grant or renewal of a licence/ authorisation/certificate/scrip/any instrument bestowing financial/fiscal benefits, and
- (ii) all new licences, authorisations, scrips, certificates, instruments etc. will be blocked from printing/ issue/ renewal.

DEL orders may be placed in abeyance, for reasons to be recorded in writing by the concerned RA. DEL order can be placed in abeyance, for a period not more than 60 days at a time.

A firm's name can be removed from DEL, by the concerned RA for reasons if the firm completes Export Obligation/ pays penalty/ fulfils requirement of demand notice(s) issued by the RA/submits documents required by the RA.

## Foreign Trade Policy

### 6. Provisions relating to import of goods:

#### 6.1 "Actual user" condition:

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

#### 6.2 Samples:

Import of samples of even 'restricted' items, is allowed without import authorisation. Exceptions are defence / security items, seeds, bees, and new drugs; these need authorisation.

Duty free import of samples upto ₹3,00,000 for all exporters shall be allowed subject to terms and conditions of customs notification as amended.

#### 6.3 Import of Gifts:

Import of goods, including those purchased from e-commerce portals, through post or courier, where Customs clearance is sought as gifts, is prohibited except for life saving drugs/ medicines and Rakhi (but not gifts related to Rakhi).

##### Explanation:

1. Rakhi (but not gifts related to Rakhi) will be covered under Section 25(6) of Customs Act, 1962 that reads that "no duty shall be collected if the amount of duty leviable is equal to or less than Rs. 100/-"
2. Import of goods as gifts with payment of full applicable duties is allowed.

#### 6.4 Import through Passenger Baggage:

- Bona-fide household goods and personal effects
- Samples of such items that are otherwise freely importable under FTP may also be imported as part of passenger baggage without an Authorisation subject to Baggage Rules.
- 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 authorisation subject to value limit as laid down in FTP or Customs.





## Foreign Trade Policy

### 6.5 Re – import of goods repaired abroad:

Capital goods, equipment, 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.

### 6.6 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.

### 6.7 Import of Prototypes:

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

### 6.8 Import of Metallic Waste and Scrap:

Import of any form of metallic waste, scrap will be subject to the condition that it will not contain hazardous, toxic waste, radioactive contaminated waste/scrap containing radioactive material, any types of arms, ammunition, mines, shells, live or used cartridge or any other explosive material in any form either used or otherwise.

### 6.9 Removal of Scrap/Waste from SEZ:

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



## Foreign Trade Policy

### 6.10 import policy for Second Hand Goods:

S.No	Second Hand Capital Goods	Import Policy	Conditions, if any	S.No	Other than capital goods	Import Policy	Conditions, if any
(a)	i. Desktop Computers;	Restricted	Importable against Authorisation	(a)	Second Hand Goods other than capital goods	Restricted	Importable against Authorisation
	ii. Refurbished/ re-conditioned spares of re-furbished parts of Personal Computers/ Laptops;			(b)	Second Hand Goods imported for the purpose of repair/ refurbishing / re-conditioning or re-engineering	Free	Subject to condition that waste generated during the repair / refurbishing of imported items is treated as per domestic Laws/ Rules/ Orders/ Regulations/ technical specifications/ Environmental / safety and health norms and the imported item is re-exported back as per the Customs Notification.
	iii. Air Conditioners;						
	iv. Diesel generating sets						
(b)	All electronics and IT Goods notified under the Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2012 as amended from time to time	Restricted	(i) Importable against an authorization subject to conditions laid down under Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2012 as amended from time to time.  (ii) Import of unregistered/ non-compliant notified products as in CRO, 2012 as amended from time to time is "Prohibited"				
(c)	Refurbished / re-conditioned spares of Capital Goods	Free	Subject to production of Chartered Engineer certificate to the effect that such spares have at least 80% residual life of original spare				
(d)	All other second-hand capital goods {other than (a) (b) & (c) above}	Free					



## Foreign Trade Policy

### 6.11 Other Provisions Related to Imports:

- Goods for import into India can be sold on the high seas, subject to FTP/other laws in force.
- Merchanting trade means shipment of goods from one foreign country to another foreign country without touching Indian ports, involving an Indian intermediary. This is allowed, subject to RBI guidelines, except for goods in the CITES<sup>12</sup> and SCOMET lists.
- Import of capital goods under lease financing does not require any specific permission from the DGFT.
- For imported goods, Bank Guarantee / Letter of Undertaking/ Bond (BG/ LUT /Bond) is to be executed with customs in case of duty-free import or otherwise required, before clearance of goods. For indigenously sourced goods, an authorisation-holder has to execute LUT/BG/Bond with the RA concerned, before sourcing such material.

### 7. Provisions relating to Export of Goods:

#### 7.1 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.

#### 7.2 Benefits for Supporting Manufacturers:

Supporting manufacturer is one who manufactures goods/products or any part/ accessories/ components of a good/ product for a merchant exporter/ manufacturer exporter under a specific Authorisation. For any benefit to accrue to the supporting manufacturer, the names of both supporting manufacturer as well as the merchant exporter must figure in the concerned export documents, especially in tax invoice / shipping bill / bill of export/ airway bill.

#### 7.3 Third Party Exports:

Third party exports is allowed under FTP. Third-party exports means exports made by an exporter/manufacturer on behalf of another exporter(s). In such cases, export documents such as shipping bills shall indicate names of both manufacturer exporter/manufacturer and third- party exporter(s). Bank Realisation Certificate (BRC), Self-Declaration Form (SDF), export order and invoice should be in the name of third-party exporter.



## Foreign Trade Policy

**Question:** LM Corporation, a merchant exporter, procured order of goods from a customer in USA. It approached ST Corporation, a manufacturer, for execution of the said order. The shipping bills relating to the consignment bear the name of LM Corporation. Bank Realization Certificate, GR declaration, export order and invoice are also in the name of LM Corporation. Comment whether ST Corporation would be deemed as the exporter under FTP.

**Answer:** The given scenario is a case of third-party exports.

Third-party exports means exports made by an exporter or manufacturer on behalf of another exporter(s). The conditions for being allowed as third-party exports under FTP are:

- (i) Export documents such as shipping bills shall indicate name of both manufacturing exporter/ manufacturer and third-party exporter(s).
- (ii) BRC, GR declaration, export order and invoice should be in the name of third party exporter.

In the above case, though BRC, GR declaration, export order and invoice are in the name of LM Corporation (third party exporter), the shipping bill does not have the name of ST Corporation (manufacturer).

Therefore, ST Corporation will not be treated as the exporter in this case.

### 7.4 Export of Samples:

Exports of bonafide trade and technical samples of goods of freely importable items are allowed without any limit.

### 7.5 Export of Gifts:

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

### 7.6 Export of Passenger Baggage:

Bona-fide personal baggage may be exported either along with passenger or, if unaccompanied, within 1 year before or after passenger's departure from India. However, items mentioned as restricted for exports in ITC(HS) shall not be exported as a gift, without an Authorisation. Samples that freely exportable can be exported as part of passenger baggage. Authorisation will be required for restricted items.

Samples of freely exportable items may be exported as part of passenger baggage without an authorisation.

## Foreign Trade Policy

### 7.7 Import for Export:

- Goods that are freely importable as well as freely exportable can be imported and then exported in same or substantially the same form, without any authorisation.
- Goods including capital goods (both new and second hand) can be imported under customs bond and then cleared for export against freely convertible foreign currency provided they are freely exportable. This includes goods that are 'restricted' for import.
- Capital goods that are freely importable and freely exportable can be imported for export upon execution of LUT/BG with the customs authorities.
- Notwithstanding the above, goods of other than Indian origin that are 'restricted' for export (other than 'prohibited' or SCOMET items) but 'free' for import can be imported for exports in same or substantially the same form. Such goods shall be kept in bonded warehouse and re-exported from there subject to provisions of section 69 of the Customs Act, 1962.
- Goods that are imported against payment in freely convertible foreign currency can be exported only against payment in freely convertible foreign currency, unless otherwise notified.

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

- 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.
- However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.
- Non-realisation of export proceeds: If an exporter fails to realize export proceeds within time specified by RBI, he shall be liable to return all benefits/ incentives availed against such exports and shall be liable to penal action under FT (D&R) Act and the FTP. However, if such non-realization is for reasons beyond his control, he may approach RBI for writing off the unrealized amount.



## Foreign Trade Policy

- **Export Credit Agencies (ECAs):** ECAs provide financial support to exporters. They support exports by insurance, guarantee and also direct lending. For instance, Export Credit Guarantee Corporation of India Ltd. (ECGC), Exim Bank, etc.

### 7.9 Export Promotion Councils:

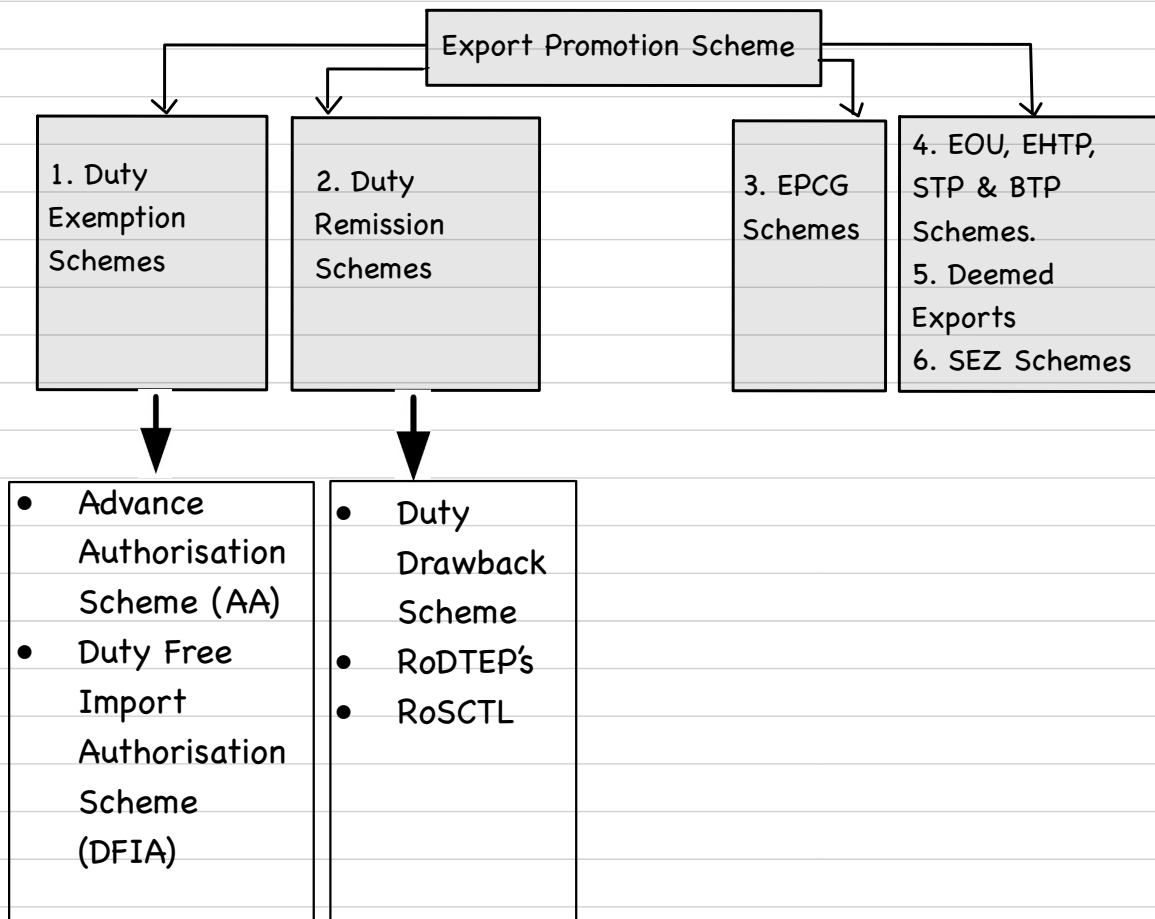
Export Promotion Councils (EPCs) are organizations of exporters, set up to promote and develop Indian exports. Each Council is responsible for promotion of a particular group of products/ projects/services. EPCs are also eligible to function as Registering Authorities to issue Registration-cum-Membership Certificate (RCMC). RCMC is required to be furnished by any person, applying for an Authorisation to import/ export under the FTP (except 'Restricted' items) or applying for any other benefit or concession under FTP.

### 7.10 Approved Exporter Scheme for Self- Certification of Certificate of Origin:

Approved Exporters will be entitled to self-certify their manufactured goods as originating from India with a view to qualifying for preferential treatment under different Preferential Trade Agreements [PTAs], Free Trade Agreements [FTAs], Comprehensive Economic Cooperation Agreements [CECA] and Comprehensive Economic Partnerships Agreements [CEPA] which are in operation. Self-certification will be permitted only for the goods that are manufactured as per the IEM/IL/LOI issued to manufacturers.

## Foreign Trade Policy

### Export Promotion Schemes under FTP 2023:



**Note:** Scheme for Rebate on State and Central Taxes and Levies (RoSCTL) as notified by the Ministry of Textiles.



## Foreign Trade Policy

### Duty Exemption Schemes:

#### 1. Advance Authorisation (AA) Scheme:

Advance Authorisation is issued to allow duty free import of input, which is physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, catalyst which is consumed / utilized in the process of production of export product, may also be allowed.

#### 1.1 Eligible Applicant / Export:

- Advance Authorisation can be issued either to a manufacturer exporter or merchant exporter tied to supporting manufacturer.
- Advance Authorisation for pharmaceutical products manufactured through Non-Infringing (NI) process shall be issued to manufacturer exporter only.

#### 1.2 Eligible Supply:

Advance Authorisation is issued for procurement of inputs for the following kinds of supply:-

- Physical export (including export to SEZ)
- Intermediate supply; and/or
- Deemed exports
- Supply of 'stores' on board of foreign going vessel / aircraft, subject to condition that there is specific SION in respect of item supplied.

#### 1.3 Basis of issuance of Advance Authorisation:

Advance Authorisation is issued for inputs in relation to resultant product, on the following basis:

- As per Standard Input Output Norms (SION) notified); or
- On the basis of self declaration or
- Applicant-specific prior fixation of norm by the Norms Committee or
- On the basis of Self Ratification Scheme

## Foreign Trade Policy

### 1.4 Self-Ratification Scheme:

Where there is no SION/valid Adhoc Norms for an export product or where SION has been notified but exporter intends to use additional inputs in the manufacturing process, eligible exporter can apply for an Advance Authorisation under this scheme on self declaration and self ratification basis.

The expression "additional inputs" refers not to additionality in terms of quantity/value of an input specified in a norm, but to another additional input. Say, if the inputs specified in the norm are X1 and X2 only, then input Y would represent an additional input.

Regional Authority (RA) may issue Advance Authorisations and such cases need not be referred to Norms Committees for ratification of norms.

Application under this scheme shall be made along with a Certificate from Chartered Engineer in the prescribed format.

### 1.5 Eligibility to opt for Advance Authorisation:

An exporter (manufacturer or merchant), who holds AEO Certificate under Common Accreditation Programme of CBIC is eligible to opt for this scheme.

A status holder who is a manufacturer cum actual user and holds valid 2-star or above status and who has already submitted its application for grant of AEO on CBIC's AEO portal is also eligible to apply for this scheme subject to the specified conditions.

However, DGFT may deny authorisation under this scheme to 2-star and above status holder based on its risk management principles. The scheme is not available for the specified export products as well as specified inputs.

### 1.6 Pre-import condition:

Imported inputs are subject to pre-import condition and they should be physically incorporated in the export product (making normal allowance for wastage). In case of local procurement under invalidation later/Advance release Order (ARO), the inputs shall be procured prior to manufacture of export item and shall be physically incorporated in the export product.

## Foreign Trade Policy

**1.7 Invalidation letter-** Regional Authority shall issue Invalidation Letter when domestic supplier intends to obtain duty free material for inputs through Advance Authorisation for supplying resultant product to another Advance Authorisation / DFIA /EPCG Authorisation.

**1.8 Advance Release Order (ARO) -** Regional Authority shall issue Advance Release Order if the domestic supplier intends to seek refund of duties exempted through Deemed Exports mechanism.

Holder of an Advance Authorisation / Duty Free Import Authorisation can procure inputs from indigenous supplier/ State Trading Enterprise/ EOU/EHTP/BTP/ STP in lieu of direct import. Such procurement can be against Advance Release Order (ARO), or Invalidation Letter.

### 1.8 Validity Period

Import of goods under the Advance Authorisation must be made within 12 months from the date of issue of Authorisation.

Re-validation for another period of 12 months can be allowed once only. Application for re- validation can be made online.

Validity of Advance Authorisation for supplies under deemed exports shall be co-terminus with contracted duration of project execution or 12 months from the date of issue of Authorisation, whichever is later.

### 1.9 Export Obligation Period and its Extension:

“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.

The Export Obligation Period (EOP) of Advance Authorisations issued for such items shall be 90 days from the date of clearance of import consignment and no extension in EOP shall be allowed. Such import shall be subject to actual user condition and no transfer of imported raw material, for any purpose, including job work, shall be permitted.

## Foreign Trade Policy

### 1.10 Advance Authorisation for Annual Requirement and Eligibility Condition:

Entitlement of AA in terms of CIF value of imports =	<div style="border: 1px solid black; padding: 10px; display: inline-block;"> 300% of the FOB value of physical exports and / or FOR value of deemed export in preceding financial year  Or ₹1 Crore </div>	Whichever is Higher
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#### Note:

- Advance Authorisation for Annual Requirement shall only be issued for items notified in Standard Input Output Norms (SION). And it shall not be available in case of adhoc norms under self-declaration Authorisations where SION does not exist.
- Advance Authorisation for Annual Requirement shall also not be available in respect of SION where any item of input appears in Appendix 4-J (i.e.Export Obligation Period for Specified Inputs with Pre-import Condition under Advance Authorizations).
- Exporters having past export performance (in at least preceding two financial years) shall be entitled for Advance Authorisation for Annual requirement.

### 1.11 Value Addition (VA):

$$VA = (A-B)/B \times 100$$

#### 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 Duty Drawback (DBK) is claimed or intended to be claimed.

## Foreign Trade Policy

### 1.12 Minimum Value Addition:

- (i) Minimum value addition required to be achieved under Advance Authorisation is 15%.
- (ii) Export Products where value addition could be less than 15% are given in Appendix 4D (i.e. petroleum products etc).
- (iii) Minimum value addition for Gems & Jewellery Sector is given in paragraph 4.60 of Handbook of Procedures.
- (iv) In case of Tea, minimum value addition shall be 50%.
- (v) In case of spices, minimum value addition shall be 25%.

Example: Jigsaw Puzzle has imported inputs, having CIF value of ₹25,00,000 without payment of duty under Advance Authorisation. Inputs are supplied free of cost valued at ₹5,00,000 to meet eventualities of quality issues arising during manufacture.

On manufacturing, the products are supplied to units in SEZ and realization is in Indian currency.

Jigsaw Puzzle wants to know what should be the minimum value addition under Advance Authorisation scheme.

Minimum FOB value of supply to SEZ = ₹34,50,000  
 $[\text{₹}25,00,000 + \text{₹}5,00,000) \times 115\%]$

### 1.13 Import of mandatory spares:

Spares that are required to be supplied with the export product can be imported duty-free under the advance authorisation up to a value of 10% of the CIF value of the authorisation.

### 1.14 Imports under Advance Authorisation are exempted from payment of

Basic Customs Duty,  
 Additional Customs Duty,  
 Education Cess,  
 Anti- dumping Duty,  
 Countervailing Duty,  
 Safeguard Duty,  
 Transition Product Specific Safeguard Duty, wherever applicable

Imports under Advance Authorisation for physical as well as deemed exports are also exempt from whole of the Integrated Tax u/s 3(7) and Compensation Cess u/s 3(9) of the Customs Tariff Act, 1975

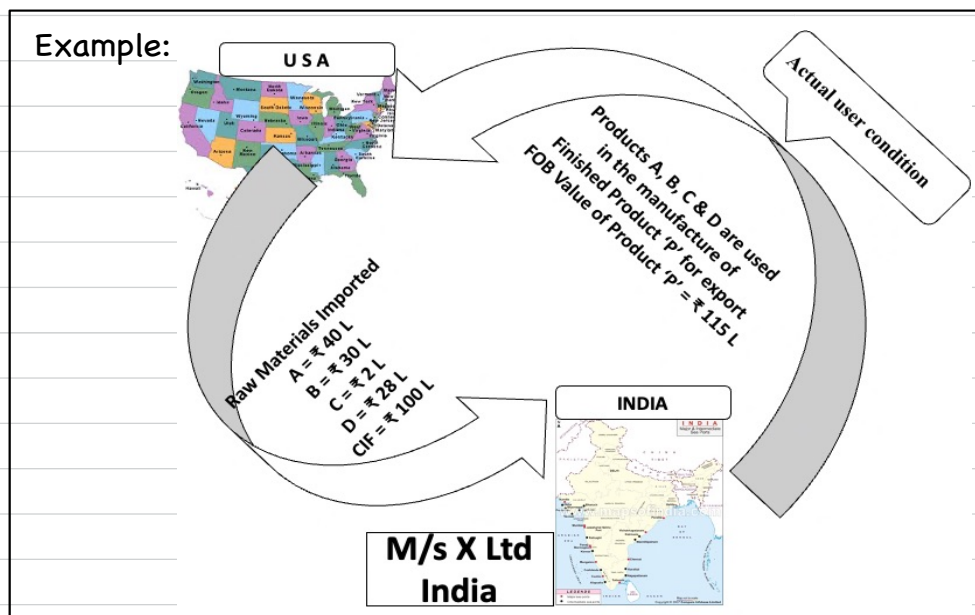
## Foreign Trade Policy

### 1.15 Admissibility of Drawback:

Duty drawback as per rate determined and fixed by Customs authority is available for duty paid imported or indigenous inputs (not specified in the norms) used in the export product. For this purpose, applicant shall indicate clearly details of duty paid input in the application for Advance Authorisation.

### 1.16 Actual User Condition for Advance Authorisation:

Advance Authorisation and / or material imported under Advance Authorisation shall be subject to 'Actual User' condition. The same shall not be transferable even after completion of export obligation. However, Authorisation holder will have option to dispose of product manufactured out of duty free input once export obligation is completed.



If input tax credit facility on input has been availed for the exported goods, even after completion of export obligation, the goods imported against such Advance Authorisation shall be utilized only in the manufacture of dutiable goods whether within the same factory or outside (by a supporting manufacturer).

Waste / Scrap arising out of manufacturing process, as allowed, can be disposed off on payment of applicable duty even before fulfillment of export obligation.

## Foreign Trade Policy

### 1.17 Free of Cost Supply by Foreign Buyer:

Advance Authorisation shall also be available where some or all inputs are supplied free of cost to exporter by foreign buyer. In such cases, notional value of free of cost input shall be added in the CIF value of import and FOB value of export for the purpose of computation of value addition. However, realization of export proceeds will be equivalent to an amount excluding notional value of such input.



## Foreign Trade Policy

### 2. DUTY FREE IMPORT AUTHORISATION SCHEME (DFIA):

Duty Free Import Authorisation is issued to allow duty free import of inputs. In addition, import of oil and catalyst which is consumed/ utilised in the process of production of export product, may also be allowed. Import of Tyre under DFIA scheme is not allowed.

Provisions applicable to Advanced Authorisation are broadly applicable in case of DFIA.

However, DFIA shall be issued only for products for which Standard Input and Output Norms (SION) have been notified.

#### 2.1 Duties Exempted:

Duty Free Import Authorisation shall be exempted only from payment of Basic Customs Duty (BCD).

Drawback as per rate determined and fixed by Customs authority shall be available for duty paid inputs, whether imported or indigenous, used in the export product.

#### 2.2 Eligibility:

- i. Duty Free Import Authorisation shall be issued on post export basis for products for which Standard Input Output Norms have been notified.
- ii. Merchant Exporter shall be required to mention name and address of supporting manufacturer of the export product on the export document viz. Shipping Bill/ Bill of Export / Tax Invoice for export prescribed under the GST rules.
- iii. Application is to be filed with concerned Regional Authority before effecting export under Duty Free Import Authorisation.
- iv. No Duty Free Import Authorisation shall be issued for an input which is subjected to pre-import condition or where SION prescribes 'Actual User' condition or Appendix-4J prescribes pre import condition for such an input.

#### 2.3 Minimum Value Addition:

Minimum value addition of 20% shall be required to be achieved.

#### 2.4 Validity & Transferability of DFIA:

Export shall be completed within 12 months from the date of online filing of application and generation of file number.

Regional Authority shall issue transferable DFIA with a validity of 12 months from the date of issue. No further revalidation shall be granted by Regional Authority. Separate DFIA shall be issued for each SION.

## Foreign Trade Policy

### Common provisions applicable to Advance Authorisation and DFIA:

#### 1. Accounting of Input:

Wherever SION permits use of either (a) a generic input or (b) alternative input, unless the name of the specific input together with quantity [which has been used in manufacturing the export product] gets indicated / endorsed in the relevant shipping bill and these inputs, so endorsed, within quantity specified and match the description in the relevant bill of entry, the concerned Authorisation will not be redeemed

The above provisions will also be applicable for supplies to SEZs and supplies made under Deemed exports.

#### 2. Importability / Exportability of items that are Prohibited/ Restricted / STE:

- No export or import of an item shall be allowed under Advance Authorisation / DFIA if the item is prohibited for exports or imports respectively. Export of a prohibited item may be allowed under Advance Authorisation provided it is separately so notified, subject to the conditions given therein.
- 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.
- Items reserved for export by STE can be exported under Advance Authorisation / DFIA only after obtaining a 'No Objection Certificate' from the concerned STE.
- Import of restricted items shall be allowed under Advance Authorisation/DFIA unless specifically disallowed.
- Export of restricted / SCOMET items however, shall be subject to all conditionalities or requirements of export authorisation or permission.

#### 3. domestic Sourcing of Inputs:

Holder of an Advance Authorisation / Duty Free Import Authorisation can procure inputs from indigenous supplier/ State Trading Enterprise/EOU/EHTP/BTP/ STP in lieu of direct import. Such procurement can be against Advance Release Order (ARO), or Invalidation Letter



## Foreign Trade Policy

### 4. Currency for realisation of export proceeds:

Export proceeds shall be realized in freely convertible currency or in Indian Rupees wherever permitted under FTP.

Export to SEZ Units shall be taken into account for discharge of export obligation provided payment is realised from Foreign Currency Account of the SEZ unit.

Export to SEZ Developers / Co-developers can also be taken into account for discharge of export obligation even if payment is realised in Indian Rupees.

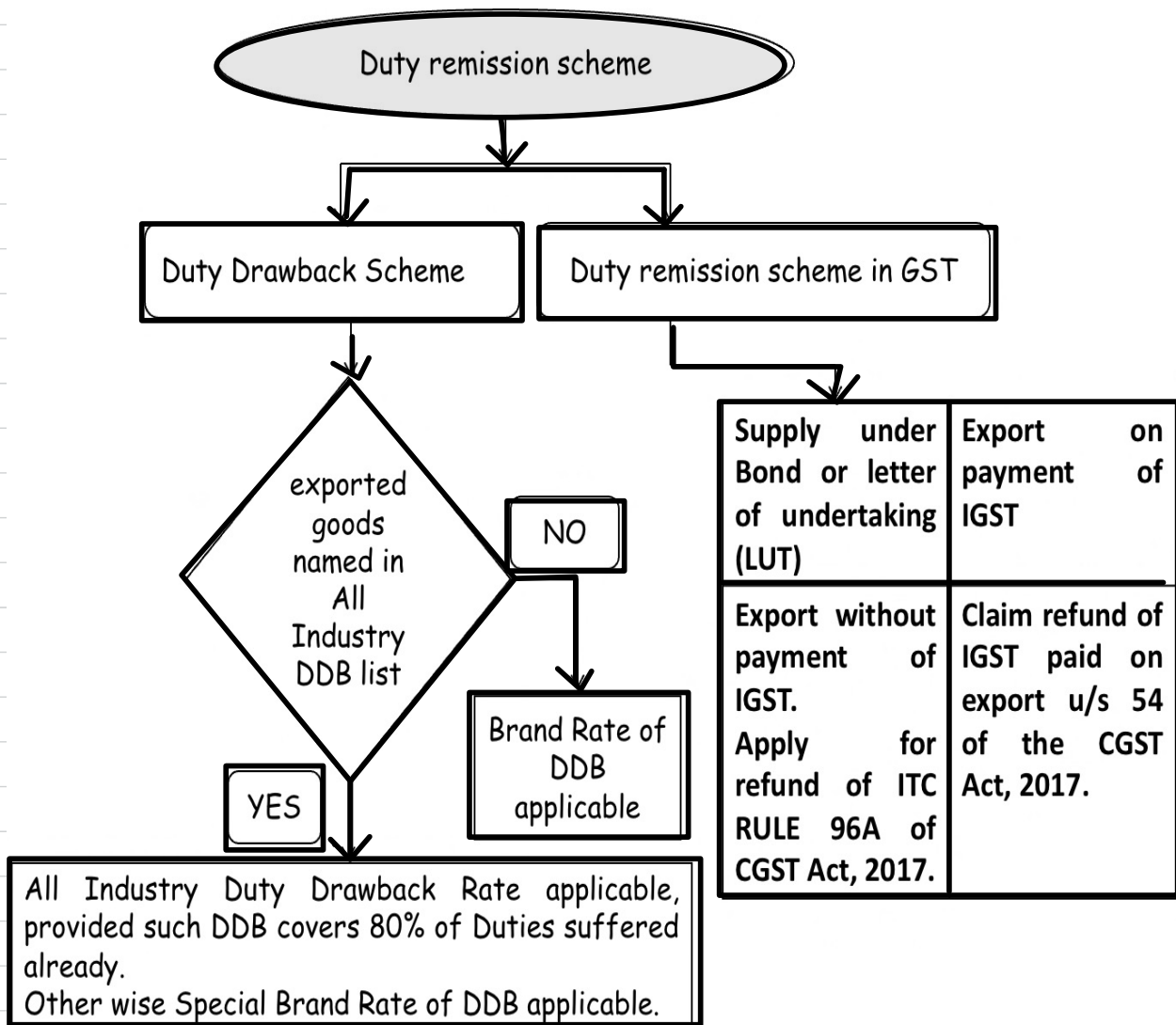
Authorisation holder needs to file Bill of Export for export to SEZ unit/ developer / co-developer in accordance with the procedures given in SEZ Rules, 2006.

### 5. Re-import of exported goods under Duty Exemption/ Remission Scheme:

Goods exported under advance authorisation/ duty free import authorisation may be re-imported in same or substantially same form subject to the specified conditions.

## Foreign Trade Policy

### Duty Remission Scheme:





## Foreign Trade Policy

### **New Scheme RODTEP:**

The Government had recently announced the introduction of a new scheme "Remission of Duties and Taxes on Exported Products" (RoDTEP) to replace the Merchandise Exports from India Scheme (MEIS) available to exporters of goods. Accordingly, the items covered under the existing MEIS scheme would be shifted in a phased manner to the new RoDTEP scheme.

RoDTEP has been made effective for exports from 1st January 2021 in respect of those exports where intention to claim the benefit has been manifested on the shipping bills. RoDTEP is going to give a boost to Indian exports by providing a level playing field to domestic industry abroad.

### **RoDTEP Benefits:**

Being WTO-compliant, the RoDTEP scheme can make available from the government benefits to the exporters seamlessly.

- (a) The scheme is more exhaustive in that certain taxes that were not covered under the previous scheme are also included in the list, for example, education cess, state taxes on oil, power and water.
- (b) It will add more competitiveness in the foreign markets, with assured duty benefits by the Indian Government.
- (c) It will also help exporters meet international standards and promote business growth etc.,

### **Objective of RODTEP Scheme:**

The Scheme's objective is to refund, currently un-refunded duties and taxes. The scheme has been introduced with an objective to neutralize the taxes and duties suffered on exported goods which are otherwise not credited or remitted or refunded in any manner and remain embedded in the export goods. This scheme provides for rebate of all hidden Central, State, and Local duties/taxes/levies on the goods exported which have not been refunded under any other existing scheme namely:

- Mandi Tax, Municipal Taxes, Property Taxes, VAT,
- Coal cess,
- Central Excise duty on fuel,
- Electricity duty on purchase of electricity,
- Stamp duty on export documents; etc.

will now be refunded under this particular scheme.

All the items under the MEIS and the RoSCTL (Rebate of State and Central Taxes and Levies) are now under the purview of the RoDTEP Scheme.



## Foreign Trade Policy

### RODTEP Scheme Operating Principles:

1. RoDTEP support will be available to eligible exporters at a notified rate as a percentage of Freight On Board (FOB) value. Rebate on certain export products will also be subject to value cap per unit of the exported product.

However, for the purpose of calculation of duty credit, value of exported shall be least of the following:

- (a) FOB value of said goods, or
- (b) 1.5 times of the market price of the goods.

2. Identified export sectors and rates under RoDTEP cover 8555 tariff lines in addition to similar support being extended to apparel and made-ups exports under RoSCTL scheme of Ministry of Textiles.

3. Employment Oriented Sectors like Marine, Agriculture, Leather, Gems & Jewellery etc. are covered under the Scheme. Other sectors like Automobile, Plastics, Electrical / Electronics, Machinery etc. also get support. The entire value chain of textiles also gets covered through RoDTEP & RoSCTL.

4. Rebate under the Scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.

5. The determination of ceiling rates under the scheme will be done by a Committee in the Department of Revenue/Drawback Division with suitable representation of the DoC/DGFT, line ministries and experts, on the sectors prioritized by Department of Commerce and Department of Revenue.

6. No provision for remission of arrears or contingent liabilities is permissible under the Scheme to be carried over to the next financial year.

7. The rebate allowed is subject to the receipt of sale proceeds within time allowed under the Foreign Exchange Management Act, 1999 failing which such rebate shall be deemed never to have been allowed. The rebate would not be dependent on the realisation of export proceeds at the time of issue of rebate. However, adequate safeguards to avoid any misuse on account of non-realisation and other systemic improvements as in operation under Drawback Scheme, IGST and other GST refunds relating to exports would also be applicable for claims made under RoDTEP Scheme.

## Foreign Trade Policy

### **Mechanism of Issuance of Rebate:**

(a) Scheme would be implemented through end to end digitalization of issuance of rebate amount in the form of a transferable duty credit/ electronic scrip (e-scrip), which will be maintained in an electronic ledger by the Central Board of Indirect Taxes and Customs (CBIC).

(b) Necessary rules and procedure regarding grant of RoDTEP claim under the scheme and implementation issues including manner of application, time period for application and other matters including export realisation, export documentation, sampling procedures, record keeping etc. would be notified by the CBIC, Department of Revenue on an IT enabled platform with a view to end to end digitalisation.

(c) Necessary provisions for recovery of rebate amount where foreign exchange is not realised, suspension /withholding of RoDTEP in case of frauds and misuse, as well as imposition of penalty will also be built suitably by CBIC.

### **Eligible Sectors for RoDTEP Scheme:**

The following sectors are eligible to avail of benefits under the scheme.

1. All sectors shall be covered under the scheme. Labour-intensive sectors will be accorded a priority.
2. Both manufacturer exporters and merchant exporters (traders) are eligible.
3. There is no turnover threshold for availing benefits under the scheme.
4. Re-exported products are not eligible under this scheme.
5. The exported products should have India as their country of origin to be eligible for benefits under the scheme.
6. Special Economic Zone Units and Export Oriented Units are also eligible.
7. The scheme also applies to goods that have been exported via courier through e-commerce platforms.



## Foreign Trade Policy

### Ineligible categories under the Scheme for claiming benefit:

The following categories of exports/exporters which shall not be eligible for rebate under the RoDTEP Scheme:

- (i) Exports of imported goods as per para 2.46 of FTP i.e. Import for Export;
- (ii) Exports through trans-shipments, meaning thereby exports originating in third country but trans-shipped through India;
- (iii) Export products which are subject to minimum export price or export duty;
- (iv) Products which are restricted for exports under Schedule-2 of Export Policy in ITC (HS);
- (v) Products which are prohibited for exports under Schedule-2 of Export Policy in ITC (HS);
- (vi) Deemed Exports;
- (vii) Supplies of products manufactured by DTA units to SEZ/FTWZ units;
- (viii) Products manufactured in EHTP and BTP;
- (ix) Products manufactured partly or wholly in a warehouse under section 65 of Customs Act, 1962 ;
- (x) \* Products manufactured or exported in discharge of export obligation against advance authorisation or Duty Free Import Authorization (DFIA) or Special Advance Authorisation issued under a duty exemption scheme of relevant Foreign Trade Policy;
- (xi) \* Products manufactured or exported by a unit licensed as 100% Export Oriented Unit (EOU) in terms of the provisions of the Foreign Trade Policy;
- (xii) \* Products manufactured or exported by any of the units situated in Free Trade Zone (FTZ), Export Processing Zones (EPZ) or Special Economic Zone (SEZ);
- (xiii) Products manufactured or exported availing the benefit of Notification No 32/1997- Customs dated 01.04.2017 (i.e. jobbing transactions);
- (xiv) Exports for which electronic documentation in ICEGATE EDI has not been generated or Exports from Non-EDI port; and
- (xv) Goods which have been taken into use after manufacture (i.e. second-hand goods);

[\*\*\* As per para 4.55B of the FTP (inserted vide DGFT Notification No. 19/2015-20 dated 17.08.2021), the inclusion of exports made by categories mentioned in Sr. No. X, XI and XII above i.e. the exporters under the categories of SEZ, EOU, Advance Authorisation etc. and the RoDTEP rates for export items under such categories would be decided later based on the recommendations of the RoDTEP Committee.]

## Foreign Trade Policy

### RoDTEP vs Merchandise Export from India Scheme (MEIS):

Feature	RoDTEP	MEIS
Incentive Scheme	Refund of indirect taxes on inputs used in the manufacture of exported products that are not being currently reimbursed in any other existing schemes.	Incentive on exports of goods in form of transferable scrips
Mode of issue	Issued in the form of transferable duty credit/ electronic scrip, which will be maintained in electronic ledger	Issued in the form of transferable scrips (physical copy)
WTO compliant	Yes. It is as per WTO norms.	No.
Incentive	At a notified rate as a percentage of Freight On Board (FOB) value. Rebate on certain export products will also be subject to value cap per unit of the exported product.	As a % of realised FOB value of exports in free foreign exchange or FOB value of exports as per shipping Bill, whichever is lower.
Transferable	Transferable in open market	Transferable in open market

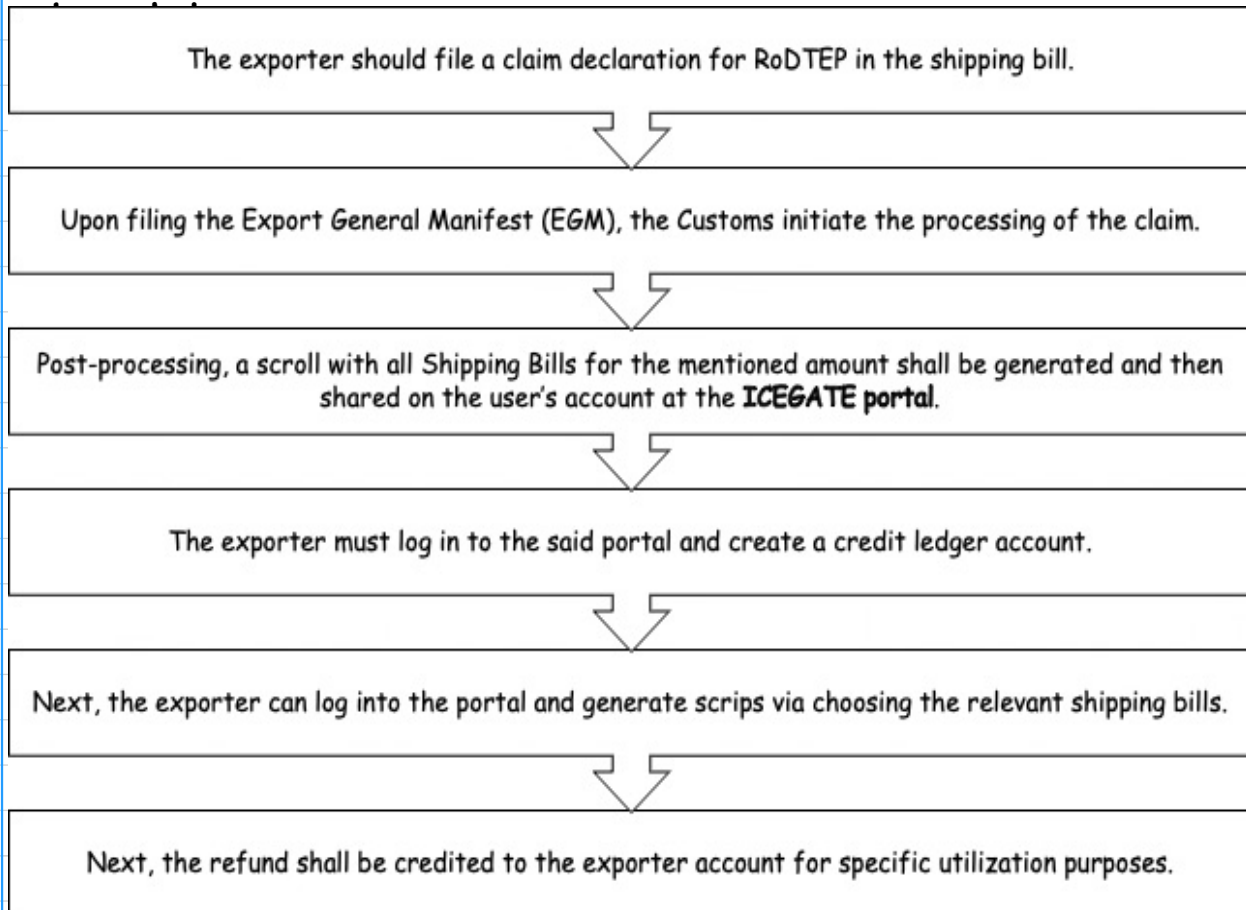
### Utilisation of Duty Credit:

The created and approved Scrips can either be used for debiting Basic Customs Duty for own imports or the approved Scrip can be transferred to another IEC holder who is also created RODTEP Ledger under his log in Credentials

The current owner of the Scrip can use the scrip credits for debiting to his imports in the same manner in the past like all other scrips like MEIS, RoSCTL etc as in the past

## Foreign Trade Policy

The process of generating and claiming scrips as per the RoDTEP scheme is



The common documents required for RoDTEP Scheme include

- Shipping bills,
- Digital Signature Certificate (DSC) – Class 3,
- Electronic Bank Realisation Certificate (eBRC), and
- RCMC Certificate.

**Electronic Bank Realisation Certificate:** An eBRC (electronic Bank Realisation Certificate) refers to a digital certificate for those engaged with the export business. It is granted by the designated bank as confirmation that the concerned exporter has received payment against the exports of goods or services.

**Registration Cum Membership Certificate:** As per the Foreign Trade Policy, a RCMC is required to avail benefits under the policy. The certificate mainly benefits the exporters and helps reduce immediate liabilities relating to shipping.



## Foreign Trade Policy

### **Export Promotion Capital Goods (EPCG) Scheme:**

The objective of the EPCG Scheme is to facilitate import of capital goods for producing quality goods and services and enhance India's manufacturing competitiveness.

Export Promotion Capital Goods Scheme (EPCG) permits exporters to import capital goods (except specified goods) for pre-production, production and post-production at zero customs duty or procure them indigenously without paying duty in the prescribed manner. In return, exporter is under an obligation to fulfill the export obligation.

### **Applicability of IGST and Compensation cess:**

Capital goods imported under EPCG Authorisation for physical exports are also exempt from IGST and Compensation.

In case integrated tax and compensation cess are paid in cash on imports under EPCG, incidence of the said integrated tax and compensation cess would not be taken for computation of net duty saved provided, input tax credit is not availed.

### **Actual User Condition:**

Imported capital goods shall be subject to Actual User condition till export obligation is completed and Export Obligation Discharge Certificate (EODC) is granted.

### **Validity:**

Authorisation shall be valid for import for **24 months** from the date of issue of Authorisation. Revalidation of EPCG Authorisation shall not be permitted.

### **Indigenous Sourcing of Capital Goods and benefits to Domestic Supplier:**

A person holding an EPCG authorisation may source capital goods from a domestic manufacturer either through Invalidation letter or through Advance Release Order. Such domestic manufacturer shall be eligible for deemed export benefits. Such domestic sourcing shall also be permitted from 100% EOUs.

## Foreign Trade Policy

Export Obligation (EO) consist of average export obligation and specific export obligation.

Import under EPCG scheme shall be subject to an export obligation equivalent to 6 times of duties, taxes and cess saved on capital goods to be fulfilled in 6 years reckoned from the date of issue of authorization.

Exports under Advance Authorisation, DFIA, Duty Drawback, RoSCTL and RoDTEP Schemes would also be eligible for fulfilment of EO under EPCG Scheme.

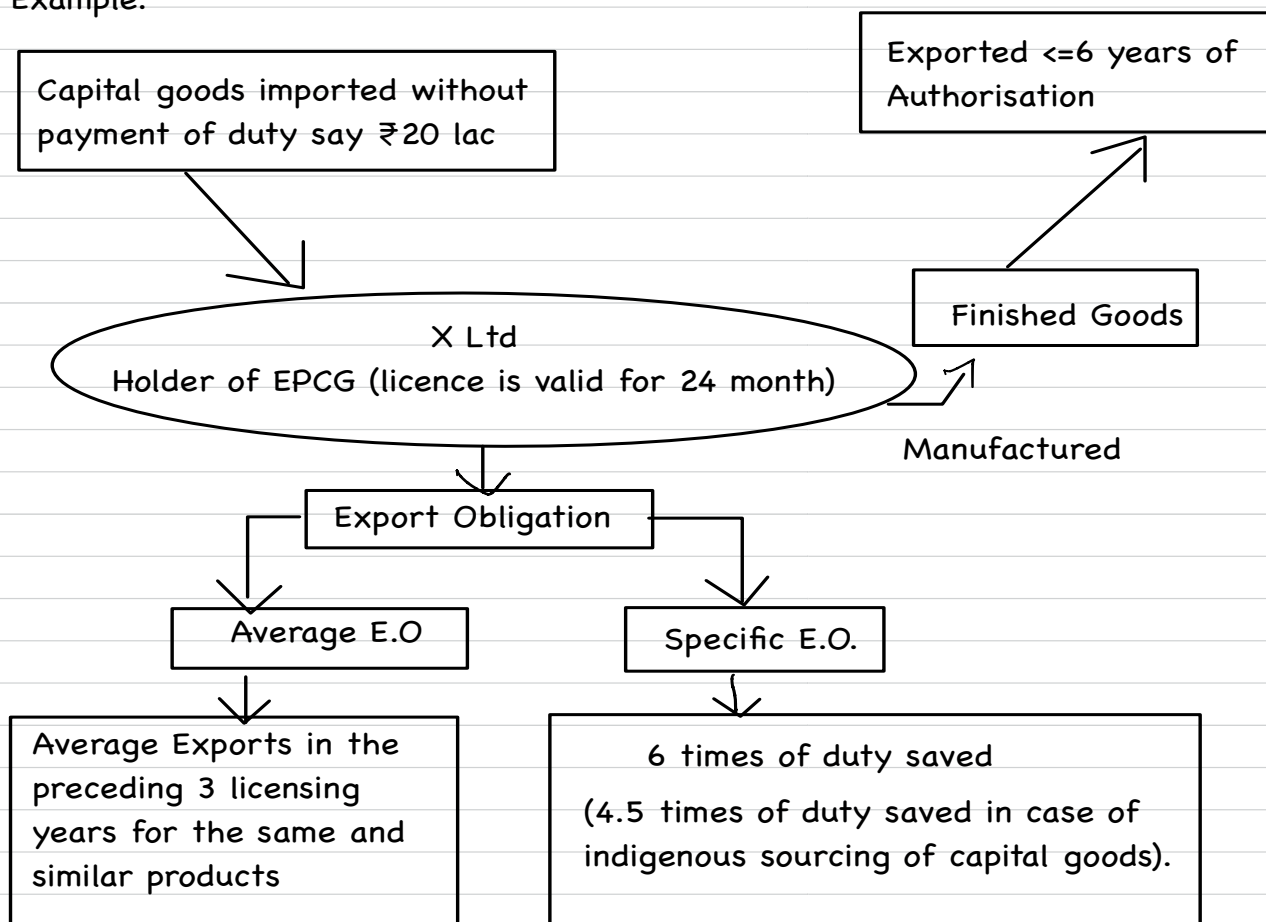
Exports made from DTA units shall only be counted for calculation and/or fulfillment of AEO and/or EO

EO can also be fulfilled by the supply of Information Technology Agreement (ITA-1) items to DTA, provided realization is in free foreign exchange.

Both physical exports as well as specified deemed exports shall also be counted towards fulfilment of export obligation.

Specific EO is over and above the Average EO.

Example:





## Foreign Trade Policy

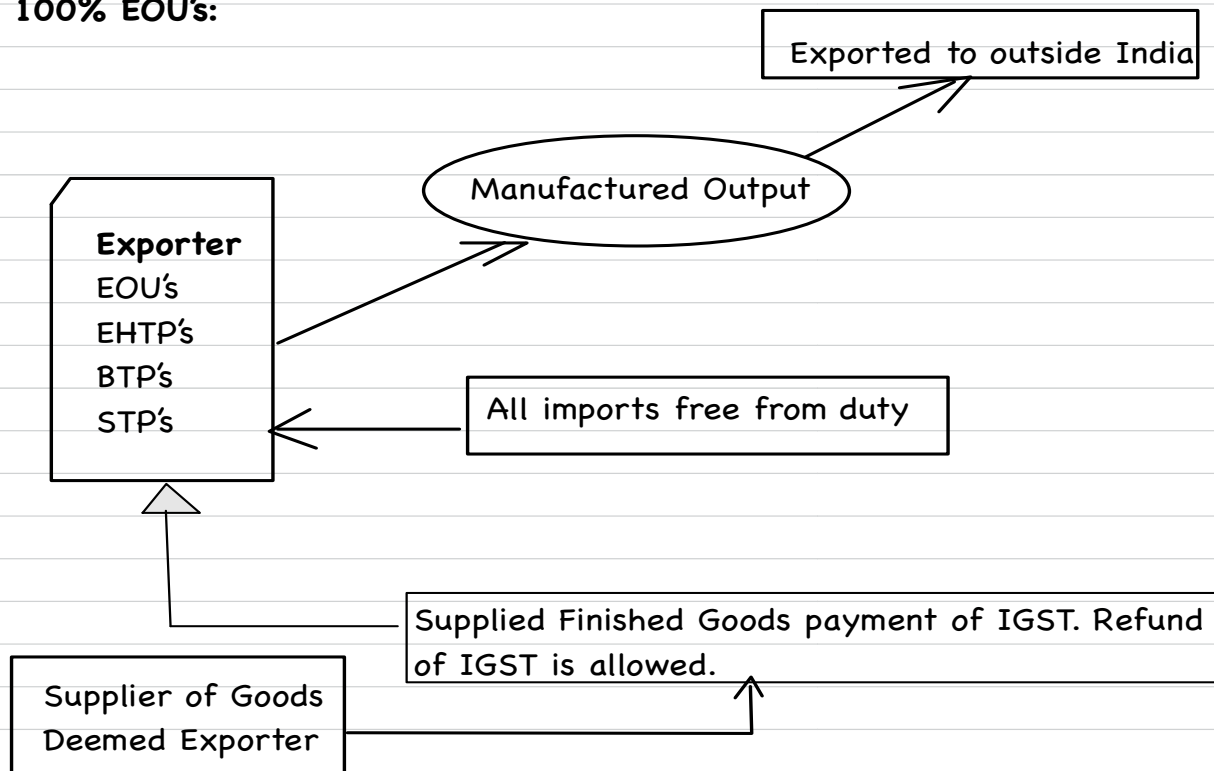
Incentives for fulfilment of export obligation:

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.

In case of direct imports, EO shall be reckoned with reference to actual duty/Taxes/Cess saved amount. In case of domestic sourcing, EO shall be reckoned with reference to notional Customs duty /Taxes/Cess saved on FOR value.

## Foreign Trade Policy

### 100% EOU's:



EOU scheme is administered by Ministry of Commerce and Industry, while EHTP, STP & BTP schemes are administered by their respective administrative ministries. STP/EHTP Scheme is administered by Ministry of Information Technology. Bio Technology Park (BTP) is established on the recommendation of Department of Biotechnology.

Trading units are not covered under these schemes.

Only projects having a minimum investment of ₹1 crore in plant & machinery shall be considered for establishment as EOUs. However, Board of Approvals (BoA) may allow establishment of EOUs with a lower investment criteria also. Approval for setting up of units under EOU scheme shall be granted by the Units Approval Committee within 15 days as per prescribed criteria. In other cases, approval may be granted by Board of Approval (BoA) set up for this purpose.

On approval, concerned authority will issue a Letter of Permission (LoP)/Letter of Intent (LoI) which will have initial validity of 2 years (extendable by 2 years and further extension, if necessary, by BoA), by which time unit should have commenced production.





## Foreign Trade Policy

### Other Entitlements:

Exemption from industrial licensing for manufacture of items reserved for micro and small enterprises. Export proceeds will be realized within 9 months. Units will be allowed to retain 100% of its export earnings in the EEFC (Exchange Earners' Foreign Currency) account. Unit will not be required to furnish bank guarantee at the time of import or going for job work in DTA subject to fulfilment of specified conditions. 100% FDI investment permitted through automatic route similar to SEZ units.

### Positive Net Foreign Exchange (NFE) earnings:

EOU/EHTP/STP/BTP unit must be a positive net foreign exchange earner.

NFE Earnings shall be calculated cumulatively in blocks of 5 years, starting from commencement of production.

Items of manufacture for export specified in LoP/LoI alone shall be taken into account for calculation of NFE.

$$\text{Positive NFE} = A - B > 0$$

'A' is FOB value of exports;

'B' is CIF value of imported inputs, capital goods and value of all payments made in foreign exchange by way of commission/royalty etc. plus goods are obtained from another EOU/SEZ/international exhibition held in India or bonded warehouse.

In case units not able to achieve NFE due to any reason 5 years block period, may be extended suitably by BoA. In case of adverse market conditions 5 years period can be extendable up to 1 year.

Units Approval Committee shall monitor performance of EOU's with regard to NFE earnings.

### Sales to DTA units:

Up to 50% of FOB value of exports (including sales made to SEZ unit from Foreign Exchange Account of such unit), subject to fulfilment of positive NFE, on payment of concessional duties.

In case of units manufacturing and exporting more than one product, sale of any of these products into DTA, up to 90% of FOB value of export of the specific products is permitted, provided total DTA sales does not exceed the overall entitlement of 50% of FOB value of exports for the unit.

In case of new EOUs, advance DTA sale will be allowed not exceeding 50% of its estimated exports for first year (2 years for pharmaceutical units).



## Foreign Trade Policy

### Deemed Exports:

Goods manufactured in India and supplies from DTA to EOU, EHTP, STP & BTP units will be regarded as deemed exports and DTA supplier shall be eligible for export incentives.

The following supplies considered as deemed exports:

Goods supplied by a manufacturer:

1. Supply of goods against Advance Authorisation/Advance Authorisation for Annual Requirement/ DFIA.
2. Supply of goods to units located in EOU/STP/BTP/EHTP.
3. Supply of capital goods against EPCG authorization.
4. Supply of marine freight containers by 100% EOU provided said containers are exported within 6 months by another 100% EOU.

Goods supplied by a Main contractor/sub-contractor:

1. Supply of goods to projects or turnkey contracts financed by multilateral or bilateral agencies/Funds notified by Department of Economic Affairs (DEA), under International Competitive Bidding.
2. Supply of goods to any project where import is permitted at zero customs duty.
3. Supply of goods to mega power projects against International Competitive Bidding.
4. Supply to goods to UN or international organisations.
5. Supply of goods to nuclear projects through competitive bidding (need not be international competitive bidding).

### BENEFITS FOR DEEMED EXPORTS

Deemed exports shall be eligible for any/all of following benefits:

1. Advance Authorisation/Advance Authorisation for Annual requirement/ DFIA
2. Deemed Export Drawback
3. Domestic supplies to EOUs would be treated as deemed exports under Section 147 of CGST/SGST Act and refund of tax paid on such supplies given to the supplier.

All supplies notified as supply for deemed exports are subject to levy of taxes. However, the refund of tax paid on the supply regarded as deemed export is admissible to either the supplier or the recipient.



## Foreign Trade Policy

The provisions relating to SEZ are contained in Special Economic Zone Act, 2005 and SEZ Rules, 2006.

- SEZs are like a separate island within territory of India.
- SEZs are projected as duty free area for the purpose of trade, operation, duty and tariffs.
- Goods and services coming to SEZ units from domestic tariff area are treated as exports from India and goods and services rendered from SEZ to the DTA are treated as import into India.

Any proposal for setting up of SEZ unit in the Private/Joint/State Sector is routed through the concerned State government who in turn forwards the same to the Department of Commerce with its recommendations for consideration.

The following incentives offered to the units in SEZ:

1. Duty free import/domestic procurement of goods for development, operation and maintenance of SEZ units.
2. Single window clearance for Central and State level approvals.
3. Exemption from State sales tax and other levies as extended by the respective State Governments.
4. "In order to give a boost to exports from SEZs, government has now decided to extend benefits of both the reward schemes (MEIS and SEIS) to units located in SEZs.
5. SEZs have been exempted from payment of IGST on imports. Supplies to SEZs by DTA units also exempted from IGST (i.e. zero-rated supply).

### Penalties:

In case any exporter or importer in the country violates any provision of the Foreign Trade Policy, the office of DGFT can cancel his IEC number and thereupon that exporter or importer would not be able to transact any business in export or import.