



Foreign Trade Policy

27th August 2009 - 31st March 2014

Government of India
Ministry of Commerce and Industry
Department of Commerce

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

TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY
PART-II, SECTION-3, SUB SECTION (ii)

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE

NOTIFICATION No. 1/2009-2014
NEW DELHI, THE 27th August,2009

In exercise of powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act,1992 (No.22 of 1992) read with paragraph 1.2 of the Foreign Trade Policy, 2009-2014, the Central Government hereby notifies the Foreign Trade Policy, 2009-2014 as contained in Annexure to this notification. The Policy shall come into force w.e.f. 27th August, 2009.

This issues in Public interest.



(R. S. Gujral)
Director General of Foreign Trade and
Ex Officio Additional Secretary to the Government of India

(Issued from F.No. 01/94/180/Foreign Trade Policy/AM10/PC-4)



FOREIGN TRADE POLICY 2009-14

FOREWORD

The UPA Government has assumed office at a challenging time when the entire world is facing an unprecedented economic slow-down. The year 2009 is witnessing one of the most severe global recessions in the post-war period. Countries across the world have been affected in varying degrees and all major economic indicators of industrial production, trade, capital flows, unemployment, per capita investment and consumption have taken a hit. The WTO estimates project a grim forecast that global trade is likely to decline by 9% in volume terms and the IMF estimates project a decline of over 11%. The recessionary trend has huge social implications. The World Bank estimate suggests that 53 million more people would fall into the poverty net this year and over a billion people would go chronically hungry.

Though India has not been affected to the same extent as other economies of the world, yet our exports have suffered a decline in the last 10 months due to a contraction in demand in the traditional markets of our exports. The protectionist measures being adopted by some of these countries have aggravated the problem. After four clear quarters of recession there is some sign of a turnaround and the emergence of 'green shoots', though I would be hesitant to hazard a guess on the nature and extent of this recovery and the time the major economies will take to return to their pre-recession growth levels.

Announcing a Foreign Trade Policy in this economic climate is indeed a daunting task. We cannot remain oblivious to declining demand in the developed world and we need to set in motion strategies and policy measures which will catalyse the growth of exports.

Before defining the objectives of the new policy it would be useful to take stock of our achievements in the foreign trade over the last 5 years. The foreign trade policy announced by the UPA Government in 2004 had set two objectives, namely, (i) to double our percentage share of global merchandise trade within 5 years and (ii) use trade expansion as an effective instrument of economic growth and employment generation. Looking back, we can say with satisfaction that the UPA Government has delivered on its promise.

Agriculture and industry has shown remarkable resilience and dynamism in contributing to a healthy growth in exports.

In the last five years our exports witnessed robust growth to reach a level of US\$ 168 billion in 2008-09 from US\$ 63 billion in 2003-04. Our share of global merchandise trade was 0.83% in 2003; it rose to 1.45% in 2008 as per WTO estimates. Our share of global commercial services export was 1.4% in 2003; it rose to 2.8% in 2008. India's total share in goods and services trade was 0.92% in 2003; it increased to 1.64% in 2008. On the employment front, studies have suggested that nearly 14 million jobs were created directly or indirectly as a result of augmented exports in the last five years.

The short term objective of our policy is to arrest and reverse the declining trend of exports and to provide additional support especially to those sectors which have been hit badly by recession in the developed world. We would like to set a policy objective of achieving an annual export growth of 15% with an annual export target of US\$ 200 billion by March 2011. In the remaining three years of this Foreign Trade Policy i.e. upto 2014, the country should be able to come back on the high export growth path of around 25% per annum. By 2014, we expect to double India's exports of goods and services. The long term policy objective for the Government is to double India's share in global trade by 2020.

In order to meet these objectives, the Government would follow a mix of policy measures including fiscal incentives, institutional changes, procedural rationalization, enhanced market access across the world and diversification of export markets. Improvement in infrastructure related to exports; bringing down transaction costs, and providing full refund of all indirect taxes and

levies, would be the three pillars, which will support us to achieve this target. Endeavour will be made to see that the Goods and Services Tax rebates all indirect taxes and levies on exports.

At this juncture, it is our endeavour to provide adequate confidence to our exporters to maintain their market presence even in a period of stress. A Special thrust needs to be provided to employment intensive sectors which have witnessed job losses in the wake of this recession, especially in the fields of textile, leather, handicrafts, etc.

We want to provide a stable policy environment conducive for foreign trade and we have decided to continue with the DEPB Scheme upto December 2010 and income tax benefits under Section 10(A) for IT industry and under Section 10(B) for 100% export oriented units for one additional year till 31st March 2011. Enhanced insurance coverage and exposure for exports through ECGC Schemes has been ensured till 31st March 2010. We have also taken a view to continue with the interest subvention scheme for this purpose.

We need to encourage value addition in our manufactured exports and towards this end, have stipulated a minimum 15% value addition on imported inputs under advance authorization scheme.

It is important to take an initiative to diversify our export markets and offset the inherent disadvantage for our exporters in emerging markets of Africa, Latin America, Oceania and CIS countries such as credit risks, higher trade costs etc., through appropriate policy instruments. We have endeavored to diversify products and markets through rationalization of incentive schemes including the enhancement of incentive rates which have been based on the perceived long term competitive advantage of India in a particular product group and market. New emerging markets have been given a special focus to enable competitive exports. This would of course be contingent upon availability of adequate exportable surplus for a particular product. Additional resources have been made available under the Market Development Assistance Scheme and Market Access Initiative Scheme. Incentive schemes are being rationalized to identify leading products which would catalyze the next phase of export growth.

As part of our policy of market expansion, we have signed a Comprehensive Economic Partnership Agreement with South Korea which will give enhanced market access to Indian exports. We have also signed a Trade in Goods Agreement with ASEAN which will come in force from January 01, 2010, and will give enhanced market access to several items of Indian exports. These trade agreements are in line with India's Look East Policy. We have also concluded the Mercosur Preferential Trade Agreement. It shall be our endeavour to deepen our trade engagement with other major economic groupings in the world.

The Government seeks to promote Brand India through six or more 'Made in India' shows to be organized across the world every year.

In the era of global competitiveness, there is an imperative need for Indian exporters to upgrade their technology and reduce their costs. Accordingly, an important element of the Foreign Trade Policy is to help exporters for technological upgradation. Technological upgradation of exports is sought to be achieved by promoting imports of capital goods for certain sectors under EPCG at zero percent duty.

Under the present Foreign Trade Policy, Government recognizes exporters based on their export performance and they are called 'status holders'. For technological upgradation of the export sector, these status holders will be permitted to import capital goods duty free (through Duty Credit Scrips equivalent to 1% of their FOB value of exports in the previous year), of specified product groups. This will help them to upgrade their technology and reduce cost of production.

For upgradation of export sector infrastructure, 'Towns of Export Excellence' and units located therein would be granted additional focused support and incentives.

The policy is committed to support the growth of project exports. A high level coordination committee is being established in the Department of Commerce to facilitate the export of manufactured goods / project exports creating synergies in the line of credit extended through EXIM Bank for new and emerging markets. This committee would have representation from the

Ministry of External Affairs, Department of Economic Affairs, EXIM Bank and the Reserve Bank of India. We would like to encourage production and export of 'green products' through measures such as phased manufacturing programme for green vehicles, zero duty EPCG scheme and incentives for exports.

To enable support to Indian industry and exporters, especially the MSMEs, in availing their rights through trade remedy instruments under the WTO framework, we propose to set up a Directorate of Trade Remedy Measures.

In order to reduce the transaction cost and institutional bottlenecks, the e-trade project would be implemented in a time bound manner to bring all stake holders on a common platform. Additional ports/locations would be enabled on the Electronic Data Interchange over the next few years. An Inter-Ministerial Committee has been established to serve as a single window mechanism for resolution of trade related grievances.

These are difficult times and we have set an ambitious goal for ourselves. I am sure that the industry and the Government, working in tandem, will be able to ensure that the Indian exports become globally competitive and that we are able to achieve the target, which we have set for ourselves.



(Anand Sharma)

Minister of Commerce & Industry
Government of India

New Delhi
August 27, 2009

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GLOSSARY (ACRONYMS)

Acronym	Explanation
ACU	Asian Clearing Union
AEZ	Agri Export Zone
ANF	Aayaat Niryaat Form
ARO	Advance Release Order
ASIDE	Assistance to States for Infrastructure Development of Exports
BG	Bank Guarantee
BIFR	Board of Industrial and Financial Reconstruction
BOA	Board of Approval
BOT	Board of Trade
BRC	Bank Realisation Certificate
BTP	Biotechnology Park
CBEC	Central Board of Excise and Customs
CCP	Customs Clearance Permit
CEA	Central Excise Authority
CEC	Chartered Engineer Certificate
CIF	Cost, Insurance & Freight
CIS	Commonwealth of Independent States
CoD	Cash on Delivery
CoO	Certificate of Origin
CVD	Countervailing Duty
DA	Document against Acceptance
DoBT	Department of Bio Technology
DC	Development Commissioner
DEPB	Duty Entitlement Passbook
DFIA	Duty Free Import Authorisation
DFRC	Duty Free Replenishment Certificate
DGCI&S	Director General, Commercial Intelligence & Statistics.
DGFT	Director General of Foreign Trade
DIPP	Department of Industrial Policy & Promotion

DoC	Department of Commerce
DoE	Department of Electronics
DoIT	Department of Information Technology
DoR	Department of Revenue
DoT	Department of Tourism
DTA	Domestic Tariff Area
EDI	Electronic Data Interchange
EEFC	Exchange Earners' Foreign Currency
EFC	Exim Facilitation Committee
EFT	Electronic Fund Transfer
EH	Export House
EHTP	Electronic Hardware Technology Park
EIC	Export Inspection Council
EO	Export Obligation
EODC	Export Obligation Discharge Certificate
EOP	Export Obligation Period
EOU	Export Oriented Unit
EPC	Export Promotion Council
EPCG	Export Promotion Capital Goods
EPO	Engineering Process Outsourcing
FDI	Foreign Direct Investment
FIEO	Federation of Indian Export Organisation
FIRC	Foreign Exchange Inward Remittance Certificate
FMS	Focus Market Scheme
FOB	Free On Board
FPS	Focus Product Scheme
FT (D&R) Act	Foreign Trade (Development & Regulation) Act, 1992 (22 of 1992)
FTDO	Foreign Trade Development Officer
FTP	Foreign Trade Policy
GATS	General Agreement on Trade in Services
GRC	Grievance Redressal Committee
HACCP	Hazard Analysis and Critical Control Process
HBP v1	Handbook of Procedures (Vol.1)

HBP v2	Handbook of Procedures (Vol.2)
ICD	Inland Container Depot
ICM	Indian Commercial Mission
IEC	Importer Exporter Code
ISO	International Standards Organisation
ITC (HS)	Indian Trade Classification (Harmonised System) Classification for Export & Import Items
ITPO	India Trade Promotion Organisation
LoC	Line of Credit
LoI	Letter of Intent
LoP	Letter of Permit
LUT	Legal Undertaking
MAI	Market Access Initiative
MDA	Market Development Assistance
MEA	Ministry of External Affairs
MoD	Ministry of Defence
MoF	Ministry of Finance
NC	Norms Committee
NFE	Net Foreign Exchange
NOC	No Objection Certificate
PRC	Policy Relaxation Committee
PTH	Premier Trading House
PSU	Public Sector Undertaking
R&D	Research and Development
RA	Regional Authority
RBI	Reserve Bank of India
REP	Replenishment
RCMC	Registration-cum-Membership Certificate
RSCQC	Regional Sub-Committee on Quality Complaints
S/B	Shipping Bill
SEH	Star Export House
SEI CMM	Software Engineers Institute's Capability Maturity Model
SEZ	Special Economic Zone

SFIS	Served from India Scheme
SIA	Secretariat for Industrial Assistance
SION	Standard Input Output Norms
SSI	Small Scale Industry
STE	State Trading Enterprise
STH	Star Trading House
STP	Software Technology Park
TEE	Towns of Export Excellence
TH	Trading House
TRA	Telegraphic Release Advice
TRQ	Tariff Rate Quota
VA	Value Addition
VKGUY	Vishesh Krishi and Gram Udyog Yojana
WHOGMP	World Health Organisation Good Manufacturing Practices

CHAPTER- 1 A

LEGAL FRAMEWORK

- Foreword* 1.1 The Foreword spells out the broad framework
- Duration* 1.2 The Foreign Trade Policy 2009-2014 (FTP), incorporating provisions relating to export and import of goods and services, shall come into force with effect from 27th August, 2009 and shall remain in force upto 31st March, 2014 unless otherwise specified. All exports and imports upto 26th August 2009 shall be accordingly governed by the FTP 2004-2009.
- Amendment* 1.3 Central Government reserves right in public interest to make any amendments by notification to this Policy in exercise of powers conferred by Section 5 of FT(D&R) Act.
- Transitional Arrangements* 1.4 Authorisation issued before commencement of FTP shall continue to be valid for the purpose and duration for which such Authorisation was issued, unless otherwise stipulated
- 1.5 In case an export or import that is permitted freely under FTP is subsequently subjected to any restriction or regulation, such export or import will ordinarily be permitted notwithstanding such restriction or regulation, unless otherwise stipulated, provided that shipment of export or import is made within original validity with respect to available balance and time period of an irrevocable commercial letter of credit, established before date of imposition of such restriction.
- However for operationalizing such irrevocable commercial letter of credit the applicant shall have to register the Letter of Credit and contract with the concerned RA within 15 days of the issue of any such restriction or regulation.

CHAPTER- 1 B

SPECIAL FOCUS INITIATIVES

Special Focus

1B.1 With a view to continuously increasing our percentage share of global trade and expanding employment opportunities, certain special focus initiatives have been identified/continued for Market Diversification, Technological Upgradation, Support to status holders, Agriculture, Handlooms, Handicraft, Gems & Jewellery, Leather, Marine, Electronics and IT Hardware manufacturing Industries, Green products, Exports of products from North-East, Sports Goods and Toys sectors. Government of India shall make concerted efforts to promote exports in these sectors by specific sectoral strategies that shall be notified from time to time.

Further Sectoral Initiatives in other sectors will also be announced from time to time.

(i) Market Diversification

Weaker demand in developed economies, triggered by falling asset prices and increased economic uncertainty has pulled down the growth of India's exports to developed countries. There are no clear signals as to when the markets in developed countries would revive. To insulate Indian exports from the decline in demand from developed countries, in this Policy focus is on diversification of Indian exports to other markets, specially those located in Latin America, Africa, parts of Asia and Oceania. To achieve diversification of Indian exports, following initiatives have been taken under this Policy.

- (a) 26 new countries have been included within the ambit of Focus Market Scheme.
- (b) The incentives provided under Focus Market Scheme have been increased from 2.5% to 3%.
- (c) There has been a significant increase in the outlay under 'Market Linked Focus Product Scheme' by inclusion of more markets and products. This ensures support for exports to all countries in Africa

and Latin America.

(ii) Technological Upgradation

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

- (a) EPCG Scheme at zero duty has been introduced for certain engineering products, electronic products, basic chemicals and pharmaceuticals, apparel and textiles, plastics, handicrafts, chemicals and allied products and leather and leather products.
- (b) The existing 3% EPCG Scheme has been considerably simplified, to ease its usage by the exporters.
- (c) To encourage value added manufacture export, a minimum 15% value addition on imported inputs under Advance Authorisation Scheme has been stipulated.
- (d) A number of products including automobiles and other engineering products have been included for incentives under Focus Product, and Market Linked Focus Product Schemes.
- (e) Steps to encourage Project Exports shall be taken.

(iii) Support to status holders

The Government recognized 'Status Holders' contribute approx. 60% of India's goods exports. To incentivise and encourage the status holders, as well as to encourage Technological upgradation of export production, additional duty credit scrip @ 1% of the FOB of past export shall be granted for specified product groups including leather, specific sub sectors in engineering, textiles, plastics, handicrafts and jute. This duty credit scrip can be used for import of capital goods by these status holders. The imported capital goods shall be subject to actual user condition.

(iv) Agriculture and Village Industry

- (a) Vishesh Krishi and Gram Udyog Yojana
- (b) Capital goods imported under EPCG will be permitted to be installed anywhere in AEZ.
- (c) Import of restricted items, such as panels, are allowed under various export promotion schemes.
- (d) Import of inputs such as pesticides are permitted under Advance Authorisation for agro exports.
- (e) New towns of export excellence with a threshold limit of Rs 150 crore shall be notified.
- (f) Certain specified flowers, fruits and vegetables are entitled to a special duty credit scrip, in addition to the normal benefit under VKGUY.

(v) Handlooms

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

(vi) Handicrafts

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

(vii) Gems & Jewellery

- (a) Import of gold of 8k and above is allowed under replenishment scheme subject to import being accompanied by an Assay Certificate specifying purity, weight and alloy content.
- (b) Duty Free Import Entitlement (based on FOB value of exports during previous financial year) of Consumables and Tools, for:
 - 1. Jewellery made out of:
 - (a) Precious metals (other than Gold & Platinum)– 2%
 - (b) Gold and Platinum – 1%
 - (c) Rhodium finished Silver – 3%

2. Cut and Polished Diamonds – 1%

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

(viii) Leather and Footwear

- (a) Duty free import entitlement of specified items is 3% of FOB value of exports of leather garments during preceding financial year.
- (b) Duty free entitlement for import of trimmings, embellishments and footwear components for footwear (leather as well as synthetic), gloves, travel bags and handbags is 3% of FOB value of exports of previous financial year. Such entitlement shall also cover packing material, such as printed and non-printed shoeboxes, small cartons made of wood, tin or plastic materials for packing footwear.
- (c) Machinery and equipment for Effluent Treatment Plants shall be exempt from basic customs duty.
- (d) Re-export of unsuitable imported materials such

as raw hides & skins and wet blue leathers is permitted.

- (e) CVD is exempted on lining and interlining material notified at S.No 168 of Customs Notification No 21/2002 dated 01.03.2002.
- (f) CVD is exempted on raw, tanned and dressed fur skins falling under Chapter 43 of ITC (HS).
- (g) Re-export of unsold hides, skins and semi finished leather shall be allowed from Public Bonded warehouse at 50% of the applicable export duty.

(ix) Marine Sector

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

(x) Electronics and IT Hardware Manufacturing Industries

- (a) Expeditious clearance of approvals required from DGFT shall be ensured.
- (b) Exporters /Associations would be entitled to utilize MAI & MDA Schemes for promoting Electronics and IT Hardware Manufacturing industry exports.

(xi) Sports Goods and Toys

- (a) Duty free import of specified specialised inputs allowed to the extent of 3% of FOB value of preceding financial year's export.
- (b) Sports goods and toys shall be treated as a Priority sector under MDA / MAI Scheme. Specific funds would be earmarked under MAI /MDA Scheme for promoting exports from this sector.
- (c) Applications relating to Sports Goods and Toys shall be considered for fast track clearance by DGFT.
- (d) Sports Goods and Toys are treated as special focus products and entitled to higher incentives.

(xii) Green products and technologies

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

(xiii) Incentives for Exports from the North Eastern Region

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

CHAPTER- 1 C

Board of Trade

<i>Board of Trade (BOT)</i>	1C.1	BOT has a clear and dynamic role in advising government on relevant issues connected with Foreign Trade.
<i>Terms of Reference</i>	1C.2	<p>BOT has following terms of reference:</p> <ul style="list-style-type: none">I To advise Government on Policy measures for preparation and implementation of both short and long term plans for increasing exports in the light of emerging national and international economic scenarios;II To review export performance of various sectors, identify constraints and suggest industry specific measures to optimize export earnings;III To examine existing institutional framework for imports and exports and suggest practical measures for further streamlining to achieve desired objectives;IV To review policy instruments and procedures for imports and exports and suggest steps to rationalize and channelize such schemes for optimum use;V To examine issues which are considered relevant for promotion of India's foreign trade, and to strengthen international competitiveness of Indian goods and services; andVI To commission studies for furtherance of above objectives.
<i>Composition</i>	1C.3	Commerce & Industry Minister will be the Chairman of the Board of Trade (BOT). Government shall also nominate upto 25 persons, of whom at least 10 will be experts in trade policy. In addition, Chairmen of recognized EPCs and President or Secretary-Generals of National Chambers of Commerce will be ex-officio members. BOT will meet at least once every quarter.

CHAPTER-2

GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS

*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	<p>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.</p>
<i>Import of samples</i>	2.18	<p>Import of samples shall be governed by HBP v1.</p>
<i>Import of Gifts</i>	2.19	<p>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.</p>
<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	<p>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.</p> <p>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.</p>
<i>Export of Samples</i>	2.30	<p>Export of samples and Free of charge goods shall be governed by provisions given in HBP v1.</p>
<i>Export of Passenger Baggage</i>	2.31	<p>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.</p>
<i>Export of Gifts</i>	2.32	<p>Goods, including edible items, of value not exceeding Rs.5,00,000 /- in a licensing year, may be exported as a gift.</p> <p>However, items mentioned as restricted for exports in ITC (HS) shall not be exported as a gift, without an</p>

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>

CHAPTER – 3

PROMOTIONAL MEASURES

PROMOTIONAL MEASURES IN DEPARTMENT OF COMMERCE

Assistance to States for Developing Export Infrastructure and Allied Activities (ASIDE)

3.1 Scheme for Assistance to States for Developing Export Infrastructure and Allied Activities (ASIDE) is formulated to involve the States in the export effort by providing assistance to the States Governments for creating appropriate infrastructure for the development and growth of exports. The Scheme is administered by Department of Commerce (DoC).

The objective of scheme is to establish a mechanism for involving the State Governments to participate in funding of infrastructure critical for growth of exports by providing export performance linked financial assistance to them.

The activities aimed at development of infrastructure for exports can be funded from the scheme provided such activities have overwhelming export content and their linkage with exports is full established. The specific purposes for which funds allocated under the Scheme can be sanctioned and utilized are as follows:

- Creation of new Export Promotion Industrial Parks/ Zones (SEZs/Agri Business Zones) and augmenting facilities in the existing ones.
- Setting up of electronics and other related infrastructure in export conclave.
- Equity participation in infrastructure projects including the setting up of SEZs.
- Meeting requirements of capital outlay of EPIPs/ EPZs/SEZs.
- Development of complementary infrastructure such as, roads connecting the production centres with the ports, setting up of Inland Container Depots and Container Freight Stations.
- Stabilizing power supply through additional transformers and islanding of export production centre etc.

- Development of minor ports and jetties to serve export purpose.
- Assistance for setting up Common Effluent Treatment facilities and
- Any other activity as may be notified by DoC.

Details of ASIDE Scheme are available at:

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

Market Access Initiative (MAI) 3.2

Under MAI scheme, Financial assistance is provided for export promotion activities on focus country, focus product basis. Financial assistance is available for Export Promotion Councils (EPCs), Industry and Trade Associations (ITAs), Agencies of State Government, Indian Commercial Missions (ICMs) abroad and other national level institutions/eligible entities as may be notified.

A whole range of activities can be funded under MAI scheme. These include, amongst others,

- i. Market studies/surveys,
- ii. Setting up of showroom / warehouse,
- iii. Participation in international trade fairs,
- iv. Displays in International departmental stores,
- v. Publicity campaigns,
- vi. Brand promotion,
- vii. Reimbursement of registration charges for pharmaceuticals and expenses for carrying out clinical trials etc., in fulfillment of statutory requirements in the buyer country,
- viii. Testing charges for engineering products abroad,
- ix. Assistance for contesting Anti Dumping litigations etc.

Each of these export promotion activities can receive financial assistance from Government ranging from 25% to 100% of total cost depending upon activity and implementing agency. Full text of guidelines is available at <http://commerce.nic.in>.

Market Development Assistance (MDA) 3.3

Under MDA Scheme, financial assistance is provided for a range of export promotion activities implemented by EPCs and Trade Promotion Organizations on the basis of approved annual action plans. The scheme is administered by DOC. Assistance includes, amongst

others, participation in:

- i. Trade Fairs and Buyer Seller meets abroad or in India, and
- ii. Export promotions seminars.
- iii. Financial assistance with travel grant is available to exporters traveling to focus areas, viz., Latin America, Africa, CIS region, ASEAN countries, Australia and New Zealand. In other areas, financial assistance without travel grant is available.

MDA assistance is available for exports having an annual export turnover as prescribed in MDA guidelines. Full text of guidelines is available at <http://commerce.nic.in>.

Meeting expenses for statutory compliances in buyer country for Trade Related Matters 3.4

DOC provides for reimbursement of charges/expenses for fulfilling statutory requirements in the buyer country, including registration charges for product registration for pharmaceuticals, bio-technology and agro-chemicals products on recommendation of EPCs. Financial assistance is also provided for contesting litigation(s) in the foreign country concerning restrictions/anti dumping duties etc. on particular product(s) of Indian origin, as provided under the Market Access Initiative (MAI) Scheme of DOC.

Towns of Export Excellence (TEE) 3.5

A number of towns have emerged as dynamic industrial clusters contributing handsomely to India's exports. It is necessary to grant recognition to these industrial clusters with a view to maximizing their potential and enabling them to move higher in the value chain and tap new markets.

Selected towns producing goods of Rs. 750 Crore or more will be notified as TEE based on potential for growth in exports. However for TEE in Handloom, Handicraft, Agriculture and Fisheries sector, threshold limit would be Rs 150 Crores.

- (i) Recognized associations of units will be provided financial assistance under MAI scheme, on priority basis, for export promotion projects for marketing, capacity building and technological services.
- (ii) Common Service Providers in these areas shall be entitled for EPCG scheme.
- (iii) The projects received from TEEs shall be accorded

priority by SLEPC for financial assistance under ASIDE.

Notified Towns (TEEs) are listed in Appendix 7 of HBPv1.

Brand Promotion and Quality 3.6 IBEF (originally called India Brand Equity Fund and later renamed as India Brand Equity Foundation) was set up by the Ministry of Commerce on 11th July, 1996, with the primary objective to promote and create international awareness of the “Made in India” label in markets overseas. IBEF aims to promote India as a business opportunity by creating positive economic perceptions of India globally as well as effectively present the India business perspective and leverage business partnerships in a globalised market-place.

DOC provides funds for capacity building for up-gradation of quality to national level Institutions and EPCs to organize training programmes for the skill improvement of the exporters for quality up-gradation, reduction in rejection, product improvement etc. as provided under the Market Access Initiative (MAI) Scheme of DOC.

Test Houses 3.7 Central Government will assist in modernization and upgradation of test houses and laboratories to bring them at par with international standards.

PROMOTIONAL MEASURES IN DGFT

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

Trade Disputes affecting Trade Relations 3.9 If it comes to DGFT’s notice or he has reason to believe that an export or import has been made in a manner that

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

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

3.10 EXPORT AND TRADING HOUSES

Eligibility for Export and Trading Houses Status

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

Status Category

3.10.2 Applicant shall be categorized depending on his total FOB (FOR - for deemed exports) export performance during current plus previous three years (taken together) upon exceeding limit below. For Export House (EH) Status, export performance is necessary in at least two out of four years (i.e., current plus previous three years).

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

Double Weightage and other Conditions for Grant of Status

3.10.3 (i) Exporters in Small Scale Industry (SSI) / Tiny Sector / Cottage Sector, Units registered with KVICs / KVIBs, Units located in North Eastern States, Sikkim and Jammu & Kashmir, Units exporting handloom/ handicrafts / hand knotted or silk carpets, exporters exporting to countries in Latin America / CIS / sub-Saharan Africa as listed in Appendix-9, Units having ISO 9000 (series) / ISO 14000 (series) / WHOGMP/ HACCP/ SEI CMM level-II and above status granted by agencies listed in Appendix-6 of HBP v1, exports of services and exports of agro products shall be entitled for double weightage on exports made for grant of status. Double Weightage shall be admissible to Merchant as well as Manufacturer Exporters. However, a shipment can get double weightage only once in any one of above categories.

- (ii) Transfer of export performance from one to another is not permitted. Therefore disclaimer system shall not be allowed for counting of export turnover.
- (iii) Exports made on re-export basis shall not be counted for recognition.
- (iv) Exports made by subsidiary of a limited company shall be counted towards export performance of limited company for recognition only if limited company has a majority share holding in subsidiary company.

Privileges of Export and Trading House Status Holders 3.10.4

A Status Holder shall be eligible for privileges as under:

- (i) Authorization and Customs Clearances for both imports and exports on self-declaration basis;
- (ii) Fixation of Input-Output norms on priority within 60 days;
- (iii) Exemption from compulsory negotiation of documents through banks. Remittance / Receipts, however, would be received through banking channels;
- (iv) 100% retention of foreign exchange in EEFC account;
- (v) Exemption from furnishing of BG in Schemes under FTP;
- (vi) SEHs and above shall be permitted to establish Export Warehouses, as per DoR guidelines.
- (vii) For status holders, a decision on conferring of ACP Status shall be communicated by Customs within 30 days from receipt of application with Customs.
- (viii) As an option, for Premier Trading House (PTH), the average level of exports under EPCG Scheme shall be the arithmetic mean of export performance in last 5 years, instead of 3 years.
- (ix) Status Holders of specified sectors shall be eligible for Status Holder Incentive Scrip under Para 3.16 of FTP.

- (x) Status Holders of Agri. Sector (Chapter 1 to 24) shall be eligible for Agri. Infrastructure Incentive Scrip under VKGUY - Para 3.13.4 of FTP.

3.11 SERVICES EXPORTS

Services Exports

- 3.11.1 Services include all 161 tradable services covered under General Agreement on Trade in Services (GATS) where payment for such services is received in free foreign exchange. A list of services is given in Appendix 10 of HBPv1.

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

Registration cum Membership Certificate (RCMC) for Service Providers

- 3.11.2 Software exporters shall register themselves with Electronics and Software EPC. Exporters of 15 specific services listed in Sl. No. 34 of Appendix 2 of HBPv1 are required to register themselves with Services EPC. Other service exporters shall register themselves with Federation of Indian Export Organisations (FIEO).

Common Facility Centres

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

REWARD / INCENTIVE SCHEMES IN DGFT

3.12 SERVED FROM INDIA SCHEME (SFIS)

Objective

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

Eligibility

- 3.12.2 All Indian Service Providers, of services listed in Appendix 10 of HBPv1, who have free foreign exchange earning of at least Rs. 10 Lakhs in preceding financial year / current financial year shall qualify for Duty Credit Scrip.

For Individual Indian Service Providers, minimum free foreign exchange earnings would be Rs 5 Lakhs.

<i>Ineligible Services and Service Providers</i>	3.12.3	Services and Service Providers as listed in Para 3.6.1 of HBPv1 shall not be entitled for benefits under the SFIS scheme.
<i>Entitlement</i>	3.12.4	All Service Providers shall be entitled to Duty Credit Scrip equivalent to 10% of free foreign exchange earned during current financial year.
<i>Eligible Remittances</i>	3.12.5	Free foreign exchange earned through International Credit Cards and other instruments as permitted by RBI for rendering of service shall also be taken into account for computation of Duty Credit Scrip.
<i>Imports Allowed</i>	3.12.6	Duty Credit scrip may be used for import of any capital goods including spares, office equipment and professional equipment, office furniture and consumables; that are otherwise freely importable and / or restricted under ITC (HS). Imports shall relate to any service sector business of applicant. Utilization of Duty Credit scrip earned shall not be permitted for payment of duty in case of import of vehicles, even if such vehicles are freely importable under ITC (HS). In case of hotels, clubs having residential facility of minimum 30 rooms, golf resorts and stand-alone restaurants having catering facilities, Duty Credit scrip may also be used for import of consumables including food items and alcoholic beverages.
<i>Non Transferability</i>	3.12.7	Entitlement / goods (imported / procured) shall be non transferable (except within group company and managed hotels) and be subject to Actual User condition.
<i>Procurement from Domestic Sources</i>	3.12.8	Utilization of Duty Credit Scrip shall be permitted for payment of excise duty in terms of DoR notification issued in this behalf for procurement from domestic sources, of items permitted for imports under SFIS Duty Credit Scrip.

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

Objective

3.13.1 Objective of VKGUY is to promote exports of :

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

Such products shall be listed in Appendix 37A of HBPv1.

Entitlement

3.13.2 Duty Credit Scrip benefits are granted with an aim to compensate high transport costs, and to offset other disadvantages.

Exporters, of products notified in Appendix 37A of HBPv1, shall be entitled for Duty Credit Scrip equivalent to 5% of FOB value of exports (in free foreign exchange) for exports made from 27.8.2009 onwards.

However, for exports made w.e.f 27.8.2009, some Flowers, Fruits, Vegetables and other products, as listed in Table 2 of Appendix 37A shall be entitled to an additional duty credit scrip equivalent to 2% of FOB value of exports; over and above the 5% or 3% VKGUY reduced rate entitlement available as per Para 3.13.3 below.

Applicability of Reduced Rate

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

- (i) Drawback at rates higher than 1%; and/or
- (ii) Specific DEPB rate (i.e. other than Miscellaneous Category – Sr. Nos. 22C & 22D of Product Group 90); and/or

- (iii) Advance Authorization or Duty Free Import Authorization Import of inputs (other than catalysts, consumables and packing materials) for the exported product for which Duty Credit Scrip under VKGUY is being claimed.

***Agri. Infrastructure
Incentive Scrip***

3.13.4

For exports made during a particular year, all Status Holders (having status recognition for the current year) exporting products covered under ITC HS Chapters 1 to 24, shall be incentivized with duty credit scrip equal to 10% of FOB value of agricultural exports (including VKGUY benefits entitled under Policy Para 3.13.2) provided that the total benefits for all status holders put together does not exceed Rs 100 Cr (i.e. Rs 50 Cr for each half year) and the conditions specified in Para 3.7.2 of HBPv1 are satisfied.

Zonal Office, CLA, New Delhi shall be the licensing office for grant of the benefit to all status holders.

The following capital goods / equipments shall be permitted for import:

- (i) Cold storage units (including Controlled Atmosphere (CA) and Modified Atmosphere (MA) Stores); Pre-cooling Units and Mother Storage Units for Onions, etc.;
- (ii) Pack Houses (including facilities for handling, grading, sorting and packaging etc.);
- (iii) Reefer Van / Containers; and
- (iv) Other Capital Goods / Equipments as may be notified in Appendix 37F.

Imported capital goods/equipment shall be utilized for storage, packing etc. (as in (ii) above) and transportation of agricultural products (including agro-processed perishable products).

This additional benefit shall be subject to actual user condition and hence non-transferable.

However, for import of Cold Chain Equipment this Incentive Scrip shall be freely transferable amongst Status

Holder.

3.14 FOCUS MARKET SCHEME (FMS)

<i>Objective</i>	3.14.1	Objective is to offset high freight cost and other externalities to select international markets with a view to enhance India's export competitiveness in these countries.
<i>Entitlement</i>	3.14.2	Exporters of all products to notified countries (as in Appendix 37C of HBPv1) shall be entitled for Duty Credit Scrip equivalent to 3% of FOB value of exports (in free foreign exchange) for exports made from 27.8.2009 onwards.
<i>Ineligible Exports Categories / Sectors for FMS</i>	3.14.3	<p>The following categories of export products / sectors shall be ineligible for Duty Credit Scrip, under FMS scheme:</p> <ul style="list-style-type: none">a) Supplies made to SEZ units;b) Service Exports;c) Diamonds and other precious, semi precious stones;d) Gold, silver, platinum and other precious metals in any form, including plain and studded Jewellery;e) Ores and Concentrates, of all types and in all forms;f) Cereals, of all types;g) Sugar, of all types and in all forms;h) Crude / Petroleum Oil & Crude / Petroleum based Products covered under ITC HS codes 2709 to 2715, of all types and in all forms; andi) Export of Milk and Milk Products covered under ITC HS Codes 0401 to 0406, 19011001, 19011010, 2105 & 3501.

3.15 FOCUS PRODUCT SCHEME (FPS)

<i>Objective</i>	3.15.1	Objective is to incentivise export of such products which have high export intensity / employment potential, so as to offset infrastructure inefficiencies and other associated costs involved in marketing of these products.
<i>Entitlement</i>	3.15.2	Exports of notified products (as in Appendix 37D of HBPv1) to all countries (including SEZ units) shall be entitled for Duty Credit scrip equivalent to 2% of FOB value of exports (in free foreign exchange) for exports made from 27.8.2009 onwards.

However, Special Focus Product(s) /sector(s), covered under Table 2 and Table 5 of Appendix 37D, shall be granted Duty Credit Scrip equivalent to 5% of FOB value of exports (in free foreign exchange) for exports made from 27.8.2009 onwards.

3.15.3 Market Linked Focus Products Scrip (MLFPS):

Export of Products/Sectors of high export intensity/employment potential (which are not covered under present FPS List) would be incentivized at 2% of FOB value of exports (in free foreign exchange) under FPS when exported to the Linked Markets (countries), which are not covered in the present FMS list, as notified in Appendix 37D of HBPv1, for exports made from 27.8.2009 onwards.

3.16 Status Holders Incentive Scrip

- 3.16.1 With an objective to promote investment in upgradation of technology of some specified sectors as listed in Para 3.16.4 below, Status Holders shall be entitled to incentive scrip @1% of FOB value of exports made during 2009-10 and during 2010-11, of these specified sectors, in the form of duty credit. This shall be over and above any duty credit scrip claimed/availed under this chapter.
- 3.16.2 Status Holders availing Technology Upgradation Fund Scheme (TUFS) benefits (under Ministry of Textiles) during a particular year shall not be eligible for Status Holders Incentive Scrip for exports of that year.
- 3.16.3 The Status Holders Incentive Scrip shall be with Actual User Condition and shall be used for imports of capital goods (as defined in FTP) relating to the sectors specified in Para 3.16.4 below.
- 3.16.4 The Status Holders of the following Sectors shall be eligible for this Status Holders Incentive Scrip:
1. Leather Sector (excluding finished leather);
 2. Textiles and Jute Sector;
 3. Handicrafts;
 4. Engineering Sector (excluding Iron & Steel, Non-ferrous Metals in primary or intermediate forms, Automobiles & two wheelers, nuclear reactors &

- parts and Ships, Boats and Floating Structures;
- 5. Plastics; and
- 6. Basic Chemicals (excluding Pharma Products).

3.17 Common Provisions of Duty Credit Scrips, except where specifically provided for Special Provisions

3.17.1 Government reserves the right in public interest, to specify export products or services or exports to such countries, which shall not be eligible for computation of entitlement.

Further Government reserves the right to impose / change the rate / ceiling on Duty Credit Scrip under this chapter.

Similarly, Government may also notify goods (in Appendix 37B of HBPv1), which shall not be allowed for import under Duty Credit Scrips.

***Ineligible Exports
Categories /Sectors***

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

- (i) EOUs / EHTPs / BTPs who are availing direct tax benefits / exemption;
- (ii) Export of imported goods covered under Para 2.35 of FTP;
- (iii) Exports through transshipment, meaning thereby that exports originating in third country but transshipped through India;
- (iv) Deemed Exports;
- (v) Exports made by SEZ units or SEZ products exported through DTA units; and
- (vi) Items, which are restricted or prohibited for export under Schedule-2 of Export Policy in ITC (HS).

<i>Counting of Commission in FOB value of Exports (in free foreign exchange)</i>	3.17.3	For computation of Duty Credit Scrip Benefits, FOB Value of Exports (in free foreign exchange) shall include up to 12.5% Foreign Agency Commission.
<i>Free Transferability</i>	3.17.4	Duty Credit Scrip and items imported against it would be freely transferable. However, Duty Credit Scrip under SFIS (Para 3.12) and under Status Holders Incentive Scrip (Para 3.16) shall not be freely transferable.
<i>Imports Allowed</i>	3.17.5	Duty Credit Scrip may be used for import of inputs or goods including capital goods, provided same is freely importable and / or restricted under ITC (HS). However, import of items listed in Appendix 37B of HBPv1 shall not be permitted to be debited. Duty Credit Scrips under Chapter 3 of FTP can also be utilized for payment of duty against imports under EPCG scheme provided the item is importable against the scrip.
<i>CENVAT / Drawback</i>	3.17.6	Additional customs duty/excise duty paid in cash or through debit under Duty Credit scrip shall be adjusted as CENVAT Credit or Duty Drawback as per DoR rules, except under SFIS.
<i>TRA Facility</i>	3.17.7	Utilization of Duty Credit Scrip for imports from a port other than port of registration shall be allowed under Telegraphic Release Advice (TRA) facility as per DoR notification.
<i>Exclusivity of Entitlement</i>	3.17.8	For a shipment, Duty Credit Scrip benefit under any one of the schemes covered in this Chapter can alone be claimed, at exporter's option.
<i>Import under Lease financing</i>	3.17.9	Utilization of Duty Credit Scrip shall be permitted for payment of duty in case of import of capital goods under lease financing in terms of provision in Para 2.25 of FTP.
<i>Transfer of Export Performance</i>	3.17.10	Transfer of export performance from one to another shall not be permitted. Thus, a shipment bill containing name of applicant shall be counted in export performance / turnover of applicant only if export proceeds from overseas are realized in applicant's bank account and this shall be evidenced from BRC / FIRC.

However, for VKGUY, FMS and FPS (including MLFPS), benefits can be claimed either by the supporting manufacturer (along with disclaimer from the company / firm who has realized the foreign exchange directly from overseas) or by the company / firm who has realized the foreign exchange directly from overseas.

Facility of Payment of Customs Duties in case of EO defaults

3.17.11

Duty Credit Scrips can also be used / debited towards payment of Customs Duties in case of EO defaults under Authorizations issued under Chapters 4 and 5 of this Policy. However, penalty / interest shall be required to be paid in cash.

CHAPTER-4

DUTY EXEMPTION & REMISSION SCHEMES

<i>Duty Exemption and Remission Schemes</i>	4.1	Duty exemption schemes enable duty free import of inputs required for export production. Duty Exemption Schemes consist of (a) Advance Authorisation scheme and (b) Duty Free Import Authorisation (DFIA) scheme. A Duty Remission Scheme enables post export replenishment / remission of duty on inputs used in export product. Duty Remission Schemes consist of (a) Duty Entitlement Passbook (DEPB) Scheme and (b) Duty Drawback (DBK) Scheme.
<i>Re-import of exported goods under Duty Exemption / Remission Scheme</i>	4.1.1	Goods exported under Advance Authorisation / DFIA / DEPB may be re-imported in same or substantially same form subject to DoR specified conditions.
<i>Value Addition</i>	4.1.2	Value addition (VA) for the purpose of this Chapter (Except for Gems and Jewellery Sector) shall be:- $VA = \frac{A - B}{B} \times 100, \text{ where}$ <p>A = FOB value of export realised / FOR value of supply received. B = CIF value of inputs covered by authorisation, plus any other imported materials used on which benefit of DBK is claimed.</p>

ADVANCE AUTHORISATION SCHEME

<i>Advance Authorisation</i>	4.1.3	<p>An Advance Authorisation is issued to allow duty free import of inputs, which are physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, energy, catalysts which are consumed/ utilised to obtain export product, may also be allowed. DGFT, by means of Public Notice, may exclude any product(s) from purview of Advance Authorisation.</p> <p>Duty free import of mandatory spares upto 10% of CIF value of Authorisation which are required to be exported/ supplied with resultant product are allowed under Advance Authorisation. Advance Authorisations are</p>
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issued for inputs and export items given under SION. These can also be issued on the basis of Adhoc norms or self declared norms as per para 4.7 of HBP v1.

Advance Authorisation can be issued either to a manufacturer exporter or merchant exporter tied to supporting manufacturer(s) for:

- i) Physical exports (including exports to SEZ); and/ or
- ii) Intermediate supplies; and /or
- iii) Supply of goods to the categories mentioned in paragraph 8.2 (b), (c), (d), (e), (f), (g), (i) and (j) of FTP ;
- iv) supply of 'stores' on board of foreign going vessel/ aircraft subject to condition that there is specific SION in respect of item(s) supplied.

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

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

However, Advance Authorization for import of raw sugar, can be issued either to a manufacturer exporter or merchant exporter tied to supporting manufacturer(s). Exports can also be made by procurement of white sugar from any other factory(ies). This provision shall be applicable for exports from 17.2.2009.

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

4.1.5 Advance Authorisation and / or materials imported thereunder will be with actual user condition. It will not be transferable even after completion of export obligation. However, Authorisation holder will have option to dispose

off product manufactured out of duty free inputs once export obligation is completed. In case where CENVAT credit facility on inputs have been availed for the exported goods, even after completion of export obligation, the goods imported against Advance Authorisation shall be utilized only in the manufacture of dutiable goods whether within the same factory or outside (by a supporting manufacturer), for which the authorisation holder shall produce a certificate from either the jurisdictional Central Excise Supdt. or Chartered Accountant, at the option of the exporter, at the time of filing application for EODC to RA concerned. However, the actual user condition shall not be applicable in case of raw sugar to be imported from 17.2.2009, till 30.09.2009 under Advance Authorization Scheme.

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

- 4.1.6 Advance Authorisations necessitate exports with a minimum value addition of 15%, except for items in Gems & Jewellery sector, for which value addition would be as per paragraph 4A.2.1 of HBP v.1. Exports to SEZ Units/ supplies to Developers / Co-Developers, irrespective of currency of realization, would also be covered.

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

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

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

- 4.1.7 Advance Authorisation shall be issued in accordance with Policy and procedure in force on Authorisation issue date.

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

<i>Free of Cost Supply by Foreign Buyer</i>	4.1.8	<p>Facility of Advance Authorisation shall also be available where some or all inputs are supplied free of cost to exporter by foreign buyer.</p> <p>In such cases, for calculation of value addition, notional value of free of cost inputs along with value of other duty-free inputs shall be taken into consideration. However, if all inputs are supplied free of cost, exporter shall also have option to follow provision prescribed by DoR.</p>
<i>Export Obligation</i>	4.1.9	<p>Period for fulfillment of export obligation under Advance Authorisation shall be as prescribed in HBP v1.</p>
<i>Provision for BIFR units</i>	4.1.9 A	<p>Any firm / company registered with BIFR or any firm/ company acquiring a unit, which is under BIFR shall be allowed Export Obligation Period (EOP) extension as per rehabilitation package prepared, subject to approval of BIFR or 5 years if not specified, without payment of composition fee.</p> <p>Above provisions apply also to SSI units as per rehabilitation scheme of concerned State government.</p>
<i>Advance Authorisation for Annual Requirement</i>	4.1.10	<p>Advance Authorisation can also be issued for annual requirement.</p> <p>Status Certificate holder and all other categories of exporters having past export performance (in preceding two years) shall be entitled for Advance Authorisation for Annual Requirement.</p> <p>Entitlement in terms of CIF value of imports shall be upto 300% of the FOB value of physical export and / or FOR value of deemed export in preceding licensing year or Rs 1 crore, whichever is higher.</p>
<i>Advance Release Orders (ARO) and Invalidation Letter</i>	4.1.11	<p>Holder of Advance Authorisation, Advance Authorisation for Annual Requirement and Duty Free Import Authorisation intending to source inputs from indigenous sources / State Trading Enterprises, in lieu of direct import, has option to source them either against Advance Release Order (ARO) or Invalidation letter denominated in free foreign exchange / Indian rupees. However, supplies may be obtained against Authorisation from EOU / EHTP / BTP / STP / SEZ units, without conversion into ARO or Invalidation letter.</p>

Transferee of DFIA shall also be eligible for ARO / invalidation letter facility.

Validity period of ARO shall be as prescribed in HBP v1.

Back-to-Back Inland Letter of Credit 4.1.12 Holder of Advance Authorisation, Advance Authorisation for Annual Requirement and DFIA may, instead of applying for an ARO or Invalidation letter, avail of the facility of Back-to-Back Inland Letter of Credit in accordance with procedure specified in HBP v1.

Prohibited Items 4.1.13 Prohibited items of imports mentioned in ITC(HS) shall not be imported under Advance Authorisation / DFIA. Further items reserved for imports by STEs cannot be imported against Advance Authorisation / DFIA. However those items can be procured from STEs against ARO or Invalidation letter.

STEs are also allowed to sell goods on High Sea Sale basis to holders of Advance Authorisation / DFIA holder.

In addition, STEs are permitted to issue “No Objection Certificate (NOC)” for import by advance Authorisation/ DFIA holder. Authorisation Holder would be required to file Quarterly Returns of imports effected against such NOC to concerned STE and STE would submit half-yearly import figures of such imports to concerned administrative Department for monitoring with a copy endorsed to DGFT.

Similarly prohibited items of exports mentioned in ITC(HS) shall not be exported under Advance Authorisation / DFIA scheme. Export of restricted items shall be subject to all conditionalities or requirements of Export Authorisation or permission, as may be required, under Schedule II of ITC (HS).

Admissibility of Drawback 4.1.14 In case of an Advance Authorisation, drawback shall be available for any duty paid material, whether imported or indigenous, used in goods exported, as per drawback rate fixed by DoR, Ministry of Finance (Directorate of Drawback). Drawback allowed shall be mentioned in Authorisation.

DUTY FREE IMPORT AUTHORISATION (DFIA) SCHEME

<i>Scheme</i>	4.2.1	DFIA is issued to allow duty free import of inputs, fuel, oil, energy sources, catalyst which are required for production of export product. DGFT, by means of Public Notice, may exclude any product(s) from purview of DFIA. This scheme is in force from 1st May, 2006.
<i>Entitlement</i>	4.2.2	<p>Provisions of paragraph 4.1.3 shall be applicable in case of DFIA. However, these Authorisations shall be issued only for products for which Standard Input and Output Norms (SION) have been notified.</p> <p>In case of post export DFIA, a merchant exporter shall be required to mention only name(s) and address(s) of manufacturer(s) of the export product(s). Applicant is required to file application to concerned RA before effecting exports under DFIA.</p> <p>Pre-export Authorisation shall be issued with actual user condition and shall be exempted from payment of basic customs duty, additional customs duty / excise duty, education cess, anti-dumping duty and safeguard duty, if any.</p> <p>In case of actual user DFIA and where CENVAT credit facility on inputs have been availed for the exported goods, even after completion of export obligation, the goods imported against such DFIA shall be utilized in the manufacture of dutiable goods whether within the same factory or outside (by a supporting manufacturer).</p>
<i>Import items</i>	4.2.3	Provisions of paragraphs 4.1.11, 4.1.12, 4.1.13 and 4.1.14 of FTP shall be applicable for DFIA holder.
<i>Value Addition</i>	4.2.4	A minimum 20% value addition shall be required for issuance of such authorisation, except for items in gems and jewellery sector, for which value addition would be as per paragraph 4A.2.1 of HBP v1. Items for which higher value addition is prescribed under Advance Authorisation Scheme, shall be applicable.
<i>Export Obligation</i>	4.2.5	Procedure and time period related to fulfillment of Export Obligation have been laid down in Chapter 4 of HBP v1.

Transferability 4.2.6 Once export obligation has been fulfilled, request for transferability of Authorisation or inputs imported against it may be made before concerned RA. Once, transferability is endorsed, Authorisation holder may transfer DFIA or duty free inputs, except fuel and any other item(s) notified by DGFT. However, for fuel, import entitlement may be transferred only to companies which have been granted authorisation to market fuel by Ministry of Petroleum and Natural Gas.

Once transferability is endorsed, imports / domestic procurement against authorisation or transfer of imported inputs / domestically procured inputs shall be subject to payment of applicable additional customs duty / excise duty. While endorsing transferability, authorisation would bear a note as to liability of such additional customs duty / excise duty. However, in case where CENVAT facility has not been availed, exemption from additional customs duty/ excise duty would be available even after endorsement of transferability on DFIA.

Wherever SIONs prescribe actual user condition and in case of Acetic Anhydride, Ephedrine and Pseudo-Ephedrine, DFIA shall be issued with actual user condition for these inputs and no transferability shall be allowed for these inputs even after fulfillment of export obligation.

However, for authorizations issued prior to 1.4.2007, exemption from Additional Customs Duty/ Excise Duty shall continue to be available even after endorsement of transferability as provided in FTP (RE-2006).

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

DUTY ENTITLEMENT PASSBOOK (DEPB) SCHEME

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

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

Credit shall be available against such export products and at such rates as may be specified by DGFT by way of public notice. Credit may be utilized for payment of Customs Duty on freely importable items and/or restricted items. DEPB Scrips can also be utilized for payment of duty against imports under EPCG Scheme. Further, DEPB Scrips can also be used / debited towards payment of Customs Duty in case of EO defaults for Authorizations issued under Chapters 4 and 5 of this Policy. However, penalty / interest shall be required to be paid in cash.

Prohibited items of exports mentioned in ITC(HS) Book (as amended from time to time) shall not be entitled for DEPB credit except for the exports effected under transitional facility, wherever allowed, in terms of paragraph 1.5 of FTP.

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

Validity

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

Transferability

4.3.4 DEPB and / or items imported against it are freely transferable. Transfer of DEPB shall however be for import at specified port, which shall be the port from where exports have been made. Imports from a port other than the port of export shall be allowed under TRA facility as per terms and conditions of DoR notification.

Applicability of Drawback

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

GEMS AND JEWELLERY

<i>Scheme for Gems and Jewellery</i>	4A	Exporters of gems and Jewellery can import / procure duty free inputs for manufacturing.
<i>Replenishment Authorisation</i>	4A.1	Exporters may obtain Replenishment (REP) Authorisations from RA in accordance with procedure specified in HBP v1.
	4A.1.1	Replenishment authorisation may also be issued for consumables & tools as per paragraph 4A.28 of HBP v1.
<i>Import of Diamonds for Certification/ Grading & re-export</i>	4A.2	The authorized offices/agencies in India of Gemological Institute of America (GIA) or any other agency approved in this regard, shall be permitted to import diamonds to their laboratories for the purpose of certification/grading reports by them with a condition that the same should be re-exported with the certification/grading reports issued by them without any import duty, as per the procedure laid down in HBP v1.
<i>Schemes for Gold/ Silver/ Platinum Jewellery</i>	4A.3	Exporters of gold / silver / platinum jewellery and articles thereof may import their essential inputs such as gold, silver, platinum, mountings, findings, rough gems, precious and semi-precious stones, synthetic stones and unprocessed pearls etc. in accordance with the procedure specified in this behalf.
<i>Nominated Agencies</i>	4A.4	Nominated agencies are MMTC Ltd, Handicraft and Handloom Export Corporation (HHEC), State Trading Corporation (STC), the Project and Equipment Corporation (PEC) of India Ltd, STCL Ltd, MSTC Ltd, Diamond India Limited (DIL), Gems & Jewellery Export Promotion Council (G&J EPC)), Star Trading House (only for Gems & Jewellery sector) and Premier Trading House under Paragraph 3.10.2 of FTP and any other agency authorised by RBI. Exporters (except EOUs and units in SEZ) may obtain gold / silver / platinum from nominated agency(s). Procedure for import of precious metal by these agencies (other than those authorized by RBI and the Gems & Jewellery units operating under EOU and SEZ schemes) and the monitoring mechanism thereof shall be as per the provisions laid down in HBP v1 in this regard.

A bank authorised by RBI is allowed export of gold scrap for refining and import standard gold bars as per RBI guidelines.

Items of Export 4A.5 Following items, if exported, would be eligible for facilities:

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

Value Addition 4A.6 Value Addition (VA) for gems and jewellery sector shall be as per paragraph 4A.2.1 of HBP v1. It would be calculated as under:

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

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

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

Wastage Norms 4A.7 Wastage or manufacturing loss for gold / silver / platinum jewellery shall be admissible as per paragraph 4A.2 of HBP v1.

Export against Supply by Foreign Buyer 4A.8 Where export orders are placed on nominated agencies/ status holder / exporters of three years standing having

an annual average turnover of Rs. Five Crores during preceding three licensing years, foreign buyer may supply in advance and free of charge, gold / silver / platinum, alloys, findings and mountings of gold / silver / platinum for manufacture and export.

Such supplies can also be in advance and may involve semi-finished jewellery including findings / mountings / components for repairs / re-make and export subject to minimum value addition of 10%. However, if so imported semi finished gold / silver /platinum jewellery is exported as studded jewellery, value addition of 15% shall be achieved. In such cases of export, wastage of 2% may be permitted.

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

***Export Against Supply
by Nominated Agencies***

4A.9

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

***Export Against Advance
Authorisation***

4A.10

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

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

4A.11

Such authorisations shall carry an export obligation to be fulfilled as per procedure specified in paragraph 4A of HBP v1. Value addition shall be as per paragraph 4A.2.1 of HBP v.1.

Advance Authorisation holder may obtain gold / silver/ platinum from nominated agencies in lieu of direct import.

<i>Gem Replenishment Authorisation</i>	4A.12	<p>Gem Replenishment (Gem & Jewellery REP) Authorisation may be issued as given in paragraph 4A.8, 4A.9 and 4A.10 above.</p> <p>In case of plain or studded gold / silver / platinum jewellery and articles, value of such Authorisations shall be determined with reference to realisation in excess of prescribed minimum VA.</p> <p>Such Gem REP Authorisations shall be freely transferable.</p>
<i>Gem REP Rate and Item</i>	4A.13	Replenishment Rate and item of import will be as prescribed in Appendix 12B of HBP v1.
<i>Export Promotion Tours/Export of Branded Jewellery</i>	4A.14	<p>Nominated agencies and their associates, with the approval of Department of Commerce, and others, with the approval of Gem & Jewellery EPC (GJEPC), may export gold / silver / platinum jewellery and articles thereof for exhibitions abroad.</p> <p>Personal carriage of gold / silver / platinum jewellery, precious, semi-precious stones, beads and articles and export of branded jewellery is also permitted, subject to conditions as in HBP v1.</p>
<i>Personal Carriage of Export / Import Parcels</i>	4A.15	Personal carriage of gems and jewellery export parcels by foreign bound passengers and import parcels by an Indian importer/foreign national may be permitted as in HBP v1.
<i>Export by Post</i>	4A.16	In case of exports through Foreign Post Office (including via Speed Post), value of jewellery parcels shall not exceed US\$ 75000 and 20 kg. by weight.
<i>Diamond & Jewellery Dollar Accounts</i>	4A.17	Firms and companies dealing in purchase/ sale of rough or cut and polished diamonds/precious metal jewellery plain, minakari and / or studded with / without diamond and/or other stones, with a track record of at least two years in import or export of diamonds / coloured gemstones/ diamond and coloured gemstones studded jewellery / plain gold jewellery, and having an average annual turnover of Rs. 3 crores or above during preceding three licensing years, may also carry out their business through designated Diamond Dollar Accounts (DDA).

Dollars in such accounts available from bank finance and / or export proceeds shall be used only for:

- (i) Import / purchase of rough diamonds from overseas/ local sources;
- (ii) Purchase of cut and polished diamonds, coloured gemstones and plain gold jewellery from local sources;
- (iii) Import / purchase of gold from overseas / nominated agencies and repayment of dollar loans from the bank; and
- (iv) Transfer to Rupee Account of exporter. Details of this DDA Scheme are given in HBP v1.

A non DDA holder is also permitted to supply cut and polished diamonds to DDA holder, receive payment in dollars and convert same into Rupees within 7 days. Cut and polished diamonds and coloured gemstones so supplied by non-DDA holder will also be counted towards discharge of his export obligation and / or entitle him to replenishment Authorisation.

	4A.18	Gems and Jewellery exporters shall be allowed to export cut and polished precious and semi-precious stones for the treatment and re-import as per Customs rules and regulations. In case of re-export, the exporter shall be entitled for duty drawback as per rules.
<i>Re-import of rejected jewellery</i>	4A.19	Gems & Jewellery exporters shall be allowed to re-import rejected precious metal jewellery as per para 4A.32 of HBP v1.
<i>Export on consignment basis</i>	4A.20	Gems & Jewellery exporters shall be allowed to export diamond, gemstones & jewellery on consignment basis as per HBP v1 and Customs rules and regulations.

CHAPTER-5

EXPORT PROMOTION CAPITAL GOODS (EPCG) SCHEME

Zero duty EPCG Scheme 5.1

Zero duty EPCG scheme allows import of capital goods for pre production, production and post production (including CKD/SKD thereof as well as computer software systems) at zero Customs duty, subject to an export obligation equivalent to 6 times of duty saved on capital goods imported under EPCG scheme, to be fulfilled in 6 years reckoned from Authorization issue-date.

The scheme will be available for exporters of engineering & electronic products, basic chemicals & pharmaceuticals, apparels & textiles, plastics, handicrafts, chemicals & allied products and leather & leather products; subject to exclusions as provided in HBPv1.

Validity period for import of capital goods and provision for extension in export obligation period will be as separately provided in the HBPv1. All other provisions pertaining to concessional 3% duty EPCG scheme under this Chapter, to the extent they are not inconsistent with the above provisions of zero duty EPCG scheme, shall be applicable to the zero duty EPCG scheme also. The zero duty EPCG scheme will be in operation till 31.3.2011.

Concessional 3% Duty EPCG Scheme 5.2

Concessional 3% duty EPCG scheme allows import of capital goods for pre production, production and post production (including CKD/SKD thereof as well as computer software systems) at 3% Customs duty, subject to an export obligation equivalent to 8 times of duty saved on capital goods imported under EPCG scheme, to be fulfilled in 8 years reckoned from Authorization issue-date.

In case of agro units, and units in cottage or tiny sector, import of capital goods at 3% Customs duty shall be allowed subject to fulfillment of export obligation equivalent to 6 times of duty saved on capital goods imported, in 12 years from Authorization issue-date.

For SSI units, import of capital goods at 3% Customs duty shall be allowed, subject to fulfillment of export obligation

equivalent to 6 times of duty saved on capital goods, in 8 years from Authorization issue-date, provided the landed cif value of such imported capital goods under the scheme does not exceed Rs. 50 lakhs and total investment in plant and machinery after such imports does not exceed SSI limit.

However, in respect of EPCG Authorization with a duty saved amount of Rs. 100 crores or more, export obligation shall be fulfilled in 12 years.

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

Capital goods shall include spares (including refurbished/reconditioned spares), tools, jigs, fixtures, dies and moulds.

Second hand capital goods, without any restriction on age, may also be imported under EPCG scheme.

However, import of motor cars, sports utility vehicles/all purpose vehicles shall be allowed only to hotels, travel agents, tour operators or tour transport operators and companies owning/operating golf resorts, subject to the condition that:

- (i) total foreign exchange earning from hotel, travel & tourism and golf tourism sectors in current and preceding three licensing years is Rs. 1.5 crores or more.
- (ii) 'duty saved' amount on all EPCG Authorizations issued in a licensing year for import of motor cars, sports utility vehicles/ all purpose vehicles shall not exceed 50% of average foreign exchange earnings from hotel, travel & tourism and golf tourism sectors in preceding three licensing years.
- (iii) vehicles imported shall be so registered that the vehicle is used for tourist purpose only. A copy of the Registration certificate should be submitted to concerned RA as a confirmation of import of vehicle. However, parts of motor cars, sports utility vehicles/ all purpose vehicles such as chassis etc. cannot be

imported under the EPCG Scheme.

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

- 5.2A Spares (including refurbished/reconditioned spares), moulds, dies, jigs, fixtures, tools, refractory for initial lining and catalyst for initial charge; for existing plant and machinery (imported earlier, under EPCG or otherwise), shall be allowed to be imported under the EPCG scheme subject to an export obligation equivalent to 50% of the normal export obligation prescribed in para 5.1 and 5.2 above (for import of capital goods), to be fulfilled in 8 years (6 years for zero duty EPCG scheme), reckoned from Authorization issue date. This would however be subject to the condition that the c.i.f. value of import of the above spares etc. will be limited to 10% of the value of plant and machinery imported under the EPCG scheme. In case of plant and machinery not imported under the EPCG scheme, c.i.f. value of import of the spares etc. will be limited to 10% of the book value of the plant and machinery.
- EPCG for Projects*** 5.2B An EPCG Authorization can also be issued for import of capital goods under Scheme for project Imports notified by the Central Board of Excise and Customs under S.No. 441 of Customs Exemption Notification No. 21/2002 dated 01.03.2002
- Export obligation for such EPCG Authorizations would be eight times (6 times for zero duty EPCG scheme) of duty saved. Duty saved would be difference between the effective duty under aforesaid Customs Notification and concessional duty under the EPCG Scheme.
- EPCG for Retail Sector*** 5.2C To create modern infrastructure in retail sector, concessional duty benefits under EPCG scheme shall be extended for import of capital goods required by retailers having minimum area of 1000 sq. meters. Such retailer shall fulfill export obligation i.e. 8 times of duty saved, in 8 years.
- Eligibility*** 5.3 EPCG scheme covers manufacturer exporters with or without supporting manufacturer(s)/ vendor(s), merchant exporters tied to supporting manufacturer(s) and service

providers.

Export Promotion Capital Goods (EPCG) Scheme also covers a service provider who is designated / certified as a Common Service Provider (CSP) by the DGFT, Department of Commerce or State Industrial Infrastructural Corporation in a Town of Export Excellence subject to provisions of Foreign Trade Policy/Handbook of Procedures with the following conditions:-

- (i) EPCG licence to be given to the CSP should have a clear endorsement giving the details of the users and the quantum of Export Obligation (EO) which each user would fulfill;
- (ii) Such exports will not count towards fulfillment of other specific export obligations ; and
- (iii) Each one of the users of the CSP apart from the CSP should furnish 100% bank Guarantee (BG) equivalent to their portion of duty foregone apportioned in terms of quantum of EO to be discharged by them and the B.G. will be enforced in the event of the obligation not being fulfilled.

Conditions for import of Capital Goods 5.4

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

Export obligation 5.5

Following conditions shall apply to the fulfillment of the export obligation:-

- (i) Export Obligation shall be fulfilled by export of goods manufactured/services rendered by the applicant.

Export obligation under the scheme shall be, over and above, the average level of exports achieved by him in the preceding three licensing years for the same and similar products within the overall export obligation period including extended period, if any; except for categories mentioned in paragraph 5.7.6 of HBP v1. Such average would be the arithmetic mean of export performance in the last three years for the same and similar products provided that Premier Trading House (PTH) shall have option of fixing average level of exports based on arithmetic mean of export performance in the last five years

instead of three years.

Upto 50% Export Obligation may also be fulfilled by exports of other good(s) manufactured or service(s) provided by the same firm / company, or group company / managed hotel, which has the EPCG authorization. However, EPCG authorization issued prior to 1.4.2008 will be governed by earlier policy provisions.

However, in such cases, additional export obligation imposed shall be over and above average exports achieved by the unit / company / group company / managed hotel in preceding three years for both the original and the substitute product(s) / service(s), despite exemptions in Para 5.7.6 of HBP v1.

- (ii) Shipments under Advance Authorization, DFRC, DFIA, DEPB or Drawback scheme, or incentive schemes under Chapter 3 of FTP; would also count for fulfillment of EPCG export obligation.
- (iii) Export obligation can also be fulfilled by the supply ITA-I items to DTA, provided realization is in free foreign exchange.
- (iv) Exports shall be physical exports. However, deemed exports as specified in paragraph 8.2 (a), (b), (d) (f), (g) & (j) of FTP shall also be counted towards fulfillment of export obligation, alongwith usual benefits available under paragraph 8.3 of FTP.

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

Provision for BIFR units 5.5.1

Any firm/ company registered with BIFR or any firm/ company acquiring a unit, which is under BIFR, may be allowed EO extension, as per rehabilitation package prepared by operating agency and approved by BIFR/ Rehabilitation Department of State Government, upto 12 years if not specified.

Above provisions apply also to SSI units as per rehabilitation scheme of concerned State government.

EPCG for agro units 5.5.2 LUT/Bond or 15% BG (as applicable) may be given for EPCG Authorization granted to units in Agri Export Zones provided EPCG Authorization is taken for export of primary agricultural product(s) notified in Appendix 8 or their value added variants.

Indigenous Sourcing of Capital Goods and benefits to Domestic Supplier 5.6 A person holding an EPCG Authorization may source capital goods from a domestic manufacturer. Such domestic manufacturer shall be eligible for deemed export benefit under paragraph 8.3 of FTP. Such domestic sourcing shall also be permitted from EOUs and these supplies shall be counted for purpose of fulfillment of positive NFE by said EOU as provided in Para 6.9 (a) of FTP.

Fixation of Export Obligation 5.7 In case of direct imports, export obligation shall be reckoned with reference to actual duty saved amount. In case of domestic sourcing, export obligation shall be reckoned with reference to notional Customs duties saved on FOR value.

Technological Upgradation of existing EPCG machinery 5.8 EPCG Authorization holders can opt for Technological Upgradation of existing capital good imported under EPCG Authorization.

Conditions governing Technological Up-gradation of existing capital goods are as under:

- (i) Minimum time period for applying for Technological Up-gradation of existing capital goods imported under EPCG is 5 years from Authorization issue-date.
- (ii) Minimum exports made under old capital goods must be 40% of total export obligation imposed on first EPCG Authorization.
- (iii) Export obligation would be re-fixed such that total export obligation mandated for both capital goods would be sum total of 6 times of duty saved on both the capital goods, to be fulfilled in 8 years from new authorization issue-date.

- (iv) Facility for technological up-gradation shall be available only once and the minimum imports to be made shall be at least 10% of the existing investment in plant and machinery by applicant.
- (v) Capital Goods to be imported must be new and technologically superior to earlier CG.

Incentives for Fast Track Companies

5.9

To incentivize fast track companies with a view to accelerate exports, in cases where Authorization holder has fulfilled 75% or more of specific export obligation and 100% of Average Export Obligation till date, if any, in half or less than half the original export obligation period specified, remaining export obligation shall be condoned and the Authorization redeemed by RA concerned.

However no benefits under Para 5.12 of HBP v1 shall be available in such cases.

CHAPTER-6

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

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

manufacturing units. However, in respect of Chrome Ore / Chrome concentrate, State Trading Regime as stipulated in export policy of these items, will be applicable to EOUs.

- (d) EOU / EHTP / STP / BTP units may import / procure from DTA, without payment of duty, certain specified goods for creating a central facility. Software EOU/ DTA units may use such facility for export of software.
- (e) An EOU engaged in agriculture, animal husbandry, aquaculture, floriculture, horticulture, pisciculture, viticulture, poultry or sericulture may be permitted to remove specified goods in connection with its activities for use outside bonded area.
- (f) Gems and jewellery EOUs may source gold / silver/ platinum through nominated agencies on loan / outright purchase basis. Units obtaining gold/ silver/ platinum from nominated agencies, either on loan basis or outright purchase basis shall export gold/ silver / platinum within 90 days from date of release.
- (g) EOU / EHTP / STP / BTP units, other than service units, may export to Russian Federation in Indian Rupees against repayment of State Credit / Escrow Rupee Account of buyer subject to RBI clearance, if any.
- (h) Procurement and export of spares / components, upto 5% of FOB value of exports, may be allowed to same consignee / buyer of the export article, subject to the condition that it shall not count for NFE and direct tax benefits.
- (i) BoA may allow, on a case to case basis, requests of EOU / EHTP / STP / BTP units in sectors other than Gems & Jewellery, for consolidation of goods related to manufactured articles and export thereof along with manufactured article. Such goods may be allowed to be imported / procured from DTA by EOU without payment of duty, to the extent of 5% FOB value of such manufactured articles exported by the unit in preceding financial year. Details of

procured / imported goods and articles manufactured by the EOU will be listed separately in the export documents. In such cases, value of procured / imported goods will not be taken into account for calculation of NFE, DTA sale entitlement & profits accruing out of such procured / imported goods will not be eligible for income tax benefits. Such procured/ imported goods shall not be allowed to be sold in DTA. BoA may also specify any other conditions.

Second Hand Capital Goods 6.3

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

Leasing of Capital Goods 6.4

- a) An EOU / EHTP / STP / BTP unit may, on the basis of a firm contract between parties, source capital goods from a domestic / foreign leasing company without payment of customs / excise duty. In such a case, EOU / EHTP / STP / BTP unit and domestic / foreign leasing company shall jointly file documents to enable import / procurement of capital goods without payment of duty.
- b) An EOU / EHTP / BTP / STP unit may sell capital goods and lease back the same from a Non Banking Financial Company (NBFC), subject to the following conditions:
 - i) The unit should obtain permission from the jurisdictional Deputy / Assistant Commissioner of Customs or Central Excise, for entering into transaction of 'Sale and Lease Back of Assets', and submit full details of the goods to be sold and leased back and the details of NBFC;
 - ii) The goods sold and leased back shall not be removed from the unit's premises;
 - iii) The unit should be NFE positive at the time when it enters into sale and lease back transaction with NBFC;
 - iv) A joint undertaking by the unit and NBFC should be given to pay duty on goods in case of violation or contravention of any provision of the notification under which these goods were

imported or procured, read with Customs Act, 1962 or Central Excise Act, 1944, and that the lien on the goods shall remain with the Customs/ Central Excise Department, which will have first charge over the said goods for recovery of sum due from the unit to Government under provision of Section 142(b) of the Customs Act, 1962 read with the Customs (Attachment of Property of Defaulters for Recovery of Govt. Dues) Rules, 1995.

Net Foreign Exchange Earnings 6.5

EOU / EHTP / STP / BTP unit shall be a positive net foreign exchange earner except for sector specific provision of Appendix 14-I-C of HBP v1, where a higher value addition shall be required. NFE earnings shall be calculated cumulatively in blocks of five years, starting from commencement of production. Whenever a unit is unable to export due to prohibition / restriction imposed on export of any product mentioned in LoP, the five year block period for calculation of NFE earnings may be suitably extended by BoA. BoA may also consider extension of block period by another one year, for calculation of NFE, on case to case basis, for those units which complete 5 years block period in between 30.09.2008 and 30.09.2009, keeping in view the decline in exports in that particular unit, due to economic slow down only.

Letter of Permission / Letter of Intent and Legal Undertaking; Investment Criteria 6.6

- (a) On approval, a Letter of Permission (LoP) / Letter of Intent (LoI) shall be issued by DC / designated officer to EOU / EHTP / STP / BTP unit. LoP / LoI shall have an initial validity of 3 years, by which time unit should have commenced production. Its validity may be extended further up to 3 years by competent authority. However, proposals for extension beyond six years shall be considered in exceptional circumstances, on a case-to-case basis by BoA. Once unit commences production, LoP/ LoI issued shall be valid for a period of 5 years for its activities. This period may be extended further by DC for a period of 5 years at a time.
- (b) LoP / LoI issued to EOU / EHTP / STP / BTP units by concerned authority, subject to compliance of provision in para 6.2 above, would be construed as an Authorisation for all purposes.

- (c) Unit shall execute an LUT with DC concerned. Failure to ensure positive NFE or to abide by any of the terms and conditions of LoP / LoI / IL / LUT shall render the unit liable to penal action under provisions of the FT (D&R) Act and Rules and Orders made thereunder, without prejudice to action under any other law / rules and cancellation or revocation of LoP / LoI / IL.
- (d) Only projects having a minimum investment of Rs. 1 Crore in plant & machinery shall be considered for establishment as EOUs. However, this shall not apply to existing units and units in EHTP / STP / BTP, Handicrafts / Agriculture / Floriculture / Aquaculture / Animal Husbandry / Information Technology, Services, Brass Hardware and Handmade jewellery sectors. BoA may also allow establishment of EOUs with a lower investment criteria.

Application & Approvals 6.7

- (a) Applications for setting up of units under EOU scheme, other than proposals for setting up of units in services sector (except R&D, software and IT enabled services, or any other service activity as may be delegated by BoA), shall be approved or rejected by the Units Approval Committee within 15 days as per criteria indicated in HBP v1.
- (b) In other cases, approval may be granted by BoA set up for this purpose as indicated in HBP v 1.
- (c) Proposals for setting up EOU requiring industrial licence may be granted approval by DC after clearance of proposal by BoA and DIPP within 45 days.
- (d) Applications for conversion into an EOU / EHTP / STP / BTP unit from existing DTA units, having an investment of Rs. 50 crores and above in plant and machinery or exporting Rs. 50 crores and above annually, shall be placed before BoA for a decision.

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

- Entire production of EOU / EHTP / STP / BTP units shall be exported subject to following:
- (a) Units, other than gems and jewellery units, may sell

goods upto 50% of FOB value of exports, subject to fulfilment of positive NFE, on payment of concessional duties. Within entitlement of DTA sale, unit may sell in DTA, its products similar to goods which are exported or expected to be exported from units. However, units which are manufacturing and exporting more than one product can sell any of these products into DTA, upto 90% of FOB value of export of the specific products, subject to the condition that total DTA sale does not exceed the overall entitlement of 50% of FOB value of exports for the unit, as stipulated above. No DTA sale at concessional duty shall be permissible in respect of motor cars, alcoholic liquors, books, tea (except instant tea), pepper & pepper products, marble and such other items as may be notified from time to time. Such DTA sale shall also not be permissible to units engaged in activities of packaging / labeling / segregation / refrigeration/ compacting / micronisation / pulverization / granulation / conversion of monohydrate form of chemical to anhydrous form or vice-versa. Sales made to a unit in SEZ shall also be taken into account for purpose of arriving at FOB value of export by EOU provided payment for such sales are made from Foreign Exchange Account of SEZ unit. Sale to DTA would also be subject to mandatory requirement of registration of pharmaceutical products (including bulk drugs). An amount equal to Anti Dumping duty under section 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.

- (b) For services, including software units, sale in DTA in any mode, including on line data communication, shall also be permissible up to 50% of FOB value of exports and /or 50% of foreign exchange earned, where payment of such services is received in foreign exchange.
- (c) Gems and jewellery units may sell upto 10% of FOB value of exports of the preceding year in DTA, subject to fulfillment of positive NFE. In respect of sale of plain jewellery, recipient shall pay concessional rate of duty as applicable to sale from nominated

agencies. In respect of studded jewellery, duty shall be payable as applicable.

- (d) Unless specifically prohibited in LoP, rejects within an overall limit of 50% may be sold in DTA on payment of duties as applicable to sale under sub-para 6.8(a) on prior intimation to Customs authorities. Such sales shall be counted against DTA sale entitlement. Sale of rejects upto 5% of FOB value of exports shall not be subject to achievement of NFE.
- (e) Scrap / waste / remnants arising out of production process or in connection therewith may be sold in DTA, as per SION notified under Duty Exemption Scheme, on payment of concessional duties as applicable, within overall ceiling of 50% of FOB value of exports. Such sales of scrap / waste / remnants shall not be subject to achievement of positive NFE. In respect of items not covered by norms, DC may fix ad-hoc norms for a period of six months and within this period, norms should be fixed by Norms Committee. Ad-hoc norms will continue till such time norms are fixed by Norms Committee. Sale of waste / scrap / remnants by units not entitled to DTA sale, or sales beyond DTA sale entitlement, shall be on payment of full duties. Scrap / waste / remnants may also be exported.
- (f) There shall be no duties / taxes on scrap / waste / remnants, in case same are destroyed with permission of Customs authorities.
- (g) By-products included in LoP may also be sold in DTA subject to achievement of positive NFE, on payment of applicable duties, within the overall entitlement of sub-para 6.8(a). Sale of by-products by units not entitled to DTA sales, or beyond entitlements of sub-para 6.8 (a), shall also be permissible on payment of full duties.
- (h) EOU / EHTP / STP / BTP units may sell finished products, except pepper and pepper products and marble, which are freely importable under FTP in DTA, under intimation to DC, against payment of full duties, provided they have achieved positive NFE. An amount equal to Anti Dumping duty under

section 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.

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

Other Supplies in DTA 6.9

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

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

for annual requirement.

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

- Export through others* 6.10 An EOU / EHTP / STP / BTP unit may export goods manufactured / software developed by it through another exporter or any other EOU / EHTP / STP / SEZ unit subject to conditions mentioned in para 6.18 of HBP v1.
- Entitlement for supplies from the DTA* 6.11 (a) Supplies from DTA to EOU / EHTP / STP / BTP units will be regarded as “deemed exports” and DTA supplier shall be eligible for relevant entitlements under chapter 8 of FTP, besides discharge of export obligation, if any, on the supplier. Notwithstanding the above, EOU / EHTP / STP / BTP units shall, on production of a suitable disclaimer from DTA supplier, be eligible for obtaining entitlements specified in chapter 8 of FTP. For claiming deemed export duty drawback, they shall get brand rates fixed by DC wherever All Industry Rates of Drawback are not available.
- (b) Suppliers of precious and semi-precious stones, synthetic stones and processed pearls from DTA to EOU shall be eligible for grant of Replenishment Authorisations at rates and for items mentioned in HBP v1.
- (c) In addition, EOU / EHTP / STP / BTP units shall be entitled to following:-
- (i) Reimbursement of Central Sales Tax (CST) on goods manufactured in India.
- Simple interest @ 6% per annum will be payable on delay in refund of CST, if the case is not settled within 30 days of receipt of complete application (as in paragraph 9.10.1 of HBP v1).
- (ii) Exemption from payment of Central Excise Duty on goods procured from DTA on goods manufactured in India.
- (iii) Reimbursement of duty paid on fuel procured from domestic oil companies / Depots of domestic oil Public Sector Undertakings as per drawback rate notified by DGFT from time to time. Reimbursement of additional duty of excise levied on fuel under the Finance Acts

would also be admissible.

(iv) CENVAT Credit on service tax paid.

Other Entitlements

6.12

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

- (a) Exemption from Income Tax as per Section 10A and 10B of Income Tax Act.
- (b) Exemption from industrial licensing for manufacture of items reserved for SSI sector.
- (c) Export proceeds will be realized within 12 months.
- (d) Units will be allowed to retain 100% of its export earning in the EEFC account.
- (e) Unit will not be required to furnish bank guarantee at the time of import or going for job work in DTA, where unit has
 - (i) a turnover of Rs. 5 crores or above;
 - (ii) unit is in existence for at least three years; and
 - (iii) The unit:
 - (a) has achieved positive NFE / export obligation wherever applicable;
 - (b) has not been issued a show cause notice or a confirmed demand, during the preceding 3 years, on grounds other than procedural violations, under the penal provision of the Customs Act, the Central Excise Act, the Foreign Trade (Development & Regulation) Act, the Foreign Exchange Management Act, the Finance Act, 1994 covering Service Tax or any allied Acts or the rules made thereunder, on account of fraud / collusion / willful mis-statement / suppression of facts or contravention of any of the provisions thereof;

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

Inter Unit Transfer

6.13

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

Sub-Contracting

6.14

- (a) (i) EOU / EHTP / STP / BTP units, including gems and jewellery units, may on the basis of annual permission from Customs authorities, subcontract production processes to DTA through job work which may also involve change of form or nature of goods, through job work by units in DTA.
- (ii) These units may subcontract upto 50% of overall production of previous year in value terms in DTA with permission of Customs authorities.
- (b) (i) EOU may, with annual permission from Customs authorities, undertake job work for export, on behalf of DTA exporter, provided that goods are exported directly from EOU and export document shall jointly be in name of DTA / EOU. For such exports, DTA units will

be entitled for refund of duty paid on inputs by way of brand rate of duty drawback.

- (ii) Duty free import of goods for execution of export order placed on EOU by foreign supplier on jobwork basis, would be allowed subject to condition that no DTA clearance shall be allowed.
 - (iii) Subcontracting of both production and production processes may also be undertaken without any limit through other EOU / EHTP / STP / BTP / SEZ units, on the basis of records maintained in unit.
 - (iv) EOU / EHTP / STP / BTP units may subcontract part of production process abroad and send intermediate products abroad as mentioned in LoP. No permission would be required when goods are sought to be exported from subcontractor premises abroad. When goods are sought to be brought back, prior intimation to concerned DC and Customs authorities shall be given.
- (c) Scrap / waste / remnants generated through job work may either be cleared from job worker's premises on payment of applicable duty on transaction value or destroyed in presence of Customs / Central Excise authorities or returned to unit. Destruction shall not apply to gold, silver, platinum, diamond, precious and semi precious stones.
- (d) Sub-contracting / exchange by gems and jewellery EOUs through other EOUs or SEZ units or units in DTA, shall be as per procedure indicated in HBP v1.

Sale of Unutilized Material

6.15

- (a) In case an EOU / EHTP / STP / BTP unit is unable to utilize goods and services, imported or procured from DTA, it may be
- (i) transferred to another EOU / EHTP / STP / BTP/ SEZ unit; or
 - (ii) disposed off in DTA with approval of Customs

authorities on payment of applicable duties and submission of import authorization; or

(iii) exported. Such transfer from EOU / EHTP / STP / BTP unit to another such unit would be treated as import for receiving unit.

(b) Capital goods and spares that have become obsolete / surplus, may either be exported, transferred to another EOU / EHTP / STP / BTP / SEZ unit or disposed off in DTA on payment of applicable duties. Benefit of depreciation, as applicable, will be available in case of disposal in DTA only when the unit has achieved positive NFE taking into consideration the depreciation allowed. No duty shall be payable in case capital goods, raw material, consumables, spares, goods manufactured, processed or packaged, and scrap / waste / remnants / rejects are destroyed within unit after intimation to Customs authorities or destroyed outside unit with permission of Customs authorities. Destruction as stated above shall not apply to gold, silver, platinum, diamond, precious and semi precious stones.

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

(d) Disposal of used packing material will be allowed on payment of duty on transaction value.

Reconditioning / Repair and Re-engineering 6.16

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

Replacement / Repair of imported / Indigenous Goods 6.17

(a) General provisions of FTP relating to export / import of replacement / repair of goods would also apply equally to EOU / EHTP / STP / BTP units. Cases not covered by these provisions shall be considered on

merits by DC.

- (b) Goods sold in DTA and not accepted for any reasons, may be brought back for repair / replacement, under intimation to concerned jurisdictional Customs / Central Excise authorities.
- (c) Goods or parts thereof, on being imported / indigenously procured and found defective or otherwise unfit for use or which have been damaged or become defective subsequently, may be returned and replacement obtained or destroyed. In the event of replacement, goods may be brought back from foreign suppliers or their authorized agents in India or indigenous suppliers. The unit can take free of cost replacement (duty paid) from the authorized agents in India of foreign suppliers, provided the defective part is re-exported or destroyed. However, destruction shall not apply to precious and semi precious stones and precious metals.

Exit from EOU Scheme 6.18

- (a) With approval of DC, an EOU may opt out of scheme. Such exit shall be subject to payment of Excise and Customs duties and industrial policy in force.
- (b) If unit has not achieved obligations, it shall also be liable to penalty at the time of exit.
- (c) In the event of a gems and jewellery unit ceasing its operation, gold and other precious metals, alloys, gems and other materials available for manufacture of jewellery, shall be handed over to an agency nominated by DoC, at price to be determined by that agency.
- (d) An EOU / EHTP / STP / BTP unit may also be permitted by DC to exit from the scheme at any time on payment of duty on capital goods under the prevailing EPCG Scheme for DTA Units. This will be subject to fulfillment of positive NFE criteria under EOU scheme, eligibility criteria under EPCG scheme and standard conditions indicated in HBP v 1.
- (e) Unit proposing to exit out of EOU scheme shall intimate DC and Customs and Central Excise

authorities in writing. Unit shall assess duty liability arising out of debonding and submit details of such assessment to Customs and Central Excise authorities. Customs and Central Excise authorities shall confirm duty liabilities on priority basis, subject to the condition that the unit has achieved positive NFE, taking into consideration the depreciation allowed. After payment of duty and clearance of all dues, unit shall obtain “No Dues Certificate” from Customs and Central Excise authorities. On the basis of “No Dues Certificate” so issued by the Customs and Central Excise authorities, unit shall apply to DC for final debonding.

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

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

<i>Conversion</i>	6.19	<p>(a) Existing DTA units may also apply for conversion into an EOU / EHTP / STP / BTP unit, and Income Tax benefits under Section 10A and 10B will be available for plant, machinery and equipment already installed.</p> <p>(b) Existing EHTP / STP units may also apply for conversion / merger to EOU and vice-versa. In such cases, units will remain in bond and avail exemptions in duties and taxes as applicable.</p>
<i>Monitoring of NFE</i>	6.20	Performance of EOU / EHTP / STP / BTP units shall be monitored by Units Approval Committee as per guidelines in HBP v1.
<i>Export through Exhibitions / Export Promotion Tours / showrooms abroad / Duty Free Shops</i>	6.21	<p>EOU / EHTP / STP / BTP are permitted to:</p> <p>(i) Export goods for holding / participating in exhibitions abroad with permission of DC.</p> <p>(ii) Personal carriage of gold / silver / platinum jewellery, precious, semi-precious stones, beads and articles.</p> <p>(iii) Export goods for display / sale in permitted shops set up abroad.</p> <p>(iv) Display / sell in permitted shops set up abroad, or in showrooms of their distributors / agents.</p> <p>(v) Set up showrooms / retail outlets at International Airports.</p>
<i>Personal Carriage of Import / Export Parcels including through Foreign bound Passengers</i>	6.22	Import / export through personal carriage of gems and jewellery items may be undertaken as per Customs procedure. However, export proceeds shall be realized through normal banking channel. Import / export through personal carriage by units, other than gems and jewellery units, shall be allowed provided goods are not in commercial quantity. An authorized person of Gems & Jewellery EOU may also import gold in primary form, upto 10 Kgs in a financial year through personal carriage, as per guidelines prescribed by RBI and DoR.
<i>Export / Import by Post / Courier</i>	6.23	Goods including free samples, may be exported / imported by airfreight or through foreign post office or through courier, as per Customs procedure.

<i>Administration of EOUs/ Powers of DC</i>	6.24	Details of administration of EOUs and powers of DC are given in HBP v1.
<i>Revival of Sick Units.</i>	6.25	Subject to a unit being declared sick by appropriate authority, proposals for revival of the unit or its take over may be considered by BoA .
<i>Approval of EHTP / STP</i>	6.26	In case of units under EHTP / STP schemes, necessary approval / permission under relevant paragraphs of this Chapter shall be granted by officer designated by Ministry of Communication and Information Technology, Department of Information Technology, instead of DC, and by Inter-Ministerial Standing Committee (IMSC) instead of BoA.
<i>Approval of BTP</i>	6.27	Bio-Technology Parks (BTP) would be notified by DGFT on recommendations of Department of Biotechnology. In case of units in BTP, necessary approval / permission under relevant provisions of this chapter will be granted by designated officer of Department of Biotechnology.

CHAPTER-7

SPECIAL ECONOMIC ZONES

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

CHAPTER-7 A

FREE TRADE & WAREHOUSING ZONES

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

CHAPTER –8

DEEMED EXPORTS

- Deemed Exports* 8.1 “Deemed Exports” refer to those transactions in which goods supplied do not leave country, and payment for such supplies is received either in Indian rupees or in free foreign exchange.
- Categories of Supply* 8.2 Following categories of supply of goods by main / sub-contractors shall be regarded as “Deemed Exports” under FTP, provided goods are manufactured in India:
- (a) Supply of goods against Advance Authorisation / Advance Authorisation for annual requirement / DFIA;
 - (b) Supply of goods to EOU / STP / EHTP / BTP;
 - (c) Supply of capital goods to EPCG Authorisation holders;
 - (d) Supply of goods to projects financed by multilateral or bilateral Agencies / Funds as notified by Department of Economic Affairs (DEA), MoF under International Competitive Bidding (ICB) in accordance with procedures of those Agencies / Funds, where legal agreements provide for tender evaluation without including customs duty;

Supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral Agencies / Funds as notified by DEA, MoF under ICB, in accordance with procedures of those Agencies / Funds, which bids may have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad;
 - (e) Supply of capital goods, including in unassembled / disassembled condition as well as plants, machinery, accessories, tools, dies and such goods which are used for installation purposes till stage of commercial production, and spares to extent of 10% of FOR value to fertilizer plants;

- (f) Supply of goods to any project or purpose in respect of which the MoF, by a notification, permits import of such goods at zero customs duty;
- (g) Supply of goods to power projects and refineries not covered in (f) above;
- (h) Supply of marine freight containers by 100% EOU (Domestic freight containers-manufacturers) provided said containers are exported out of India within 6 months or such further period as permitted by customs;
- (i) Supply to projects funded by UN Agencies; and
- (j) Supply of goods to nuclear power projects through competitive bidding as opposed to ICB.

Benefits of deemed exports shall be available under paragraphs (d), (e), (f) and (g) only if the supply is made under procedure of ICB.

Benefits for Deemed Exports

8.3

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

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

Benefits to the Supplier

8.4.1

- (i) In respect of supplies made against Advance Authorisation / DFIA in terms of paragraph 8.2(a) of FTP, supplier shall be entitled to Advance Authorisation / DFIA for intermediate supplies.

- (ii) If supplies are made against Advance Release Order (ARO) or Back to Back Letter of Credit issued against Advance Authorisation / DFIA in terms of paragraphs 4.1.11 and 4.1.12 of FTP, suppliers shall be entitled to benefits listed in paragraphs 8.3(b) and (c) of FTP, whichever is applicable.
- 8.4.2 In respect of supply of goods to EOU / EHTP / STP / BTP in terms of paragraph 8.2(b) of FTP, supplier shall be entitled to benefits listed in paragraphs 8.3(a), (b) and (c) of FTP, whichever is applicable.
- 8.4.3 In respect of supplies made under paragraph 8.2(c) of FTP, supplier shall be entitled to the benefits listed in paragraphs 8.3(a), (b) and (c) of the Policy, whichever is applicable.
- 8.4.4
 - (i) In respect of supplies made under paragraphs 8.2(d), (f) and (g) of FTP, supplier shall be entitled to benefits listed in paragraphs 8.3(a), (b) and (c), whichever is applicable.
 - (ii) In respect of supplies mentioned in paragraph 8.2(d), supplies to projects funded by such Agencies alone, as may be notified by DEA, MoF, shall be eligible for deemed export benefits. A list of such Agencies / Funds is given in Appendix 13 of HBP v1 .
 - (iii) Benefits of deemed exports under para 8.2(f) of FTP shall be applicable in respect of items, import of which is allowed by DoR at zero customs duty, subject to fulfillment of conditions specified under Notification No. 21/2002-Customs dated 1.3.2002, as amended from time to time.
 - (iv) Supply of Capital goods and spares upto 10% of FOR value of capital goods to power projects in terms of paragraph 8.2(g), shall be entitled for deemed export benefits provided the ICB procedures have been followed at Independent Power Producer (IPP) / Engineering and Procurement Contract (EPC) stage. Benefit of deemed exports shall also be available for renovation / modernization of power plants. Supplier shall be eligible for benefits listed in paragraph 8.3(a) and (b) of FTP, whichever is applicable. However, supply of goods required for setting up of any mega

power project as specified in S.No. 400 of DoR Notification No. 21/2002-Customs dated 1.3.2002, as amended, shall be eligible for deemed export benefits as mentioned in paragraph 8.3(a), (b) and (c) of FTP, whichever is applicable, if such mega power project complies with the threshold generation capacity specified therein, in Customs Notification.

- (v) Supplies under paragraph 8.2(g) of FTP to new refineries being set up during Ninth Plan period and spilled over to Tenth Plan period, shall be entitled for deemed export benefits in respect of goods mentioned in list 17 specified in S.No. 228 of Notification No. 21/2002-Customs dated 1.3.2002, as amended from time to time. Supplier shall be eligible for benefits listed in paragraphs 8.3(a) and (b) of FTP, whichever is applicable.

8.4.5 In respect of supplies made under paragraph 8.2(e) of FTP, supplier shall be eligible for benefits listed in paragraph 8.3(a) and (b) of FTP, whichever is applicable. Benefit of deemed exports shall be available in respect of supplies of capital goods and spares to Fertilizer Plants which are set up or expanded / revamped / retrofitted / modernized during Ninth Plan period. Benefit of deemed exports shall also be available on supplies made to Fertilizers Plants, which have started in the 8th / 9th Plan periods and spilled over to 10th Plan period.

8.4.6 Supplies of goods to projects funded by UN Agencies covered under para 8.2(i) of FTP are eligible for benefits listed in paragraph 8.3(a) and (b) of FTP, whichever is applicable.

8.4.7 In respect of supplies made to Nuclear Power Projects under para 8.2(j) of FTP, the supplier would be eligible for benefits given in para 8.3(a), (b) and (c) of FTP, whichever is applicable. Supply of only those goods required for setting up any Nuclear Power Project specified in list 43 at S.No. 401 of Notification No. 21/2002-Customs dated 1.3.2002, as amended from time to time, having a capacity of 440MW or more as certified by an officer not below rank of Joint Secretary to Government of India in Department of Atomic Energy, shall be entitled for deemed export benefits in cases where procedure of competitive bidding (and not ICB) has been followed.

- Eligibility for refund of terminal excise duty / drawback*** 8.5 Supply of goods will be eligible for refund of terminal excise duty in terms of para 8.3(c) of FTP, provided recipient of goods does not avail CENVAT credit / rebate on such goods. Similarly, supplies will be eligible for deemed export drawback in terms of para 8.3(b) of FTP on Central Excise paid on inputs / components, provided CENVAT credit facility / rebate has not been availed by applicant. Such supplies will however be eligible for deemed export drawback on customs duty paid on inputs/ components.
- 8.5.1 Simple interest @ 6% per annum will be payable on delay in refund of duty drawback and terminal excise duty under deemed export scheme, if the case is not settled within 30 days of receipt of complete application (as in paragraph 9.10.1 of HBP v1).
- Supplies to be made by the main / sub-contractor*** 8.6.1 In all cases of deemed exports, supplies shall be made directly to designated Projects / Agencies / Units / Advance Authorisation / EPCG Authorisation holders. Sub-contractor may, however, make supplies to main contractor instead of supplying directly to designated projects / Agencies. Such supplies shall be eligible for deemed export benefits as per procedure laid down in paragraph 8.4 of HBP v1.
- 8.6.2 Supplies made by an Indian sub-contractor of an Indian or foreign main contractor directly to the designated projects / Agencies, shall also be eligible for deemed export benefits provided sub-contractor is indicated either originally or subsequently in the contract, and payment certificate is issued by project authority in the name of sub-contractor as in Appendix 22C of HBP v1.

CHAPTER-9

DEFINITIONS

- 9.1 For purpose of FTP, unless context otherwise requires, following words and expressions shall have the following meanings attached to them.
- 9.2 “Accessory” or “Attachment” means a part, sub-assembly or assembly that contributes to efficiency or effectiveness of a piece of equipment without changing its basic functions.
- 9.3 “Act” means Foreign Trade (Development and Regulation) Act, 1992 (No.22 of 1992) [FT(D&R) Act].
- 9.4 “Actual User” means an actual user who may be either industrial or non-industrial.
- 9.5 “Actual User (Industrial)” means a person who utilises imported goods for manufacturing in his own industrial unit or manufacturing for his own use in another unit including a jobbing unit.
- 9.6 “Actual User (Non-Industrial)” means a person who utilises the imported goods for his own use in
- (i) any commercial establishment carrying on any business, trade or profession; or
 - (ii) any laboratory, Scientific or Research and Development (R&D) institution, university or other educational institution or hospital; or
 - (iii) any service industry.
- 9.7 “AEZ” means Agricultural Export Zones notified by DGFT in Appendix 8 of HBP v1.
- 9.8 “Appeal” is an application filed under section 15 of the Act and includes such applications preferred by DGFT officials in government interest against decision by designated adjudicating / appellate authorities.
- 9.9 “Applicant” means person on whose behalf an application is made and shall, wherever context so requires, includes person signing the application.

- 9.9.1 “Authorisation” means a permission as included in Section 2 (g) of FT(D&R) Act to import or export as per provisions of FTP.
- 9.10 “BoA” means the Board of Approval as notified by DoC.
- 9.11 “BTP” means Biotechnology Park as notified by DGFT on recommendation of Department of Biotechnology.
- 9.12 “Capital Goods” means any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, of goods or for rendering services, including those required for replacement, modernisation, technological upgradation or expansion. It also includes packaging machinery and equipment, refractories for initial lining, refrigeration equipment, power generating sets, machine tools, catalysts for initial charge, equipment and instruments for testing, research and development, quality and pollution control. Capital goods may be for use in manufacturing, mining, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture and viticulture as well as for use in services sector.
- 9.13 “Competent Authority” means an authority competent to exercise any power or to discharge any duty or function under the Act or the Rules and Orders made thereunder or under FTP.
- 9.14 “Component” means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved. A component includes an accessory or attachment to another component.
- 9.15 “Consumables” means any item, which participates in or is required for a manufacturing process, but does not necessarily form part of end-product. Items, which are substantially or totally consumed during a manufacturing process, will be deemed to be consumables.
- 9.16 “Consumer Goods” means any consumption goods, which can directly satisfy human needs without further processing and includes consumer durables and accessories thereof.
- 9.17 “Counter Trade” means any arrangement under which exports/imports from/to India are balanced either by

direct imports/exports from importing/exporting country or through a third country under a Trade Agreement or otherwise. Exports/Imports under Counter Trade may be carried out through Escrow Account, Buy Back arrangements, Barter trade or any similar arrangement. Balancing of exports and imports could wholly or partly be in cash, goods and/or services.

- 9.18 “Developer” means a person or body of persons, company, firm and such other private or government undertaking, who develops, builds, designs, organises, promotes, finances, operates, maintains or manages a part or whole of infrastructure and other facilities in SEZ as approved by Central Government and also includes a co-developer.
- 9.19 “Development Commissioner” means Development Commissioner of SEZ.
- 9.20 “DFRC” means Duty Free Replenishment Certificate (as given in FTP 2004-09).
- 9.21 “Domestic Tariff Area (DTA)” means area within India which is outside SEZs and EOU/ EHTP/ STP/BTP.
- 9.22 “Drawback” in relation to any goods manufactured in India and exported, means rebate of duty chargeable on any imported material or excisable material used in manufacture of such goods in India. Goods include imported spares, if supplied with capital goods manufactured in India.
- 9.23 “EHTP” means Electronic Hardware Technology Park.
- 9.24 “EOU” means Export Oriented Unit for which an LOP has been issued by Development Commissioner.
- 9.25 “Excisable goods” means any goods produced or manufactured in India and subject to a duty of excise under Central Excise and Salt Act 1944 (1 of 1944).
- 9.26 “Exporter” means a person who exports or intends to export and holds an IEC number, unless otherwise specifically exempted.
- 9.27 “Export Obligation” means obligation to export product or products covered by Authorisation or permission in

terms of quantity, value or both, as may be prescribed or specified by Regional or competent authority.

9.27.1 “FTP” means the Foreign Trade Policy which specifies policy for exports and imports under section 5 of the Act.

9.28 “Group Company” means two or more enterprises which, directly or indirectly, are in a position to —

(i) exercise twenty-six per cent, or more of voting rights in other enterprise; or

(ii) appoint more than fifty percent, of members of board of directors in the other enterprise.

For group companies to claim benefits or have their exports counted for benefits to be claimed by another member of group, the group company should have been in existence at least 2 years prior to date of application under any of export promotion schemes notified in FTP.

9.29 “HBP v1” means the Handbook of Procedures (Vol.1) and “HBP v2” means Handbook of Procedures (Vol.2) published under provisions of paragraph 2.4 of FTP.

9.30 “Importer” means a person who imports or intends to import and holds an IEC number, unless otherwise specifically exempted.

9.31 “Infrastructure facilities” means industrial, commercial and social infrastructure or any other facility for development of SEZ as notified.

9.32 “ITC(HS)” means ITC(HS) Classifications of Export and Import Items Book.

9.33 “Jobbing” means processing or working upon of raw materials or semi-finished goods supplied to job worker, so as to complete a part of process resulting in manufacture or finishing of an article or any operation which is essential for aforesaid process.

9.34 “Licensing Year” means period beginning on the 1st April of a year and ending on 31st March of following year.

- 9.35 “Managed Hotel” means hotels managed by a three star or above hotel/ hotel chain under an operating management contract for a duration of at least three years between operating hotel/ hotel chain and hotel being managed. Management contract must necessarily cover the entire gamut of operations/ management of managed hotel.
- 9.36 “Manufacture” means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, re-packing, polishing, labelling, Re-conditioning repair, remaking, refurbishing, testing, calibration, re-engineering. Manufacture, for the purpose of FTP, shall also include agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining.
- 9.37 “Manufacturer Exporter” means a person who exports goods manufactured by him or intends to export such goods.
- 9.38 “MAI” means Market Access Initiative Scheme notified by Department of Commerce.
- 9.39 “Merchant Exporter” means a person engaged in trading activity and exporting or intending to export goods.
- 9.40 “NC” means the Norms Committee in the Directorate General of Foreign Trade, for recommending grant of Authorisations under Duty Exemption Scheme and for recommending Input Output norms and value addition norms to be notified by DGFT.
- 9.41 “NFE” means Net Foreign Exchange.
- 9.42 “Notification” means a notification published in Official Gazette.
- 9.43 “Order” means an Order made by Central Government under the Act.
- 9.44 “Part” means an element of a sub-assembly or assembly not normally useful by itself, and not amenable to further disassembly for maintenance purposes. A part may be a component, spare or an accessory.

- 9.45 “Person” includes an individual, firm, society, company, corporation or any other legal person including the DGFT officials.
- 9.46 “Policy” means FTP 2009-2014 as amended from time to time.
- 9.47 “Prescribed” means prescribed under the Act or the Rules or Orders made thereunder or under FTP.
- 9.48 “Public Notice” means a notice published under provisions of paragraph 2.4 of FTP.
- 9.49 “Raw material” means:
- (i) basic materials which are needed for manufacture of goods, but which are still in a raw, natural, unrefined or unmanufactured state; and
 - (ii) for a manufacturer, any materials or goods which are required for his manufacturing process, whether they have actually been previously manufactured or are processed or are still in a raw or natural state.
- 9.49.1 “Regional Authority” means authority competent to grant an Authorisation under the Act / Order.
- 9.50 “Registration-Cum-Membership Certificate” (RCMC) means certificate of registration and membership granted by an Export Promotion Council/Commodity Board/ Development Authority or other competent authority as prescribed in FTP or HBP v1.
- 9.51 “Rules” means Rules made by Central Government under Section 19 of the Act.
- 9.52 “Services” include all tradable services covered under General Agreement on Trade in Services and earning free foreign exchange.
- 9.53 “Service Provider” means a person providing
- (i) Supply of a ‘service’ from India to any other country;

- (ii) Supply of a ‘service’ from India to service consumer of any other country in India; and
- (iii) Supply of a ‘service’ from India through commercial or physical presence in territory of any other country.
- (iv) Supply of a ‘service’ in India relating to exports paid in free foreign exchange or in Indian Rupees which are otherwise considered as having being paid for in free foreign exchange by RBI.

- 9.54 “SEZ” means Special Economic Zone notified by Ministry of Commerce & Industry, Department of Commerce.
- 9.55 “Ships” mean all types of vessels used for sea borne trade or coastal trade, and shall include second hand vessels.
- 9.56 “SION” means Standard Input Output Norms notified by DGFT in HBP v2 / approved by Board of Approval.
- 9.57 “Spares” means a part or a sub-assembly or assembly for substitution, that is ready to replace an identical or similar part or sub-assembly or assembly. Spares include a component or an accessory.
- 9.58 “Specified” means specified by or under the provisions of this Policy through Notification / Public Notice.
- 9.59 “Status holder” means an exporter recognized as Export House/Trading House etc. by DGFT/Development Commissioner.
- 9.59.1 “Stores” means goods for use in a vessel or aircraft and includes fuel and spares and other articles of equipment, whether or not for immediate fitting.
- 9.60 “STP” means Software Technology Park
- 9.61 “Supporting Manufacturer” means any person who manufactures any product or part/accessories/components of that product. Name of supporting manufacturer as well as the exporter must be endorsed on export documents.
- 9.62 “Third-party exports” means exports made by an exporter or manufacturer on behalf of another exporter(s). In

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

- 9.63 “Transaction Value” is as defined in Customs Valuation Rules of Department of Revenue.
- 9.64 “Wild Animal” means any wild animal as defined in Section 2(36) of Wildlife (Protection) Act, 1972.