

CHAPTER-2

GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS

*Exports and Imports
free unless regulated*

2.1 Exports and Imports shall be free, except where regulated by FTP or any other law in force. The item wise export and import policy shall be, as specified in ITC (HS) notified by DGFT, as amended from time to time.

Import of rough diamond from Cote d'Ivoire shall be prohibited in compliance to Paragraph 6 of UN Security Council Resolution (UNSCR) 1643(2005).

The import/export of rough diamond (HS Code 710210, 710221 or 710231) from / to Venezuela shall be prohibited in view of voluntary separation of Venezuela from the Kimberley Process Certification Scheme (KPCS). No Kimberley Process Certificate shall be accepted/endorsed/issued for import and export of rough diamonds from / to Venezuela.

2.1.1 Import / export of arms and related material from / to Iraq shall be prohibited.

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

All items, materials equipment, goods and technology including as set out in lists in documents S/2006/814,S/2006/815 and S/2006/853(United Nations Security Council Documents) which could contribute to DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes.

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

i) items, listed in INFCIRC/254/Rev8/Part I in

document S/2006/814, in Sections B.2 to B.7 as well as A.I and B.I except supply, sale or transfer of equipment covered by B.I when such equipment is for light water reactors and low-enriched uranium covered by A.1.2 when it is incorporated in assembled nuclear fuel elements for such reactors;

- ii) items listed in S/2006/815 except supply sale or transfer of items covered by 19.A.3 of Category II.

Above-mentioned UN Security Council documents are accessible from DGFT web site.

<i>Compliance with Laws</i>	2.2	Every exporter or importer shall comply with the provisions of FT (D&R) Act, the Rules and Orders made there-under, FTP and terms and conditions of any Authorisation granted to him. All imported goods shall also be subject to domestic Laws, Rules, Orders, Regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods. No import or export of rough diamonds shall be permitted unless accompanied by Kimberley Process (KP) Certificate as specified by Gem & Jewellery EPC (GJEPC).
<i>Interpretation of Policy</i>	2.3	If any question or doubt arises in respect of interpretation of any provision contained in FTP, or classification of any item in ITC (HS) or HBP-v1 or HBP-v2, or Schedule of DEPB Rates (including content, scope or issue of an authorization there under) said question or doubt shall be referred to DGFT whose decision thereon shall be final and binding.
<i>Procedure</i>	2.4	DGFT may, specify procedure to be followed for an exporter or importer or by any licensing or any other competent authority for purpose of implementing provisions of FT (D&R) Act, the Rules and the Orders made there under and FTP. Such procedures shall be published by means of a Public Notice, and may, in like manner, be amended from time to time.
<i>Exemption from Policy / Procedure</i>	2.5	DGFT may pass such orders or grant such relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade. DGFT may, in public interest, exempt any person or class or category of persons from any provision of FTP or

any procedure and may, while granting such exemption, impose such conditions as he may deem fit. Such request may be considered only after consulting committees as under:

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

Principles of Restriction 2.6

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

- i Protection of public morals.
- ii Protection of human, animal or plant life or health.
- iii Protection of patents, trademarks and copyrights and the prevention of deceptive practices.
- iv Prevention of use of prison labour.
- v Protection of national treasures of artistic, historic or archaeological value.
- vi Conservation of exhaustible natural resources.
- vii Protection of trade of fissionable material or material from which they are derived; and
- viii Prevention of traffic in arms, ammunition and implements of war.

Restricted Goods 2.7

Any goods, export or import of which is restricted under ITC(HS) may be exported or imported only in accordance with an Authorisation or in terms of a public notice issued in this regard.

Terms and Conditions of a licence / Certificate / Permission / Authorisation 2.8

Every Authorisation shall be valid for prescribed period of validity and shall contain such terms and conditions as may be specified by RA which may include:

- (a) Quantity, description and value of goods;
- (b) Actual User condition;
- (c) Export obligation;
- (d) Value addition to be achieved; and
- (e) Minimum export / import price.

<i>Authorisation / Licence / Certificate / Permission not a Right</i>	2.9	No person may claim an Authorization as a right and DGFT or RA shall have power to refuse to grant or renew the same in accordance with provisions of FT (D&R) Act, Rules made there under and FTP.
<i>Penalty</i>	2.10	If an Authorisation holder violates any condition of such Authorisation or fails to fulfill export obligation, he shall be liable for action in accordance with FT (D&R) Act, the Rules and Orders made there under, FTP and any other law for time being in force.
<i>State Trading</i>	2.11	<p>Any goods, import or export of which is governed through exclusive or special privileges granted to STE(s), may be imported or exported by STE(s) as per conditions specified in ITC (HS). DGFT may, however, grant an Authorisation to any other person to import or export any of these goods.</p> <p>Such STE(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale in a non discriminatory manner and shall afford enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.</p>
<i>Importer-Exporter Code (IEC) Number</i>	2.12	No export or import shall be made by any person without an IEC number unless specifically exempted. An IEC number shall be granted on application by competent authority in accordance with procedure specified in HBP v1.
<i>Trade with Neighbouring Countries</i>	2.13	DGFT may issue instructions or frame schemes as may be required to promote trade and strengthen economic ties with neighbouring countries.
<i>Transit Facility</i>	2.14	Transit of goods through India from / or to countries adjacent to India shall be regulated in accordance with bilateral treaties between India and those countries and will be subject to such restrictions as may be specified by DGFT in accordance with International Conventions.
<i>Trade with Russia under Debt- Repayment Agreement</i>	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.
<i>Actual User Condition</i>	2.16	<p>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.</p> <p>However, if such imports require an Authorisation, actual user alone may import such goods unless actual user condition is specifically dispensed with by RA.</p>
<i>Second Hand Goods</i>	2.17	<p>All second hand goods, except second hand capital goods, shall be restricted for imports and may be imported only in accordance with provisions of FTP, ITC (HS), HBP v1, Public Notice or an Authorisation issued in this regard.</p> <p>Import of second hand capital goods, including refurbished / re-conditioned spares shall be allowed freely. However, second hand personal computers / laptops, photocopier machines, air conditioners, diesel generating sets will only be allowed against a licence.</p> <p>Import of re-manufactured goods shall be allowed only against a licence.</p>
<i>Scrap/Waste in SEZ</i>	2.17A	Any waste or scrap or remnant including any form of metallic waste & scrap generated during manufacturing or processing activities of an SEZ Unit/ Developer/Co-developer shall be allowed to be disposed in DTA freely subject to payment of applicable Customs Duty.
<i>Import of samples</i>	2.18	Import of samples shall be governed by HBP v1.
<i>Import of Gifts</i>	2.19	Import of gifts shall be permitted where such goods are otherwise freely importable under FTP. In other cases, a Customs Clearance Permit (CCP) shall be required from DGFT.
<i>Passenger Baggage</i>	2.20	<p>Bonafide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.</p> <p>Samples of such items that are otherwise freely importable under FTP may also be imported as part of passenger</p>

baggage without an Authorisation.

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

<i>Import on Export basis</i>	2.21	Freely exportable new or second hand capital goods, equipments, components, parts and accessories, containers meant for packing of goods for exports, jigs, fixtures, dies and moulds may be imported for export without an Authorisation on execution of LUT / BG with Customs Authorities.
<i>Re-import of goods repaired abroad</i>	2.22	Capital goods, equipments, components, parts and accessories, whether imported or indigenous, except those restricted under ITC (HS) may be sent abroad for repairs, testing, quality improvement or upgradation or standardization of technology and re-imported without an Authorisation.
<i>Import of goods used in projects abroad</i>	2.23	After completion of projects abroad, project contractors may import, without an Authorisation used goods including capital goods provided they have been used for at least one year.
<i>Sale on High Seas</i>	2.24	Sale of goods on high seas for import into India may be made subject to FTP or any other law in force.
<i>Import under Lease Financing</i>	2.25	Permission of RA is not required for import of capital goods under lease financing.
<i>Clearance of Goods from Customs</i>	2.26	Goods already imported / shipped / arrived, in advance, but not cleared from Customs may also be cleared against an Authorisation issued subsequently.
<i>Execution of BG / LUT</i>	2.27	Wherever any duty free import is allowed or where otherwise specifically stated, importer shall execute prescribed LUT / BG / Bond with Customs Authority before clearance of goods. In case of indigenous sourcing, Authorisation holder shall furnish LUT / BG / Bond to RA concerned before sourcing material from indigenous supplier / nominated agency as prescribed in HBP v1.
<i>Private / Public Bonded Warehouses for Imports</i>	2.28	Private / Public bonded warehouses may be set up in DTA as per terms and conditions of notification issued by

DoR.

Any person may import goods except prohibited items, arms and ammunition, hazardous waste and chemicals and warehouse them in such bonded warehouses.

Such goods may be cleared for home consumption in accordance with provisions of FTP and against Authorisation, wherever required. Customs duty as applicable shall be paid at the time of clearance of such goods.

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

<i>Free Exports</i>	2.29	All goods may be exported without any restriction except to extent such exports are regulated by ITC (HS) or any other provision of FTP or any other law for time being in force. DGFT may, however, specify through a public notice such terms and conditions according to which any goods, not included in ITC (HS), may be exported without an Authorisation.
<i>Export of Samples</i>	2.30	Export of samples and Free of charge goods shall be governed by provisions given in HBP v1.
<i>Export of Passenger Baggage</i>	2.31	Bonafide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger's departure from India. However, items mentioned as restricted in ITC (HS) shall require an Authorisation. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry alongwith their personal baggage, food items (free, restricted or prohibited) strictly for their personal consumption.
<i>Export of Gifts</i>	2.32	Goods, including edible items, of value not exceeding Rs.5,00,000 /- in a licensing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC (HS) shall not be exported as a gift, without an

Authorisation.

<i>Export of Spares</i>	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.
<i>Third Party Exports</i>	2.34	Third party exports, as defined in Chapter 9 shall be allowed under FTP.
<i>Export of Imported Goods</i>	2.35	Goods imported, in accordance with FTP, may be exported in same or substantially same form without an Authorisation provided that item to be imported or exported is not restricted for import or export in ITC (HS). 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 Licence / permission as may be required under ITC (HS) Schedule II.
	2.36 A	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.
<i>Export of Replacement Goods</i>	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).
<i>Export of Repaired Goods</i>	2.38	Goods or parts, except restricted under ITC (HS) thereof, on being exported and found defective, damaged or

otherwise unfit for use may be imported for repair and subsequent re-export.

Such goods shall be allowed clearance without an Authorisation and in accordance with customs notification.

***Private Bonded
Warehouses for Exports*** 2.39

Private bonded warehouses exclusively for exports may be set up in DTA as per terms and conditions of notifications issued by DoR.

Such warehouses shall be entitled to procure goods from domestic manufacturers without payment of duty. Supplies made by a domestic supplier to such notified warehouses shall be treated as physical exports provided payments are made in free foreign exchange.

***Denomination of Export
Contracts*** 2.40

All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realised in freely convertible currency.

However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of ACU or Nepal or Bhutan. Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account. Free foreign exchange remitted by buyer to his non-resident bank (after deducting the bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.

Contracts [for which payments are received through Asian Clearing Union (ACU)] shall be denominated in ACU Dollar. Central Government may relax provisions of this paragraph in appropriate cases. Export contracts and Invoices can be denominated in Indian rupees against EXIM Bank / Government of India line of credit.

***Realisation of Export
Proceeds*** 2.41

If an exporter fails to realise export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to action in accordance with provisions of FT (D&R) Act, Rules and Orders made there under and FTP.

<i>Free movement of export goods</i>	2.42	Consignments of items meant for exports shall not be withheld / delayed for any reason by any agency of Central / State Government. In case of any doubt, authorities concerned may ask for an undertaking from exporter.
<i>No seizure of Stock</i>	2.42.1	No seizure of stock shall be made by any agency so as to disrupt manufacturing activity and delivery schedule of exports. In exceptional cases, concerned agency may seize the stock on basis of prima facie evidence. However, such seizure should be lifted within 7 days.
<i>Export Promotion Councils (EPC)</i>	2.43	Basic objective of Export Promotion Councils (EPCs) is to promote and develop Indian exports. Each Council is responsible for promotion of a particular group of products, projects and services as given in HBP-v1.
<i>Registration -cum- Membership Certificate (RCMC)</i>	2.44	<p>Any person, applying for:</p> <p>(i) an Authorisation to import / export, [except items listed as restricted items in ITC(HS)] or</p> <p>(ii) any other benefit or concession under FTP</p> <p>shall be required to furnish RCMC granted by competent authority in accordance with procedure specified in HBP-v1 unless specifically exempted under FTP.</p> <p>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.</p>
<i>Trade Facilitation through EDI Initiatives</i>	2.45	It is endeavor of Government to work towards greater simplification, standardization and harmonization of trade documents using international best practices. As a step in this direction, DGFT shall move towards an automated environment for electronic filing, retrieval and authentication of documents based on agreed protocols and message exchange with other community partners including Customs and Banks.
<i>DGCI&S Commercial Trade Data</i>	2.45.1	To enable users to make commercial decisions in a more professional manner, DGCI&S trade data shall be made available with a minimum time lag in a query based structured format on a commercial criteria.

<i>Fiscal Incentives to promote EDI Initiatives adoption</i>	2.45.2	With a view to promote use of Information Technology, DGFT will provide fiscal incentives to user community. Deductions in Application Fee would be admissible for applications signed digitally or / and where application fee is paid electronically through EFT (Electronic Fund Transfer). Details are enumerated in HBP v1.
<i>Regularization of EO default and settlement of customs duty and interest through Settlement Commission</i>	2.46	With a view to providing assistance to firms who have defaulted under FTP for reasons beyond their control as also facilitating merger, acquisition and rehabilitation of sick units, it has been decided to empower Settlement Commission in Central Board of Excise and Customs to decide such cases also with effect from 01.04.2005.
<i>Easing of Documentation Requirement</i>	2.47	Pending finalisation of Single Common Document (SCD) for international trade, Government Departments dealing with exports and imports will honour Authorisation issued by other Government departments based on verification of export documents Like shipping bill, bank realization certificate, Packing list, bill of lading etc. and will not insist upon fresh submission of these documents.
<i>Exemption / Remission of Service Tax in DTA</i>	2.48	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.
<i>Exemption from Service Tax in SEZ</i>	2.48.1	Units in SEZ shall be exempted from service tax.
<i>Exemption from Service Tax on Services received abroad</i>	2.48.2	For all goods and services exported from India, services received / rendered abroad, where ever possible, shall be exempted from service tax.

GRIEVANCE REDRESSAL

<i>DGFT as a facilitator of exports / imports</i>	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.
<i>Citizen's Charter</i>	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.

<i>Grievance Redressal Committee (GRC)</i>	2.49.2	<p>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.</p> <p>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.</p>
<i>Export of perishable agricultural products</i>	2.50	<p>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 of HBP v1.</p>