

CHAPTER-2

GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS

Exports and Imports free unless regulated	2.1	Exports and Imports shall be free, except in cases where they are regulated by the provisions of this Policy or any other law for the time being in force. The itemwise export and import policy shall be, as specified in ITC(HS) published and notified by Director General of Foreign Trade, as amended from time to time.
Compliance with Laws	2.2	Every exporter or importer shall comply with the provisions of the Foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders made thereunder, the provisions of this Policy and the terms and conditions of any licence/certificate/permission granted to him, as well as provisions of any other law for the time being in force. All imported goods shall also be subject to domestic Laws, Rules, Orders, Regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods.
Interpretation of Policy		<p>If any question or doubt arises in respect of the interpretation of any provision contained in this Policy, or regarding the classification of any item in the ITC(HS) or Handbook (Vol.1) or Handbook (Vol.2), the said question or doubt shall be referred to the Director General of Foreign Trade whose decision thereon shall be final and binding.</p> <p>If any question or doubt arises whether a licence/ certificate/permission has been issued in accordance with this Policy or if any question or doubt arises touching upon the scope and content of such documents, the same shall be referred to the Director General of Foreign Trade whose decision thereon shall be final and binding.</p>
Procedure		<p>The Director General of Foreign Trade may, in any case or class of cases, specify the procedure to be followed by an exporter or importer or by any licensing or any other competent authority for the purpose of implementing the provisions of the Act, the Rules and the Orders made thereunder and this Policy. Such procedures shall be included in the Handbook (Vol.1), Handbook (Vol.2) and in ITC(HS) and published by means of a Public Notice. Such procedures may, in like manner, be amended from time to time.</p> <p>The Handbook (Vol.1) is a supplement to the EXIM Policy and contains relevant procedures and other details. The benefits available under various schemes of the Policy are given in the Handbook (Vol.1).</p>
Exemption from Policy/ Procedure		Any request for relaxation of the provisions of this Policy or of any procedure, on the ground that there is genuine hardship to the applicant or that a strict application of the Policy or the procedure is likely to have an adverse impact on trade, may be made to the Director General of Foreign Trade for such relief as may be necessary. The Director General of Foreign Trade may pass such orders or grant such relaxation or relief, as he may deem fit and proper. The Director

General of Foreign Trade may, in public interest, exempt any person or class or category of persons from any provision of this Policy or any procedure and may, while granting such exemption, impose such conditions as he may deem fit. Such request may be considered only after consulting ALC if the request is in respect of a provision of Chapter-4 (excluding any provision relating to Gem & Jewellery sector) of the Policy/ Procedure. However, any such request in respect of a provision other than Chapter-4 as given above may be considered only after consulting Policy Relaxation Committee.

Principles of Restriction

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

Protection of public morals.

Protection of human, animal or plant life or health.

Protection of patents, trademarks and copyrights and the prevention of deceptive practices.

Prevention of prison labour.

Protection of national treasures of artistic, historic or archeological value.

Conservation of exhaustible natural resources.

Protection of trade of fissionable material or material from which they are derived; and

Prevention of traffic in arms, ammunition and implements of war.

Restricted Goods

Any goods, the export or import of which is restricted under ITC(HS) may be exported or imported only in accordance with a licence/ certificate/ permission or a public notice issued in this behalf.

Terms and Conditions of

a Licence/ Certificate/ Permission

Every licence/certificate/permission shall be valid for the period of validity specified in the licence/ certificate/permission and shall contain such terms and conditions as may be specified by the licensing authority which may include:

- (a) The quantity, description and value of the goods;
- (b) Actual User condition;
- (c) Export obligation;
- (d) The value addition to be achieved; and
- (e) The minimum export price.

Licence/ Certificate/ Permission not a Right

No person may claim a licence/certificate/ permission as a right and the Director General of Foreign Trade or the licensing authority shall have the power to refuse to grant or renew a licence/certificate/permission in accordance with the provisions of the Act and the Rules made thereunder.

Penalty

If a licence/certificate/permission holder violates any condition of the licence/

certificate/ permission or fails to fulfill the export obligation, he shall be liable for action in accordance with the Act, the Rules and Orders made there under, the Policy and any other law for the time being in force.

State Trading

Any goods, the import or export of which is governed through exclusive or special privileges granted to State Trading Enterprise(s), may be imported or exported by the State Trading Enterprise(s) as specified in the ITC(HS) Book subject to the conditions specified therein. The Director General of Foreign Trade may, however, grant a licence/certificate/permission to any other person to import or export any of these goods.

In respect of goods the import or export of which is governed through exclusive or special privileges granted to State Trading Enterprise(s), the State Trading Enterprise(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale. These enterprises shall act in a non discriminatory manner and shall afford the enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.

Importer-Exporter Code Number

No export or import shall be made by any person without an Importer-Exporter Code (IEC) number unless specifically exempted. An Importer-Exporter Code (IEC) number shall be granted on application by the competent authority in accordance with the procedure specified in the Handbook (Vol.1).

Trade with Neighbouring Countries

The Director General of Foreign Trade may issue, from time to time, such instructions or frame such schemes as may be required to promote trade and strengthen economic ties with neighbouring countries.

Transit Facility

Transit of goods through India from or to countries adjacent to India shall be regulated in accordance with the bilateral treaties between India and those countries.

Trade with Russia under Debt- Repayment Agreement

In the case of trade with Russia under the Debt Repayment Agreement, the Director General of Foreign Trade may issue, from time to time, such instructions or frame such schemes as may be required, and anything contained in this Policy, in so far as it is inconsistent with such instructions or schemes, shall not apply.

Actual User

Condition

Capital goods, raw materials, intermediates, components, consumables, spares, parts, accessories, instruments and other goods, which are importable without any restriction, may be imported by any person. However, if such imports require a licence/certificate/ permission, the actual user alone may import such goods unless the actual user condition is specifically dispensed with by the licensing authority.

Second Hand Goods

All second hand goods shall be restricted for imports and may be imported only in accordance with the provisions of this Policy, ITC(HS), Handbook (Vol.1), Public Notice or a licence/certificate/permission issued in this behalf.

Import of samples

Import of samples shall be governed by the provisions given in Handbook (Vol.1).

Import of Gifts

Import of gifts shall be permitted where such goods are otherwise freely

importable under this Policy. In other cases, a Customs Clearance Permit (CCP) shall be required from the DGFT.

Passenger Baggage

Bonafide household goods and personal effects may be imported as part of passenger baggage. Samples of such items that are otherwise freely importable under this Policy may also be imported as part of passenger baggage without a licence/certificate/ permission. Exporters coming from abroad are also allowed to import drawings, patterns, labels, price tags, buttons, belts, trimming and embellishments required for export, as part of their passenger baggage without a licence/certificate/ permission.

Import on Export basis

New or second hand capital goods, equipments, components, parts and accessories, containers meant for packing of goods for exports may be imported for export without a licence/certificate/permission on execution of Legal Undertaking/ Bank Guarantee with the Customs Authorities.

Re-import of goods repaired abroad

Capital goods, equipments, components, parts and accessories, whether imported or indigenous, may be sent abroad for repairs, testing, quality improvement or upgradation or standardisation of technology and re-imported without a licence/certificate/permission.

Import of goods used in projects abroad

After completion of the projects abroad, project contractors may import, without a licence/certificate/permission, used goods including capital goods provided they have been used for at least one year.

Sale on High Seas

Sale of goods on high seas for import into India may be made subject to this Policy or any other law for the time being in force.

Import under Lease Financing

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

Clearance of Goods from Customs

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

Execution of BG/LUT

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

Private/ Public Bonded Warehouses for Imports

Private/Public bonded warehouses may be set up in the Domestic Tariff Area as per the terms and conditions of notification issued by Department of Revenue. Any person may import goods except prohibited items, arms and ammunition, hazardous waste and chemicals and warehouse them in such private/public bonded warehouses. Such goods may be cleared for home consumption in accordance with the provisions of this Policy and against Licence/certificate/ permission, wherever required. Customs duty as applicable shall be paid at the time of clearance of such goods. If such goods are not cleared for home consumption within a period of one year or such extended period as the custom authorities may permit, the importer of such goods shall re-export the goods.

Free Exports	All goods may be exported without any restriction except to the extent such exports are regulated by ITC(HS) or any other provision of this Policy or any other law for the time being in force. The Director General of Foreign Trade may, however, specify through a public notice such terms and conditions according to which any goods, not included in the ITC(HS), may be exported without a licence/ certificate/ permission.
Export of samples	Export of samples shall be governed by the provisions given in Handbook (Vol.1)
Export of Passenger Baggage	Bonafide personal baggage may be exported either along with the passenger or, if unaccompanied, within one year before or after the passenger's departure from India. However, items mentioned as Restricted in ITC(HS) shall require a licence/certificate/permission, except in the case of edible items.
Export of Gifts	Goods, including edible items, of value not exceeding Rs.1,00,000/- in a licensing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC(HS) shall not be exported as a gift, without a licence/ certificate/ permission, except in the case of edible items.
Export of Spares	Warranty spares, whether indigenous or imported, of plant, equipment, machinery, automobiles or any other goods may be exported upto 7.5% of the FOB value of the exports of such goods alongwith the main equipment or subsequently but within the contracted warranty period of such goods.
Third Party Exports	Third party exports, as defined in paragraph 9.56 shall be allowed under the Policy.
Export of Imported Goods	Goods imported, in accordance with this Policy, may be exported in the same or substantially the same form without a licence/certificate/ permission provided that the item to be imported or exported is not mentioned as restricted for import or export in the ITC(HS). Exports of such goods imported against payment in freely convertible currency would be permitted against payment in freely convertible currency.

		Goods, including those mentioned as restricted item for import or export (except prohibited items) in ITC(HS), may be imported under Customs Bond for export in freely convertible currency without a licence/certificate/permission.
Export of Replacement Goods		Goods or parts thereof on being exported and found defective/damaged or otherwise unfit for use may be replaced free of charge by the exporter and such goods shall be allowed clearance by the customs authorities provided that the replacement goods are not mentioned as restricted items for exports in ITC(HS).
Export of Repaired Goods		Goods or parts thereof on being exported and found defective, damaged or otherwise unfit for use may be imported for repair and subsequent re-export. Such goods shall be allowed clearance without a licence/certificate/permission and in accordance with customs notification issued in this behalf.
Private Bonded Warehouses for Exports		Private bonded warehouse exclusively for exports may be set up in DTA as per the terms and conditions of the notifications issued by Department of Revenue. Such warehouse shall be entitled to procure the goods from domestic manufacturers without payment of duty. The supplies made by the domestic supplier to the notified warehouses shall be treated as physical exports provided the payments for the same are made in free foreign exchange.
Denomination of Export Contracts		All export contracts and invoices shall be denominated in freely convertible currency and export proceeds shall be realised in freely convertible currency. Contracts for which payments are received through the Asian Clearing Union (ACU) shall be denominated in ACU Dollar. The Central Government may relax the provisions of this paragraph in appropriate cases. Export contracts and Invoices can be denominated in Indian rupees against EXIM Bank/Government of India line of credit.
Realisation of Export Proceeds		If an exporter fails to realise the export proceeds within the time specified by the Reserve Bank of India, he shall, without prejudice to any liability or penalty under any law for the time being in force, be liable to action in accordance with the provisions of the Act, the Rules and Orders made thereunder and the provisions of this Policy.
Free movement of export goods	2.42.1	No seizure of stock shall be made by any agency so as to disrupt the manufacturing activity and delivery schedule of export goods. In exceptional cases, the concerned agency may seize the stock on the basis of prima facie evidence. However, such seizure should be lifted within 7 days.
Export Promotion Council	2.43	The basic objective of export promotion councils is to promote and develop the exports of the country. Each Council is responsible for the promotion of a particular group of products, projects and services. The list of the councils, and their main functions are given in Handbook (Vol.1).
Registration -cum- Membership Certificate	2.44	Any person, applying for (i) a licence/ certificate/ permission to import/ export, [except items listed as restricted items in ITC(HS)] or (ii) any other benefit or concession under this

policy shall be required to furnish Registration-cum-Membership Certificate (RCMC) granted by the competent authority in accordance with the procedure specified in the Handbook (Vol.1) unless specifically exempted under the Policy.