



सत्यमेव जयते

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MINISTRY OF COMMERCE AND INDUSTRY

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NEW DELHI, DATED THE 11th April, 2008

In exercise of powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2004-09, the Director General of Foreign Trade hereby notifies Handbook of Procedures (Volume I) incorporating Annual Supplement as updated on 11th April 2008 as contained in annexure to this Public Notice and the Appendices to the Handbook of Procedures (Vol.I). This shall come into force from 1st April, 2008.

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 File No: 01/94/180/Handbook/AM09/ PC-I)

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GLOSSARY (ACRONYMS)

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

| | |
|------------|---|
| EDI | Electronic Data Interchange |
| EEFC | Exchange Earners' Foreign Currency |
| EFC | Exim Facilitation Committee |
| EFT | Electronic Fund Transfer |
| EH | Export House |
| EHTP | Electronic Hardware Technology Park |
| EIC | Export Inspection Council |
| EO | Export Obligation |
| EOP | Export Obligation Period |
| EOU | Export Oriented Unit |
| EPC | Export Promotion Council |
| EPCG | Export Promotion Capital Goods |
| EPO | Engineering Process Outsourcing |
| FDI | Foreign Direct Investment |
| FIEO | Federation of Indian Export Organisation |
| FIRC | Foreign Exchange Inward Remittance Certificate |
| FMS | Focus Market Scheme |
| FOB | Free On Board |
| FPS | Focus Product Scheme |
| FT(D&R)Act | Foreign Trade (Development & Regulation) Act, 1992 (No. 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 | Hand Book of Procedures (Vol. 1) |
| HBP v2 | Hand Book 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, 2004-2009 |
| ITPO | India Trade Promotion Organisation |
| LoC | Line of Credit |
| LoI | Letter of Intent |
| LoP | Letter of Permit |
| LUT | Legal Under Taking |
| 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 |
| TRQ | Tariff Rate Quota |
| VA | Value Addition |
| VKGUY | Vishesh Krishi and Gram Udyog Yojana |
| WHOGMP | World Health Organisation Good Manufacturing Practices |

CHAPTER-1

INTRODUCTION

- | | | |
|----------------------------|-----|---|
| <i>Notification</i> | 1.1 | In pursuance of the provisions of paragraph 2.4 FTP, the Director General of Foreign Trade (DGFT) hereby notifies the compilation known as HBP v1, HBP v2 and Schedule of DEPB rates. These compilations, as amended from time to time, shall remain in force until 31st March, 2009 except DEPB scheme which shall continue to be operative till May 2009. |
| <i>Objective</i> | 1.2 | Objective is to implement provisions of FT (D&R) Act, Rules and Orders made thereunder and FTP (2004-09) by laying down simple, transparent and EDI compatible procedures which are easy to comply with and administer, for efficacious management of foreign trade. |
| <i>Definition</i> | 1.3 | For purpose of this Handbook, definitions and glossary contained in FT (D&R) Act, Rules and Orders made thereunder and the FTP (2004-09) shall apply. |

CHAPTER-2

GENERAL PROVISIONS REGARDING EXPORTS AND IMPORTS

| | | |
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| <i>Policy</i> | 2.1 | Policy relating to general provisions regarding exports and imports is given in Chapter-2 of FTP. |
| <i>Countries of Imports / Exports</i> | 2.2 | Unless otherwise specifically provided, import / export will be valid from / to any country. Above provisions shall, however, be subject to all conditionality, or requirement of Authorisation as required under Schedule I and / or Schedule II of ITC (HS). |
| <i>Application Fee</i> | 2.3 | The scale of fee, mode of payment, procedure for refund of fee and categories of persons exempted from payment of fee are contained in Appendix-21B. |
| <i>Territorial Jurisdiction of Regional Authorities (RA)</i> | 2.4 | Every application, unless otherwise specified, shall be submitted to RA concerned, as indicated in Appendix-1 of HBP v1. |
| <i>Filing of Application</i> | 2.5 | An incomplete or unauthorised application is liable to be rejected giving specific reason for rejection. In case of manual applications, applicant would furnish a soft copy of the application in MS word format. |
| <i>Profile of Importer/ Exporter</i> | 2.6 | Each importer / exporter shall be required to file importer / exporter profile once with RA in ANF 1. RA shall enter such information in database so as to dispense with need for asking information again. In case of any change in information given in ANF 1, importer/ exporter shall intimate same to RA. |
| <i>Self Addressed Stamped Envelope</i> | 2.7 | Applicant shall furnish a self-addressed envelope of 40 x 15 cm with required postal stamp affixed, for all documents required to be sent by Speed Post. |
| <i>IEC No: Exempted Categories</i> | 2.8 | Following categories of importers or exporters are exempted from obtaining IEC number: (i) Importers covered by clause 3(1) [except sub-clauses (e) and (l)] and exporters covered by clause 3(2) [except sub-clauses (i) and (k)] of Foreign Trade (Exemption from application of Rules in certain cases) Order, 1993. (ii) Ministries / Departments of Central or State Government. (iii) Persons importing or exporting goods for personal use not connected with trade or manufacture or agriculture. |

- (iv) Persons importing / exporting goods from / to Nepal, Myanmar through Indo-Myanmar border areas and China (through Gunji, Namgaya Shipkila and Nathula ports), provided CIF value of a single consignment does not exceed Indian Rs.25, 000. In case of Nathula port, the applicable value ceiling will be Rs. 100,000.

However, exemption from obtaining IEC number shall not be applicable for export of Special Chemicals, Organisms, Materials, Equipments and Technologies (SCOMET) as listed in Appendix- 3, Schedule 2 of ITC (HS) except in case of exports by category (ii) above.

- (v) Following permanent IEC numbers shall be used by non-commercial PSUs and categories of importers / exporters mentioned against them for import / export purposes.

| <i>S.No</i> | <i>Code Number</i> | <i>Categories of Importers / Exporters</i> |
|-------------|--------------------|--|
| 1. | 0100000011 | All Ministries / Departments of Central Government and agencies wholly or partially owned by them. |
| 2. | 0100000029 | All Ministries / Departments of any State Government and agencies wholly or partially owned by them. |
| 3. | 0100000037 | Diplomatic personnel, Counselor officers in India and officials of UNO and its specialised agencies. |
| 4. | 0100000045 | Indians returning from / going abroad and claiming benefit under Baggage Rules. |
| 5. | 0100000053 | Persons / Institutions / Hospitals importing or exporting goods for personnel use, not connected with trade or manufacture or agriculture. |
| 6. | 0100000061 | Persons importing / exporting goods from / to Nepal |
| 7. | 0100000070 | Persons importing / exporting goods from / to Myanmar through Indo-Myanmar border areas |
| 8. | 0100000088 | Ford Foundation |

- | | | |
|-----|------------|--|
| 9. | 0100000096 | Importers importing goods for display or use in fairs / exhibitions or similar events under provisions of ATA carnet. |
| 10. | 0100000100 | Director, National Blood Group Reference Laboratory, Bombay or their authorized offices. |
| 11. | 0100000126 | Individuals / Charitable Institution / Registered NGOs importing goods, which have been exempted from Customs duty under Notification issued by Ministry of Finance for bonafide use by victims affected by natural calamity. |
| 12. | 0100000134 | Persons importing / exporting permissible goods as notified from time to time, from / to China through Gunji, Namgaya Shipkila and Nathula ports, subject to value ceilings of single consignment as given in para 2.8 (iv) above. |
| 13. | | Deleted |
| 14 | 0100000151 | The Directorate of Purchase and Stores, Department of Atomic Energy, Government of India |
| 15 | 0100000169 | Non-commercial imports and exports by entities who have been authorized by Reserve Bank of India. |

Application for Grant of IEC Number

- 2.9 An application for grant of IEC number shall be made by Registered / Head Office of applicant, except EOUs and SEZ units to concerned RA in ANF 2A with documents prescribed therein.

Only one IEC would be issued / allowed against a single PAN number.

IEC Format and Statements

- 2.9.1 RA concerned shall issue an IEC number in prescribed format (Appendix-18B). A copy of such IEC number shall be endorsed to concerned banker (as per details given in ANF 2A).

A consolidated statement (in Appendix 18 C) of IEC numbers issued by RA shall be sent to Exchange Control Department of RBI as given in Appendix-18D.

Validity of IEC No.

- 2.9.2 An IEC number allotted to an applicant shall be valid for all its branches / divisions / units / factories.

| | | |
|---|-------|---|
| <i>Duplicate Copy of IEC Number</i> | 2.9.3 | Where an IEC Number is lost or misplaced, issuing authority may consider requests for grant of a duplicate copy of IEC number, on an affidavit. |
| <i>Surrender of IEC Number</i> | 2.9.4 | If an IEC holder does not wish to operate allotted IEC number, he may surrender same by informing issuing authority. On receipt of such intimation, issuing authority shall immediately cancel it and electronically transmit it to DGFT and Customs authorities. |
| | 2.9.5 | Deleted |
| <i>Application for Import and Export of Restricted Items</i> | 2.10 | An application for grant of an Authorisation for import or export of items mentioned as restricted in ITC (HS) may be made to RA as specified under relevant Chapters of this Handbook. |
| <i>Imports under Indo-US Memorandum of Understanding</i> | 2.11 | Import of specified capital goods, raw materials and components, from United States of America (USA) is subject to US Export Control Regulations. |

US suppliers of such items are required to obtain an export authorisation based on import certificate issued in India. The following are designated Import Certificate Issuing Authorities (ICIA):

- (i) Department of Electronics (DoE), for computer and computer based systems;
- (ii) Department of Industrial Policy and Promotion (DIPP), Technical Support Wing (TSW), for organised sector units registered under it, except for computers and computer based systems;
- (iii) Ministry of Defence (MoD), for defence related items;
- (iv) DGFT for small scale industries and entities not covered above as well as on behalf of any of the above;
- (v) Embassy of India, Washington, DC, on behalf of any of the above.

A request for an import certificate shall be made in ANF 2C. Import certificate in Appendix-31 may be issued by ICIA directly to importer with a copy to (i) Ministry of External Affairs (MEA) (AMS Section), New Delhi, (ii) DoE, New Delhi; and (iii) DGFT.

However, this import certificate will not be regarded as a substitute for an import authorisation in respect of items mentioned as restricted in ITC (HS) and an import authorisation will have to be obtained for such items.

**Validity Of Import
 Licence / Certificate /
 Authorisation /Permissions /
 CCPs / Export licence**

2.12 Validity of import / export Authorisation from date of issue shall be as follows, unless specified otherwise:

- | | | |
|-------|--|---|
| (i) | Advance Authorisation / DFIA (including Advance Authorisation for annual requirement, and Replenishment Authorisation for Gem & Jewellery as per Chapter- 4 of FTP). | 24 months |
| (ii) | EPCG Authorisation (other than spares) | 36 months |
| (iii) | EPCG Authorisation for Spares, refractories, catalyst and consumables | Co-terminus with EOP of EPCG Authorisation. |
| (iv) | Others including CCP and DEPB, unless otherwise specified | 24 months |
| (v) | Advance Authorisation / DFIA for deemed export (including Advance Authorisation for annual requirement) | 24 months or Co-terminus with contracted duration of project execution , whichever is later. |
| (vi) | Export Licence / Authorisation | 12 months (However, EFC may decide to issue Export Authorisation for a longer duration in case of R&D studies based on recommendation of technical authority) |

2.12.1 Where an Authorisation expires during the month, such Authorisation shall be deemed to be valid until last day of concerned month.

This proviso would be applicable even for a revalidated Authorisation.

- 2.12.2 Validity of an import Authorisation is decided with reference to date of shipment / dispatch of goods from supplying country as given in Paragraph 9.11 A of HBP v1 and not the date of arrival of goods at an Indian port.
- 2.12.3 Provisions of paragraph 2.12.1 above shall not be applicable to DEPB, Service Providers under SFIS, VKGUY and duty credit scrips issued under FMS and FPS, which are duty credit entitlements and must be valid on date on which actual debit of duty is made.
- 2.12.4 Similarly, EOP shall be deemed to be valid until month end.
- Revalidation of Import / Export Licence / Certificate / Authorisation / Permissions***
- 2.13 RA concerned may revalidate import Authorisation on merits, for six months from date of expiry of validity. However, Export Licence may only be revalidated by RA concerned on recommendation of DGFT for six months at a time and maximum upto 12 months from date of expiry of validity.
- 2.13.1 However, revalidation of freely transferable Authorisation and stock and sale Authorisation shall not be permitted unless validity has expired while in custody of Customs authority / RA.
- 2.13.2 Such revalidation (under 2.13 and 2.13.1 above) would be permitted under specific orders of Head of concerned Office and would be maximum up to extent of custody period.
- 2.13.3 An application for revalidation (including for restricted items), may be made to RA concerned. RA would consider such application as per government rules / notifications. Where DGFT is concerned authority, original application shall be submitted to RA concerned and self-attested copy of same shall be submitted to DGFT.
- Duplicate Copies of Export-Import Licence / Certificate / Authorisation / Permissions / CCPs***
- 2.14 Where an Authorisation is lost or misplaced, an application for issue of a duplicate may be made along with an affidavit, as given in Appendix-24, to issuing RA. RA concerned may, on merits to be recorded, issue a duplicate after issuing an order for cancellation of original and informing customs authority where original was registered.
- 2.15 Duplicate copy of freely transferable Authorisation, may be issued against an application accompanied with following documents:
- a. An application with fee equivalent to 10% of duty saved or duty credit (of unutilized balance).
 - b. A copy of FIR reporting loss.
 - c. Original affidavit on notarised stamp paper.
 - d. Indemnity bond on a stamp paper undertaking to indemnify

revenue loss, which may be caused on account of issue of such duplicate.

- 2.15.1 When an Authorisation has been lost by a Government agency and a proof to this effect is submitted, documents at serial nos. (a) to (d) above shall not be required.

In such cases, revalidation shall be for six months from date of endorsement.

- 2.15.2 RA concerned shall obtain a report regarding utilization of such Authorisation from Custom authority at port of registration before issuing duplicate, for balance unutilized.

- 2.15.3 Validity of duplicate Authorisation shall be co-terminus with original period. No request shall be entertained if validity has expired.

- 2.15.4 Deleted

- 2.15.5 Provision of paragraph 2.15.2 and 2.15.3 shall be applicable both for cases covered under paragraph 2.14 and 2.15.

Identity Cards

- 2.16 To facilitate collection of Authorisation and other documents from DGFT Head Quarters and RA, identity cards (as in Appendix 20B, valid for 3 years) may be issued to proprietor / partners / directors and authorised employees (not more than three), of importers and exporters, upon application as in Appendix 20A.

In addition, Identity Card may also be issued by the applicant firms on their letter head to the concerned employees. These Identity Cards may be countersigned by the concerned RA. However, application for identity card in Appendix 20B will require to be made by the applicant and all other parameters would need to be met.

However, in case of limited companies, RA may approve allotment of more than three identity cards per company.

In case of loss of an identity card, a duplicate card may be issued on the basis of an affidavit.

Common directors / partners, of a group company or in any other similar cases, RA may issue multiple identity cards after recording reasons in writing.

Interviews with authorised Officers

- 2.17 Officers may grant interview at their discretion to authorised representative of importer / exporter. Interviews / clarifications may also be sought through E-mails.

Export of Items Reserved for SSI Sector

- 2.18 Units other than small scale units are permitted to expand or create new capacities in respect of items reserved for small scale sector,

subject to condition that they obtain an Industrial licence under the Industries (Development and Regulation) Act, 1951, with export obligation as may be specified.

Such licensee is required to furnish a LUT to RA and DGFT in this regard. DGFT/RA concerned shall monitor export obligation.

Warehousing Facility 2.19

Public / Private Customs Bonded Warehouses may be set up in DTA as per Chapter-IX of Customs Act, 1962, to import items in terms of paragraph 2.28 of FTP.

On receipt of goods, such warehouses shall keep these goods for one year without payment of applicable customs duties. Goods can be cleared against Bill of Entry for home consumption, on payment of applicable custom duty and on submission of Authorisation wherever required, after an order for clearance of such goods for home consumption is issued by competent customs authorities.

In case of clearance against duty free categories / concessional duty categories, exemption / concession from duty shall be, allowed.

In case of clearance against DEPB and other duty credit scrips customs duty on imports may be adjusted.

Goods can be re-exported without payment of customs duty provided (i) a shipping bill or a bill of export is presented in respect of such goods; and (ii) order for export of such goods has been made by competent customs authorities.

Execution of Bank Guarantee / Legal Undertaking for Advance Authorisation / DFIA and EPCG Authorisation 2.20

Before clearance of goods through Customs, Authorisation holder shall execute a BG / LUT with customs authorities.

In such cases, RA shall endorse the following condition on the licence/Authorisation:

“BG/LUT as applicable, to be executed with concerned Customs Authorities.”

In case of indigenous sourcing, Authorisation holder shall furnish BG / LUT to RA as per Customs Circular No.58/2004 dated 31.10.04.

Corporate Guarantee 2.20.1

A status holder or a PSU may also submit Corporate Guarantee in lieu of Bank Guarantee/LUT in terms of the provisions of relevant Customs Circular in this regard. In case of a group company, if one company of a Group is a status holder, Corporate Guarantee may be given for another company by this company, which is not a status holder.

***Certificate of Origin
(CoO)***

2.21 Certificate of Origin (CoO) is an instrument to establish evidence on origin of goods imported into any country. There are two categories of CoO viz. (1) Preferential and (2) Non preferential.

Preferential

2.21.1 Preferential arrangement / schemes under which India is receiving tariff preferences for its exports are Generalised System of Preferences (GSP), Global System Of Trade Preferences (GSTP), SAARC Preferential Trading Agreement (SAPTA), Asia-Pacific Trade Agreement (APTA), India–Sri Lanka Free Trade Agreement (ISLFTA) and Indo- Thailand Free Trade Agreement. These arrangements / agreements prescribe Rules of Origin which have to be met for exports to be eligible for tariff preference.

Authorised agencies shall provide services relating to issue of CoO, including details regarding rules of origin, list of items covered by an agreement, extent of tariff preference, verification and certification of eligibility. Export Inspection Council (EIC) is agency authorised to print blank certificates. Authorised agencies may charge a fee, as approved by DoC, for services rendered.

***Generalised System of
Preferences (GSP)***

(a) GSP is a non-contractual instrument by which industrialized (developed) countries unilaterally and based on non-reciprocity extend tariff concessions to developing countries. Following countries extend tariff preferences under their GSP Scheme:

- | | | |
|----------------------------------|---------------------|----------------------------------|
| (i) United States of America, | (ii) New Zealand | (iii) Belarus |
| (iv) European Union | (v) Japan | (vi) Russia |
| (vii) Canada, | (viii) Norway | (ix) Australia (only to LDCs) |
| (x) Switzerland | (xi) Bulgaria | |

GSP schemes of these countries detail sectors / products and tariff lines under which benefits are available, including conditions and procedures governing benefits. These schemes are renewed and modified from time to time. Normally Customs of GSP offering countries require information in Form 'A' (prescribed for GSP Rules Of Origin) duly filled by exporters of beneficiary countries and certified by authorised agencies. List of agencies authorised to issue GSP CoO is given in Appendix-4A.

***Global System of
Trade Preference
(GSTP)***

(b) Under agreement establishing GSTP, tariff concessions are exchanged among developing countries, who have signed agreement. Presently, 46 countries are members of GSTP and India has exchanged tariff concessions with 12

***SAARC Preferential
Trading Agreement
(SAPTA)***

***Asia- Pacific Trade
Agreement
(APTA)***

***India-Sri Lanka Free
Trade Agreement
(ISLFTA)***

***India Afghanistan
Preferential Trade
Agreement***

***Indo – Thailand Frame
work Agreement for
Free Trade Area***

Non Preferential

countries on a limited number of products. EIC is sole agency authorised to issue CoO under GSTP.

- (c) SAPTA was signed by seven SAARC members namely India, Pakistan, Nepal, Bhutan, Bangladesh, Sri Lanka and Maldives in 1993 and came into operation in 1995. Four rounds of trade negotiations have been completed and more than 3000 tariff lines are under tariff concessions among SAARC countries. List of agencies, authorised to issue CoO under SAPTA are notified under Appendix – 4B.
- (d) APTA is a preferential trading arrangement designed to liberalise and expand trade in goods progressively in Economic and Social Commission for Asia and Pacific (ESCAP) region through liberalization of tariff and non-tariff barriers. At present, Bangladesh, Sri Lanka, South Korea, India and China are exchanging tariff concessions under APTA. Agencies authorised to issue CoO under APTA are listed in Appendix – 4B.
- (e) Free Trade Agreement (FTA) between India and Sri Lanka was signed on 20.12.1998 and was operationalised in March, 2000 following notification of required Customs tariff concessions by Government of Sri Lanka and India. EIC is sole agency to issue CoO under ISLFTA.
- (f) A Preferential Trade Agreement between Transitional Islamic State of Afghanistan and Republic of India was signed on 6.3.2003 and was operationalised with issuance of Customs Notification No 76/2003 dated 13.5.2003. EIC is sole agency to issue CoO under India Afghanistan Preferential Trade Agreement.
- (g) India and Thailand have signed protocol to implement Early Harvest Scheme under India- Thailand Free Trade Agreement on 01.09.2004. Tariff preferences for imports on items of Early Harvest Scheme would be available only to those products, which satisfy Rules of Origin Criteria, notified by Department of Revenue, Ministry of Finance, vide notification No.101/2004-Customs dated 31.08.2004. EIC would be sole agency to issue CoO under Early Harvest Scheme of Framework Agreement on India-Thailand Free Trade Agreement.

2.21.2 Government has also nominated certain agencies to issue Non Preferential CoO in accordance with Article II of International Convention Relating to Simplification of Customs formalities, 1923. These CoOs evidence origin of goods and do not bestow

any right to preferential tariffs. List of notified agencies is provided in Appendix – 4C. In addition, agencies authorized to issue Preferential CoO as per Para 2.21.1 of HBP v1 are also authorized to issue Non-Preferential CoO.

All exporters who are required to submit CoO (Non Preferential) would have to apply to any of agencies enlisted in Appendix–4C with following documents:

- (a) Details of quantum / origin of inputs / consumables used in export product.
- (b) Two copies of invoices.
- (c) Packing list in duplicate for concerned invoice.
- (d) Fee not exceeding Rs.100 per certificate as may be prescribed by concerned agency.

The agency would ensure that goods are of Indian origin as per general principles governing rules of origin before granting CoO (non preferential). Certificate would be issued as per Format given in Annexure-II to Appendix–4C. It should be ensured that no correction/re-type is made on certificate.

Any agency desirous of enlistment in Appendix–4C may submit their application as per Annexure I to Appendix 4C to the concerned RA.

In case of tea, all exporters who are required to submit CoO (Non-Preferential) shall apply to Tea Board or any Inspection Agency authorized by Tea Board and enlisted in Appendix-4C of HBP v1 with documents listed above.

| | | |
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| <i>Automatic Licence / Certificate / Authorisation / Permission</i> | 2.22 | Status holders shall be issued Authorisation automatically within stipulated time period. Deficiency, if any, informed through covering letter, shall be required to be rectified by status holders within 10 days from date of communication of deficiency. |
| <i>Submission of Certified Copies of Documents</i> | 2.23 | Wherever original documents have been submitted to a different RA / nominated agencies or to a different division of same RA, applicant can furnish photocopy of documents duly certified by him in lieu of original. |
| <i>Advance Payment</i> | 2.24 | In case, payment is received in advance and export / deemed exports takes place subsequently, application for an Authorisation shall be filed within specific period following the month during which exports / deemed exports are made, unless otherwise specified |

| | | |
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| <i>Payment through ECGC cover</i> | 2.25.1 | Payment through ECGC cover would count for benefits under FTP. |
| <i>Payment through General Insurance</i> | 2.25.2 | Amount of General Insurance Cover for transit loss would be treated as payment realized for exports under various export promotion schemes. |
| <i>Irrevocable Letter of Credit</i> | 2.25.3 | In case where applicant applies for duty credit scrip / DEPB / DFIA / discharge of EO against confirmed irrevocable letter of credit (or bill of exchange which is unconditionally Avalised / Co-Accepted / Guaranteed by a bank) and this is confirmed and certified by exporter's bank in relevant Bank Certificate of Export and Realization, payment of export proceeds shall be deemed to be realized. For Status Holders, irrevocable letter of credit would suffice. |
| <i>Export by post</i> | 2.26 | <p>In case of export by post, exporter shall submit following documents in lieu of documents prescribed for export by sea / air:</p> <ol style="list-style-type: none">1) Bank Certificate of Export and Realisation as in Appendix-22A.2) Relevant postal receipt3) Invoice duly attested by Customs authorities. |
| <i>Import/ Export through Courier Service</i> | 2.26.1 | Imports / Exports through a registered courier service is permitted as per Notification issued by DoR. However, importability / exportability of such items shall be regulated in accordance with FTP. |
| <i>Direct negotiation of export documents</i> | 2.26.2 | <p>In cases where exporter directly negotiates document (not through authorised dealer) with permission of RBI, he is required to submit following documents for availing of benefits under export promotion schemes:</p> <ol style="list-style-type: none">a. Permission from RBI allowing direct negotiation of documents (not required for status holders),b. Copy of Foreign Inward Remittance Certificate (FIRC) as per Form 10-H of Income Tax department in lieu of BRC andc. Statement giving details of shipping bills / invoice against which FIRC was issued. |
| <i>Import/Export of Samples</i> | 2.27 | No Authorisation shall be required for Import of bonafide technical and trade samples of items restricted in ITC(HS) except vegetable seeds, bees and new drugs . Samples of tea not exceeding Rs.2000 (CIF) in one consignment shall be allowed without an Authorisation by any person connected with Tea industry. |

| | | |
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| | | Duty free import of samples upto Rs 100,000 for all exporters (Rs.300,000 for gems and jewellery sector) shall be allowed as per terms and conditions of Customs notification. |
| | | Exports of bonafide trade and technical samples of freely exportable item shall be allowed without any limit. |
| <i>Import under Lease Financing</i> | 2.28 | Import under lease financing shall be available under EPCG Scheme, EOU / SEZ scheme. Domestic supplier of capital goods to eligible categories of deemed exports shall be eligible for benefits of deemed exports as in paragraph 8.3 of FTP, even in cases where supplies are under lease financing. |
| <i>Exhibits Required for National and International Exhibitions or Fairs and Demonstration</i> | 2.29 | <p>Import / export of exhibits, including construction and decorative materials required for the temporary stands of foreign / Indian exhibitors at exhibitions, fair or similar show or display for a period of six months on re-export / re-import basis, shall be allowed without an Authorisation on submission of a certificate from an officer of a rank not below that of an Under Secretary/ Deputy DGFT in DoC / DGFT or an officer of Indian Trade Promotion Organization (ITPO) duly authorised by its Chairman in this behalf, to effect that such exhibition, fair or similar show or display</p> <p>(i) has been approved or sponsored by DoC or ITPO; and</p> <p>(ii) is being held in public interest.</p> <p>Extension beyond six months for re-export / re-import will be considered by Customs authorities on merits. Consumables such as paints, printed material, pamphlets, literature etc. pertaining to exhibits need not be re-exported / re-imported.</p> |
| <i>Import Policy</i> | 2.30 | Policy relating to general provisions regarding import of capital goods, raw materials, intermediates, components, consumables, spares, parts, accessories, instruments and other goods is given in Chapter 2 of FTP. |
| <i>General Procedure for Licensing of Restricted Goods</i> | 2.31 | Wherever an import Authorisation, including CCP, is required under FTP, procedure contained in this chapter shall be applicable. |
| | 2.32 | Import of Metallic Waste and Scrap |
| | 2.32.1 | Import of any form of metallic waste, scrap will be subject to the condition that it will not contain hazardous, toxic waste, radioactive contaminated waste / scrap containing radioactive material, any type of arms, ammunition, mines, shells, live or used cartridge or any other explosive material in any form either used or otherwise. |

2.32.2 Import of following types of metallic waste and scrap will be free subject to conditions detailed below :

| <i>Sl.No.</i> | <i>Exim code</i> | <i>Item description</i> |
|---------------|------------------|--|
| 1 | 720410 00 | waste and scrap of cast iron |
| 2. | 72042190 | Other |
| 3. | 72042920 | Of High speed steel |
| 4. | 72042990 | Other |
| 5. | 72043000 | Waste and scrap of tinned iron or steel |
| 6. | 72044100 | Turnings, shavings, chips, milling waste, saw dust, fillings, trimmings and stampings, whether or not in bundles |
| 7. | 72044900 | Other |
| 8. | 72045000 | Remelting scrap ingots |
| 9. | 74040010 | Copper scrap |
| 10. | 74040022 | Brass scrap |
| 11. | 75030010 | Nickel scrap |
| 12. | 76020010 | Aluminium scrap |
| 13. | 79020010 | Zinc scrap |
| 14. | 80020010 | Tin scrap |
| 15. | 81042010 | Magnesium scrap |

Shredded form: Import of metallic waste and scrap listed in para 2.32.2 above in shredded form shall be permitted through all ports of India. Import from Hodaideh, Yemen and Bandar Abbas, Iran will be in shredded form only.

Unshredded compressed and loose form: Import of metallic waste, scrap listed in para 2.32.2 above in unshredded compressed and loose form shall be subject to following conditions:-

- a. Importer shall furnish the following documents to the Customs at the time of clearance of goods:
- D) Pre-shipment inspection certificate as per the format in Annexure-I to Appendix 5 from any Inspection &

Certification agencies given in Appendix-5 to the effect that:

- i) The consignment does not contain any type of arms, ammunition, mines, shells, cartridges, radio active contaminated or any other explosive material in any form either used or otherwise.
- ii) The imported item (s) is actually a metallic waste/ scrap/seconds/defective as per the internationally accepted parameters for such a classification.

II) Copy of the contract between the importer and the exporter stipulating that the consignment does not contain any type of arms, ammunition, mines, shells, cartridges, radio active contaminated, or any other explosive material in any form either used or otherwise.

b Import of scrap would take place only through following designated ports and no exceptions would be allowed even in case of EOUs, SEZs:-

“1. Chennai, 2. Cochin, 3. Ennore, 4. JNPT, 5. Kandla, 6. Mormugao, 7. Mumbai, 8. New Mangalore, 9. Paradip, 10. Tuticorin, 11. Vishakhapatnam, 12. ICD Loni, Ghaziabad, 13. Pipava, 14. Mundra, 15. Kolkata, 16. ICD Ludhiana, 17. ICD Dadri (Greater Noida), 18. ICD Nagpur, 19. ICD Jodhpur, 20. ICD Jaipur, 21. ICD Udaipur, 22. CFS Mulund, 23. ICD Kanpur, 24. ICD Ahmedabad, 25. ICD Pitampur and 26. ICD Malanpur”.

c. Deleted

2.32.2.A In case any agency wishes to be enlisted under Appendix 5, they may furnish an application to the office of Director General of Foreign Trade with the following documents:-

- (a) A brief on the activities of the agency, its history, membership, organizational structure, manpower, etc.
- (b) Infrastructural setup, logistics, testing labs etc. for carrying out the inspection of metallic scrap.
- (c) List of companies/agencies for which testing has been carried out.

2.32.3 However, import of other kinds of metallic waste and scrap will be allowed in terms of conditions of ITC (HS).

***Import of Second
Hand Capital Goods***

2.32.4 Import policy for seconds and defective, rags, PET bottles / waste, and ships is given in ITC (HS).

2.33 Import of second hand capital goods including refurbished / reconditioned spares, except those of personal computers/laptops, shall be allowed freely, subject to conditions for following categories:

Import of second hand computers including personal computers/laptops and refurbished / reconditioned spares thereof is restricted.

Import of refurbished / reconditioned spares of capital goods, other than those of personal computers/laptops will be allowed on production of a Chartered Engineer certificate that such spares have atleast 80% residual life of original spare.

2.33.1 Notwithstanding provisions of Para 2.33 above, second hand computers, laptops and computer peripherals including printer, plotter, scanner, monitor, keyboard and storage units can be imported freely as donations by following category of donees:

- (i) Schools run by Central or State Government or a local body,
- (ii) Educational Institution run on non- commercial basis by any organization,
- (iii) Registered Charitable Hospital,
- (iv) Public Library,
- (v) Public funded Research and Development Establishment,
- (vi) Community Information Centre run by Central or State Government or local bodies,
- (vii) Adult Education Centre run by Central or State Government or a local body,
- (viii) Organization of Central or State Government or a Union Territory.

Imports under this sub Para would be subject to the condition that goods shall not be used for any commercial purpose, is non transferable and complies with all terms and conditions of relevant Customs Rules and Regulations.

2.33A Customs or any other Central or State Government authority may avail of services of Inspection and Certification Agencies in Appendix 5 of the HBP v1, for certifying residual life as well as valuation / purchase price of capital good.

***Import of
Ammunition
by Licensed
Arms Dealers***

- 2.34 Import of following types of ammunition are allowed against an Authorisation by licensed arms dealers subject to conditions as may be specified:
- (i) Shotgun Cartridges 28 bore;
 - (ii) Revolver Cartridges of .450, .455 and .45 bores;
 - (iii) Pistol Cartridges of .25, .30 Mauser, .450 and .45 bores;
 - (iv) Rifle Cartridges of 6.5 mm, .22 savage, .22 Hornet, 300 Sherwood, 32/40, .256, .275, .280, 7m/m Mauser, 7 m/m Man Schoener, 9m/m Mauser, 9 m/m Man Schoener, 8x57, 8x57S, 9.3 m/m, 9.5 m/m, .375 Magnum, .405, .30.06, .270, .30/30 Winch, .318, .33 Winch, .275 Mag., .350 Mag., 400/350, .369 Purdey, .450/400, .470, .32 Win, .458 Win, .380 Rook, .220 Swift and .44 Win. bores.

An import Authorisation shall be issued at 5% of value of annual average sales turnover of ammunition (whether indigenous or imported) during preceding three licensing years subject to a minimum of Rs. 2000.

An application for grant of an Authorisation for items listed above may be made to RA in ANF 2B along with documents prescribed therein.

***Restricted Items
Required By Hotels,
Restaurants, Travel
Agents, Tour
Operators And Other
Specified Categories***

- 2.35 Items mentioned as restricted for imports in ITC (HS) required by hotels, restaurants, travel agents and tour operators may be allowed against an Authorisation, based on recommendation of Director General, Tourism, Government of India.
- 2.35.1 Hotels, including tourist hotels, recognised by Director General of Tourism, Government of India or a State Government shall be entitled to import Authorisation upto a value of 25% of foreign exchange earned by them from foreign tourists during preceding licensing year, for import of essential goods related to hotel and tourism industry.
- 2.35.2 Travel agents, tour operators, restaurants, and tourist transport operators and other units for tourism, like adventure / wildlife and convention units, recognized by Director General of Tourism, Government of India, shall be entitled to import authorisation up to a value of 10% of foreign exchange earned by them during preceding licensing year, for import of essential goods which are restricted for imports related to travel and tourism industry, including office and other equipment required for their own professional use.

- 2.35.3 Import entitlement under paragraphs 2.35.1 and 2.35.2 of any one licensing year can be carried forward, either in full or in part, and added to import entitlement of two succeeding licensing years and shall not be transferable except within the group company or to managed hotels.
- 2.35.4 Deleted
- 2.35.5 Such imported goods may be transferred after 2 years with permission of DGFT.
- No permission for transfer will be required in case the imported goods are re-exported. However, re-export shall be subject to all conditionality, or requirement of licence, or permission, as may be required under Schedule II of ITC (HS).
- 2.35.6 An application for grant of an Authorisation under paragraphs 2.35.1 and 2.35.2 may be made in ANF 2B to DGFT through Director of Tourism, Government of India who will forward application to RA concerned along with their recommendations.
- Import of Other Restricted Items*** 2.36 ITC (HS) contains list of restricted items. An application for import of such items may be made, in ANF 2B along with documents prescribed therein. Original application along with Treasury Receipt (TR) / Demand Draft shall be submitted to RA concerned and self-attested copy of same shall be submitted to DGFT in duplicate along with proof of submission of application to concerned RA.
- EXIM Facilitation Committee*** 2.37 Restricted item Authorisation may be granted by DGFT or any other RA authorised by him in this behalf. DGFT / RA may take assistance and advice of a Facilitation Committee. The Assistance of technical authorities may also be taken by seeking their comments in writing. Facilitation Committee will consist of representatives of Technical Authorities and Departments / Ministries concerned.
- Gifts of Consumer or Other Goods*** 2.38 In terms of provisions contained in paragraph 2.19 of FTP, an application for grant of CCP for import as gifts of items appearing as restricted for imports in ITC (HS) shall be made to the DGFT as in ANF 2B along with documents prescribed therein.
- Where recipient of a gift is a charitable, religious or an educational institution registered under any law in force, and gift sought to be imported has been exempted from payment of customs duty, such import shall be allowed by customs authorities without a CCP.
- Import under Govt. to Govt. Agreements*** 2.39 Import of goods under Government to Government agreements may be allowed without an Authorisation or CCP on production of necessary evidence to satisfaction of Customs authorities

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| <i>Import of Cheque Books / Ticket Forms etc.</i> | 2.40 | Indian branches of foreign banks, insurance companies and travel agencies may import chequebooks, bank draft forms and travellers cheque forms without a CCP. Similarly, airlines / shipping companies operating in India, including persons authorised by such airlines / shipping companies, may import passenger ticket forms without a CCP. |
| <i>Import of Reconditioned/ Second Hand Aircraft Spares</i> | 2.41 | Import Authorisation for reconditioned / second hand aircraft spares is not needed on recommendation of Director General of Civil Aviation, Government of India (DGCA). |
| <i>Import of Replacement Goods</i> | 2.42 | <p>Goods or parts thereof, on being imported and found defective or otherwise unfit for use or which have been damaged after import, may be exported without an Authorisation, and goods in replacement thereof may be supplied free of charge by foreign suppliers or imported against a marine insurance or marine-cum-erection insurance claim settled by an insurance company. Such goods shall be allowed clearance by the customs authorities without an import Authorisation provided that:</p> <ul style="list-style-type: none">(a) Shipment of replacement goods is made within 24 months from date of clearance of previously imported goods through Customs or within guarantee period in case of machines or parts thereof where such period is more than 24 months; and(b) No remittance shall be allowed except for payment of insurance and freight charges where replacement of goods by foreign suppliers is subject to payment of insurance and / or freight by importer and documentary evidence to this effect is produced while making remittance. |
| | 2.42.1 | <p>In case of short-shipment, short-landing or loss in transit, import of replacement goods will be permitted based on certificate issued by customs authorities without an import Authorisation.</p> <p>This procedure shall also apply to cases in which short-shipment of goods is certified by foreign supplier, who has agreed to replace free of cost.</p> |
| | 2.42.2 | Cases not covered by above provisions will be considered on merits by DGFT for grant of Authorisation for replacement of goods for which an application may be made in ANF. |
| <i>Transfer of Imported Goods</i> | 2.43 | Freely importable goods can be transferred by sale or otherwise by importer freely. Transfer of imported goods, which are subject to Actual User condition and have become surplus to needs of Actual User, shall be made only with prior permission of RA |

concerned. Following information along with supporting documents shall be furnished with request for grant of permission for transfer, to RA concerned:

- (i) Reasons for transfer of imported material;
- (ii) Name, address, IEC number and industrial Authorisation registration, if any, of transferee;
- (iii) Description, quantity and value of goods imported and those sought to be transferred;
- (iv) Copies of import Authorisation and bills of entry relating to imports made;
- (v) Terms and conditions of transfer as agreed upon between buyer and seller.

2.43.1 Prior permission of RA shall not, however, be necessary for transfer or disposal of goods, which were imported with Actual User condition, provided such goods are freely importable without Actual User condition on date of transfer.

2.43.2 Prior permission of RA shall also not be required for transfer or disposal of imported goods after a period of two years from the date of import. However, transfer of imported firearms by the importer / Authorisation holder shall be permitted only after 10 years of import with approval of DGFT.

“Renowned Shooters” for 3 consecutive years are allowed to sell their imported weapons after three years from date of import of the respective weapon. Other “Renowned Shooters” are allowed to sell their weapons after 5 years from the date of import. The sale shall be subject to approval from DGFT.

Sale of Exhibits

2.44 (i) Sale of exhibits of restricted items, mentioned in ITC (HS), imported for an international exhibition / fair organized / approved / sponsored by ITPO may also be made, without an Authorisation within bond period allowed for re-export, on payment of applicable customs duties, subject to a ceiling limit of Rs.5 lakhs (CIF) for such exhibits for each exhibitor.

However, sale of exhibits of items, which were freely imported shall be made, without an Authorisation, within bond period allowed for re-export on payment of applicable customs duties.

(ii) If goods brought for exhibition are not re-exported or sold within bond period due to circumstances beyond control

of importer, customs authorities may allow extension of bond period on merits.

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| <i>Import of Overseas Office Equipment</i> | 2.45 | On winding up of overseas offices, set up with approval of RBI, used office equipment and other items may be imported without Authorisation. |
| | 2.46 | Deleted |
| <i>Prototypes</i> | 2.47 | Import of new / second hand prototypes / second hand samples may be allowed on payment of duty without an Authorisation to an Actual User (industrial) engaged in production of or having industrial licence / letter of intent for research in item for which prototype is sought for product development or research, as the case may be, upon a self-declaration to that effect, to satisfaction of customs authorities. |
| <i>Restricted items for R&D</i> | 2.48 | All restricted items and items permitted to be imported by STEs, except live animals, required for R&D purpose may be imported without an Authorisation by Government recognized Research and Development units. |
| <i>Export Policy</i> | 2.49 | Policy relating to Exports is given in Chapter-2 of FTP. Further, Schedule 2, Appendix-1 of ITC (HS) specifies list of items, which may be exported without an Authorisation but subject to terms and conditions specified. |
| <i>Application for Grant of Export Licence / Certificate / Permission</i> | 2.50 | <p>An application for grant of Export Authorisation in respect of items mentioned in Schedule 2 of ITC (HS) may be made in ANF 2D (2E for SCOMET items) to DGFT along with documents prescribed therein. EFC shall consider applications on merits for issue of export Authorisation.</p> <p>An Inter-Ministerial Working Group in DGFT shall consider applications for export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) as specified in Appendix-3 to Schedule 2 of ITC (HS) based on guidelines given below.</p> <p>Applications for licences to export items or technology on SCOMET List are considered case-by-case, based inter alia on the following general criteria: -</p> <p>I. Following factors, among others, are taken into account in the evaluation of applications for export of items on SCOMET List:</p> <p>a. Credentials of end-user, credibility of declarations of end-use of the item or technology, integrity of chain of transmission of item from supplier to end-</p> |

- user, and on potential of item or technology, including timing of its export, to contribute to end-uses that are not in conformity with India's national security or foreign policy goals and objectives, objectives of global non-proliferation, or its obligations under treaties to which it is a State party.
 - b. Assessed risk that exported items will fall into hands of terrorists, terrorist groups, and non-State actors;
 - c. Export control measures instituted by recipient State;
 - d. The capabilities and objectives of programmes of recipient State relating to weapons and their delivery;
 - e. Assessment of end-uses of item(s);
 - f. Applicability to an export licence application of relevant bilateral or multilateral agreements to which India is a party.
- II. A condition for consideration of an application for an export licence is submission of stipulated certifications to effect, inter alia, that:
 - a. The item will be used only for stated purpose and that such use will not be changed, nor items modified or replicated without consent of Government of India;
 - b. Neither the items nor replicas nor derivatives thereof will be re-transferred without consent of Government of India;
 - c. End-user shall facilitate such verifications as are required by Government of India. Government of India may also require additional formal assurances, as appropriate, including on end-use and non-retransfer, from State of recipient.
- III. Licensing authority for items in Category 0 in Appendix 3 to Schedule 2 of ITC(HS) is Department of Atomic Energy. Applicable guidelines are notified by that Department under Atomic Energy Act, 1962. For certain items in Category 0, formal assurances from recipient State will include non-use in any nuclear explosive device. Licences for export of certain items in Category 0 will not be granted unless transfer is additionally under adequate physical protection and is covered by appropriate International Atomic Energy Agency (IAEA) safeguards, or any other mutually agreed controls on transferred items.

- IV. Additional end-use conditions may be stipulated in licences for export of items or technology that bear possibility of diversion to or use in development or manufacture of, or use as, systems capable of delivery of weapons of mass destruction.
- V. Applications for transfer of “Technology” for any item on the List will be considered as an application for export of item itself.
- VI. Licences for export of items in this List (other than those under Category 0, 1 and 2) solely for purposes of display or exhibition shall not require any end-use or end-user certifications. No export licence for display or exhibition shall be issued for ‘Technology’ in any category or for items under Categories 0, 1, and 2.
- VII. Export of items not on SCOMET List may also be regulated under provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.

Note 1: Export or attempt to export in violation of any of conditions of licence shall invite civil and/or criminal prosecution.

Note 2: Licences for export of items in this List for display or exhibition abroad are subject to a condition of re-import within a period not exceeding six months. Exporters are entitled to apply for an export licence for such items exhibited abroad if exhibitor intends to offer that item for sale during exhibition abroad. Such sale shall not take place without a valid licence.

Note 3: Export of items in Category 2 of this list may also be controlled by other applicable guidelines issued from time-to-time. Exporters of items in this category are advised to seek guidance from DGFT.

Note 4: Exporters are entitled to apply for a ‘destination licence’ for countries and / or groupings of countries for export to which only re-transfer conditions need be imposed.

Note 5: Exporters are entitled to request that only such conditions need be imposed as are subject of government-to-government instruments of accord over export of items on SCOMET List.

Note 6: 'Technology' (see also entry 'Technology' in glossary in Appendix-3 to Schedule 2 of ITC (HS)): Approval of export of an item on the SCOMET List also authorizes the export to same end-user of minimum 'technology' required for installation, operation, maintenance and repair of the item.

DGFT in association with Administrative Ministries / Departments and Trade Associations will organize Industry Outreach Programme on regular basis for an effective awareness among the exporters /importers dealing with trade, in particular, in SCOMET items.

DGFT may also issue, on application, Free Sale and Commerce Certificate for export of items not covered under Drugs & Cosmetics Act, 1940, which have usage in hospitals, nursing homes and clinics, for medical and surgical purposes and are not prohibited for export. Validity of such certificate shall be two years from date of issue unless otherwise specified.

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| <i>Export Of Items under State Trading Regime (STR)</i> | 2.51 | An application for export of items mentioned in ITC (HS) under STR regime may be made to DGFT. |
| <i>Exports Of Samples / Exhibits</i> | 2.52 | An application for export of samples or exhibits, which are restricted for export, may be made to DGFT. |
| <i>Free of Cost Exports</i> | 2.52.1 | Status holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to an annual limit of Rs.10 lakh or 2% of average annual export realisation during preceding three licensing years whichever is higher. |
| <i>Gifts / Spares / Replacement Goods</i> | 2.53 | For export of gifts, indigenous / imported warranty spares and replacement goods in excess of ceiling / period prescribed in paragraphs 2.32, 2.33 and 2.37 respectively of FTP, an application may be made to DGFT. |
| <i>Furnishing of Returns in respect of Exports in non Physical form</i> | 2.54 | All exports made in non physical form by using communication links including high speed data communication links, internet, telephone line or any other channel which do not involve Customs authorities has to be compulsorily reported on quarterly basis to concerned EPC (Para 3.6 of FTP) as given in Appendix 19C. |

These provisions shall be applicable to all exporting units located anywhere in country including those located in STP, SEZ, EHTP and under 100% EOU scheme.

***Duty Free Import
of R&D Equipment
for Pharmaceuticals
and Bio-technology
Sector***

2.55 Duty free import of goods (as specified in list 28 of Customs notification No.21/2002 dated 1.3.2002, as amended from time to time) upto 25% of FOB value of exports during preceding licensing year, shall be allowed.

The eligible unit may furnish an application given in Appendix-15A to RA concerned duly countersigned by Chartered Accountant.

In respect of duty free import of R&D equipment, units not registered with Central excise shall be allowed to give Installation Certificate issued by an independent Chartered Engineer.

2.55.1 Duty free imports of goods as specified in list 28A of Customs notification No. 21/2002 dated 1.3.2002, upto 1% of FOB value of exports made during preceding licensing year, shall be allowed to agro chemicals sector unit having export turnover of Rs. 20 crore or above during preceding licensing year.

The eligible unit shall apply in form given in Appendix-15B to RA concerned duly countersigned by Chartered Accountant.

In respect of duty free import of R&D equipment, units not registered with Central excise shall be allowed to give Installation Certificate issued by an independent Chartered Engineer.

***Conversion of
E.P. copy of shipping
bill from one
Scheme To Another***

2.56 If Customs Authorities, after recording reasons in writing, permit conversion of an E.P. copy of any scheme-shipping bill on which benefit of that scheme has not been availed, exporter would be entitled to benefit under scheme in which shipment is subsequently converted.

Relocation of Industries

2.57 Deleted.

***Offsetting of Export
Proceeds***

2.58 Subject to specific approval of RBI, any payables, or equity investment made by an Authorisation holder under any export promotion scheme, can be used to offset receipts of his export proceeds. In such cases, offsetting would be equal to realisation of export proceeds and exporter would have to submit following additional documents:

- a) Appendix-22D in lieu of Bank Realisation Certificate.
- b) Specific permission of RBI.

Quality Certification

2.59 It has been a constant endeavor to promote quality standards in export product / units manufacturing export product.

2.59.1 One of salient features incorporated in FTP as per paragraph 3.5.2 Note.1 for promotion of quality standards is grant of Export / Trading House status on achievement of a lower threshold limit for units having ISO-9000 (series), ISO-14000 (Series) or HACCP certification or WHOGMP or SEI CMM level-2 & above status / certification.

2.59.2 List of such agencies authorised to grant quality certification is given in Appendix-6.

For ISO 9000 (Series) and for ISO 14000 (Series), the Agencies accredited with National Accreditation Board for Certification Bodies (NABCB) under Quality Council of India shall be deemed to be authorized under this Policy. List of such accredited agencies is available on the web site www.qcin.org and also provided under Appendix 6.

Any agency desirous of enlistment in Appendix 6 may submit their application as per Annexure I to Appendix 6 to concerned RA.

2.59.3 Deleted.

2.60 Deleted.

***Procedure for import
 Under the Tariff Rate
 Quota Scheme***

2.61 Attention is invited to Government of India, Ministry of Finance (Department of Revenue), Notification No. 21/2002-Customs dated 01.03 2002. As per it, import of four items viz., (1) Skimmed and whole milk powder, milk food for babies etc. (0402.10 or 0402.21) (2) Maize (corn): other (1005.90) (3) Crude sunflower seed or safflower oil or fractions thereof (1512.11) and (4) Refined rape, colza or mustard oil, other (1514.19 or 1514.99) is allowed in a financial year, up to quantities as well as such concessional rates of customs duty as indicated below:

| <i>S.No.</i> | <i>ITC Code No. & Item</i> | <i>Quantity of Quota</i> | <i>Concessional duty</i> |
|--------------|---|--------------------------|--------------------------|
| 1. | Tariff Code No. 0402.10 or 0402.21 Skimmed and whole Milk Powder. Milk Food for babies etc. | 10,000 MTs | 15% |
| 2. | Tariff Code No. 1005.90 Maize (Corn): other | 5,00,000 MTs | 15% |
| 3. | Tariff Code No. 1512.11 Crude Sunflower seed or safflower oil or fractions thereof | 150,000 MTs | 50% |

***Eligible entities for
allocation of quota***

4. Tariff Code No. 1514.19 150,000 MTs 45%
& 1514.99 Rape, Colza,
Canola or Mustard Oil,
Other (Refined)
- 2.61.1 (a) Milk Powder (Tariff Code No. 0402.10 or 0402.21):
National Dairy Development Board (NDDDB), State
Trading Corporation (STC), National Cooperative Dairy
Federation (NCDF), National Agricultural Cooperative
Marketing Federation of India Ltd. (NAFED), Minerals
and Metals Trading Corporation (MMTC), Projects &
Equipment Corporation of India Limited (PEC) and Spices
Trading Corporation Limited (STCL)
- (b) Maize (corn)(Tariff Code No. 1005.90): National
Agricultural Cooperative Marketing Federation of India
Ltd.(NAFED), State Trading Corporation (STC), Minerals
and Metals Trading Corporation (MMTC), Projects &
Equipment Corporation of India Limited(PEC), Spices
Trading Corporation Limited (STCL) and State
Cooperative Marketing Federations
- (c) Crude sunflower seed or safflower oil or fractions thereof
(Tariff Code No. 1512.11) and Refined rape, colza, canola
or mustard oil, other (Tariff Code No. 1514.19 or
1514.99): National Dairy Development Board (NDDDB),
State Trading Corporation (STC), National Agricultural
Cooperative Marketing Federation of India Ltd.(NAFED)
Spices Trading Corporation Limited (STCL) and Central
Warehousing Corporation (CWC) State Cooperative
Marketing Federation & State Cooperative Civil Supplies
Corporation
- (d) Deleted

All eligible entities are eligible to avail quotas as per request of applicants received.

All eligible entities desiring availment of quota as mentioned above, may make application to EFC in ANF to DGFT, Udyog Bhavan, New Delhi – 110 011. Completed application forms along with prescribed documents must reach on or before 1st March of each financial year preceding to the year of quota e.g. Applications for TRQ for 2007-2008 must reach DGFT by 01.03. 2007.

Imports have to be completed before 31st March of financial year i.e. consignments must be cleared by customs authorities before this date.

Since import of maize (corn) is through STEs, the allottees of quota i.e. designated agencies in para 1 (b) above for this item shall also be granted an import Authorisation for allotted quantities as indicated at Sl. No. 21(b) of Customs Notification No. 21/2002 dated 1.3.2002 in terms of para 2.11 of FTP, 2004-2009, if they do not wish to make imports through FCI.

Application fee for these applications shall be paid according to procedure contained in Appendix 21 B to HBP-v1.

EFC in DGFT will evaluate and allot quota among applicants by 31st March of each financial year preceding to year of quota e.g. for 2007-08, EFC will allot quota by 31st March 2007.

***Issuance of scrips
against lost EP copy
of the Shipping Bills
and / or original Bank
Realisation Certificate***

2.62 In case where EP copy of Shipping Bill / original BRC has been lost, claim under VKGUY/ FMS/ FPS can be considered subject to submission of following documents: -

- a) A duplicate /certified copy of concerned document issued by Customs Authority / Bank in lieu of original;
- b) An application fee equivalent to 2% of relevant entitlement. However, no fee shall be charged when such document is lost by Government agencies and a documentary proof to this effect is submitted;
- c) An affidavit by exporter about loss of document and an undertaking to surrender it immediately to concerned RA, if found subsequently.
- d) An indemnity bond by exporter to effect that he would indemnify Government for financial loss if any on account of duty credit issued against lost Shipping Bills / BRC.

Customs Authority, before allowing clearance, shall ensure that benefit / duty credit against such shipping bill has not been availed.

2.62.1 Claim against lost Shipping Bill / BRC shall be preferred within a period of six months from date of release of duplicate copy of Shipping Bill / on date of realization of export proceeds. Any application received thereafter shall be rejected.

2.63 Deleted

***Export Promotion
Council (EPC),
includes Commodity
Boards (CB)***

2.64 A list and product category of EPCs, including CB is given in Appendix-2. Commodity Boards function as EPCs for products allotted to them. EPC is authority issuing RCMC.

***Non-Profit, Autonomous
and Professional Bodies***

2.65 EPCs are non-profit organizations registered under Companies Act or Societies Registration Act.

2.65.1 EPCs shall be autonomous and shall regulate their own affairs. However, if Central Government frames uniform bylaws for constitution and / or for transaction of business for EPCs, they shall adopt the same with such modifications as Central Government may approve having regard to special nature or functioning of such EPC.

Concerned Administrative Ministry would interact with Managing Committee of EPC concerned at least twice a year.

2.65.2 Deleted

2.66 Deleted

***Registering Authorities
issuing RCMC***

2.67 A status holder has option to obtain RCMC from Federation of Indian Exporters Organization (FIEO).

Exporters of minor forest produce and their value added products shall obtain RCMC from SHEFEXIL, EPC. Software exporters shall register themselves with Electronic and Software EPC. Exporters of 14 specific services as listed in SI No. 34 of Appendix-2 of HBP v1, are required to register themselves with Services EPC. Other service exporters shall register themselves with FIEO.

In respect of exporters having their head office / registered office in State of Orissa, RCMC may be obtained from FIEO office in Bhubaneswar irrespective of product being exported by them. However, exporters of minor forest produce from the State can also obtain RCMC from SHEFEXIL, EPC.

In respect of multi product exporters having their head office/ registered office in the North Eastern States, RCMC may be obtained from Shellac & Forest Products Export Promotion Council (except for the products looked after by APEDA, Spices Board and Tea Board).

2.67.1 In addition, an exporter has option to obtain RCMC from FIEO or any other relevant EPC if products exported by him relate to those EPCs.

2.67.2 If export product is such that it is not covered by any EPC, RCMC in respect thereof may be issued by FIEO.

***Registration cum-
Membership Certificate
(RCMC)***

2.68 An exporter may, on application given in Appendix-19A, register and become a member of EPC. On being admitted to membership, applicant shall be granted forthwith Registration-cum-Membership Certificate (RCMC) of EPC concerned, in format given in

Appendix-19B. In case an exporter desires to get registration as a manufacturer exporter, he shall furnish evidence to that effect.

Prospective / potential exporters may also, on application, register and become an associate member of an EPC .

| | | |
|---|--------|--|
| <i>Validity Period of RCMC</i> | 2.68.1 | RCMC shall be deemed to be valid from 1 st April of licensing year in which it was issued and shall be valid for five years ending 31 st March of licensing year, unless otherwise specified. |
| <i>Intimation Regarding Change In Constitution</i> | 2.69 | In case of change in ownership, constitution, name or address of an exporter, it shall be obligatory on part of RCMC holder to intimate such change to registering authority within a period of one month from date of such change. Registering authority, however, may condone delays on merits. |
| <i>Furnishing of Returns</i> | 2.70 | Exporter shall furnish quarterly returns / details of his exports of different commodities to concerned registering authority. However, status holders shall also send quarterly returns to FIEO in format specified by FIEO. |
| <i>De-Registration</i> | 2.71 | Registering authority may de-register an RCMC holder for a specified period for violation of conditions of registration. Before such de-registration, RCMC holder shall be given a show cause notice by registering authority, and an adequate and reasonable opportunity to make a representation against the proposed de-registration. Upon de-registration, concerned EPC shall intimate the same to all RAs. |
| <i>Appeal Against De-registration</i> | 2.72 | A person aggrieved by a decision of registering authority in respect of any matter connected with issue of RCMC may prefer an appeal to DGFT or an officer designated in this behalf within 45 days against said decision and decision of appellate authority shall be final. |
| <i>Directives of DGFT</i> | 2.73 | DGFT may direct any registering authority to register or de-register an exporter or otherwise issue such other directions to them consistent with and in order to implement provisions of FT (D&R) Act, Rules and Orders made there under, FTP or this Handbook. |
| | 2.74 | Electronic Data Interchange |
| | 2.74.1 | Role and functions of EDI are defined in Para 2.45 of FTP. Basic purpose of EDI Initiatives is to improve services for DGFT user community, thereby achieving greater transparency of operations and reducing transaction costs by decreasing processing time for obtaining Authorisation from DGFT. These EDI initiatives have made our exports competitive in international markets. |

Eligibility 2.74.2 Facility of electronic filing of applications shall be available to all exporters.

Procedure 2.74.3 An exporter would be able to file his application on DGFT website at <http://dgft.gov.in/>. Application will then be processed in accordance with prevalent rules and regulations.

Applicant will have to visit concerned office to hand-over hard copy of application, along with requisite documents including application fee. Authorisation shall be issued on receipt of hard copies of documents as mentioned above, after due scrutiny as prescribed in HBP v1.

Fiscal Incentives for EDI 2.74.4 Following deductions in Application Fee would be admissible for applications signed digitally and / or where application fee is paid electronically through EFT (electronic fund transfer)

| <i>Sr. No.</i> | <i>Mode of Application</i> | <i>Fee Deduction (as a % of normal application fee)</i> |
|----------------|--|---|
| 1 | Digitally signed | 25% |
| 2 | Application fee payment vide EFT | 25% |
| 3 | Both digitally signed as well as use of EFT for payment of application fee | 50% |

Benefits 2.74.5 Facility will reduce unnecessary physical interface with DGFT. It will enable faster processing, speedier communication of deficiencies, if any, and on-line availability of application processing status.

2.74.6 Authorisation issued using DGFT Electronic Application System shall be transmitted electronically to Customs through EDI Mode. This shall also obviate need for verification of Authorisations before allowing clearance.

New EDI Initiatives 2.74.7 To further improve quality of services some new EDI Initiatives are being taken by DGFT.

With effect from 1.7.2008, the electronic message exchange between Customs and DGFT in respect of Advance Authorisation and EPCG Scheme would become operational.

CHAPTER-3

PROMOTIONAL MEASURES

- Status Certificates* 3.1 Policy for status holder is given in Chapter 3 of FTP.
- Application for Grant of Status Certificate* 3.2 Application for grant of status shall be filed by 31st March, in ANF 3A. An existing status holder shall be automatically treated to be an equivalent status holder as given in Para 3.2 of FTP (RE2007).
- 3.2.1 Application shall be filed with jurisdictional RA / Development Commissioner (DC). However, in cases where export performance of EOUs / SEZs is clubbed together with company or firm / Group Company in DTA, the same will be considered by jurisdictional RA only.
- 3.2.2 All newly issued Status certificates shall be valid from 1st April of the year during which application for recognition was filed. For renewals, application filed before expiry of current validity, renewals shall have a validity commencing from 1st April of next licensing year; otherwise validity period shall be 1st April of year during which application was filed.
- All Status Certificates shall be valid for a period of 5 years reckoned from the 1st April of the relevant year. All Status Certificates valid beyond 31.3.2009 shall continue to remain in force, in case provisions of Foreign Trade Policy (2009-14) continue to recognize the status.
- Pending the finalization of the applications for grant of recognition, existing status holders who have applied for recognition before the expiry of their status, shall have a grace period of 6 months. During this grace period of 6 months such status holders shall continue to be recognized as Status holders even after the expiry of earlier Status Certificate i.e. till September, end, unless their applications are finally rejected or recognition granted once again as the case may be.
- 3.2.3 to Deleted
- 3.2.5
- Maintenance of Accounts* 3.3 Status holder shall maintain true and proper accounts of its exports and imports based on which such recognition has been granted.
- Record shall also be maintained during validity period and for a minimum period of three years thereafter. These accounts shall be

- made available for inspection to RA concerned or any authority nominated by DGFT.
- Refusal / Suspension / Cancellation of Certificate***
- 3.4 Status certificate may be refused or suspended or cancelled by RA concerned, if status holder or any agent or employee or authorized representative acting on his behalf:
- (a) Fails to discharge export obligation imposed;
 - (b) Tampered with Authorisations;
 - (c) Misrepresents or has been a party to any corrupt or fraudulent practice in obtaining any Authorisation;
 - (d) Commits a breach of FT (D& R) Act, or Rules, Orders made there under and FTP; or
 - (e) Fails to furnish information required by this Directorate.
- 3.4.1 A reasonable opportunity shall be given to status holder before taking any action under above paragraph.
- Appeal***
- 3.5 An applicant, who is not satisfied with decision taken to suspend or cancel status certificate, may file an appeal to DGFT within 45 days. Decision of DGFT shall be final thereon.
- 3.6 to 3.12 Deleted
- 3.12.1 Deleted
- 3.12.1.1 Deleted
- 3.12.2 to 3.12.4 Deleted
- 3.13 to 3.17 Deleted
- 3.17.1 to 3.17.7 Deleted
- 3.18 **SERVED FROM INDIA SCHEME (SFIS)**
- (a) Policy for SFIS is given in Chapter 3 of FTP.
 - (b) A single consolidated application for Duty Credit scrip shall be filed with jurisdictional RA in ANF 3B along with documents prescribed therein.
 - (c) to (f) Deleted

- (g) Service provider shall within one month of completion of imports made or expiry of validity of Duty Credit scrip whichever is earlier, submit a statement of imports made under it to jurisdictional RA with a copy to jurisdictional Excise authorities (service tax cell) wherever applicable.

(h) & (i) Deleted

***Ineligible Remittances
and Services***

3.18.1 Foreign exchange remittances other than those that are earned for rendering of services would not be counted for entitlement. Thus, other sources of foreign exchange earnings such as equity or debt participation, donations, receipts of repayment of loans etc. and any other inflow of foreign exchange, unrelated to rendering of service, would be ineligible. For calculation of entitlement, following shall not be taken into account.

- (a) Foreign Exchange remittances:
 - I. related to Financial Services Sector
 - 1. Raising of all types of foreign currency Loans;
 - 2. Export proceeds realization of clients;
 - 3. Issuance of Foreign Equity through ADRs / GDRs or other similar instruments;
 - 4. Issuance of foreign currency Bonds;
 - 5. Sale of securities and other financial instruments;
 - 6. Other receivables not connected with services rendered by financial institutions; and
 - II. earned through contract/regular employment abroad (e.g. labour remittances);
- (b) Payments for services received from EEFC Account;
- (c) Foreign exchange turnover by Healthcare Institutions like equity participation, donations etc. (However, remittances received on account of medical treatment, surgery, testing, consultancy and health care provided by the institution shall be eligible.);
- (d) Foreign exchange turnover by Educational Institutions like equity participation, donations etc. (However remittances received on account of the course fees and consultancy provided by the institution shall be eligible.);

- (e) Export turnover relating to services of units operating under SEZ / EOU / EHTP / STPI / BTP Schemes or supplies of services made to such units;
- (f) Clubbing of turnover of services rendered by SEZ / EOU / EHTP / STPI / BTP units with turnover of DTA Service Providers; and
- (g) Exports of Goods.

3.18.2 Deleted

3.19 **VISHESH KRISHI AND GRAM UDYOG YOJANA (VKGUY)**

3.19.1 Policy pertaining to VKGUY is given in Chapter 3 of FTP. Appendix 37A contains the list of VKGUY items. Application for grant of Duty Credit scrip under VKGUY for export made from 1.4.2008 onwards shall be made to RA concerned in ANF 3C along with documents prescribed therein.

Applicant may file one or more applications subject to condition that each application shall contain not more than 50 shipping bills. All shipping bills in any one application must relate to exports made from one Customs House only, which shall be the port of registration for Duty Credit Scrip. For exporter with more than 50 shipping bills in one year, multiple applications can be filed and supplementary cut (para 9.4 of HBPv1) shall not be applicable.

3.19.2 Deleted

3.19.3 Deleted.

3.19.4 to Deleted.

3.19.9

3.19.10 Policy pertaining to the VKGUY benefits under Para 3.8.6 is given in Para 3.8.6 of Chapter 3 of FTP (RE2008), as amended. All Status Holders may apply for grant of Duty Credit scrip for export made during 2007-08 to RA, CLA, New Delhi in 'ANF 3G - ANF for Para 3.8.6' along with documents prescribed therein.

Applicants may file one application before the last date prescribed for each half year period (Apr-Sep / Oct-Mar). Applications for exports during Apr-Sept 2008 shall be filed from 15.1.2009 till 15.2.2009 and for exports during Oct-Mar 2009 applications shall be filed from 1.5.2009 till 31.5.2009.

Applications received after the last date shall be summarily rejected, as Para 9.2 and Para 9.3 shall not be applicable. Date

of exports shall be determined in terms of Para 9.12. Application fee shall be the same as it is for VKGUY benefits under Para 3.8.2.

The allocation of duty credit scrips by RA, CLA, New Delhi, under Para 3.8.6 of FTP (RE2008), shall be done proportionate to the eligible claims of individual applications, vis-à-vis the total eligible claims of all the status holders put together, received for each half year (Apr-Sep 2008 / Oct-Mar 2009) period, in such a way that the total benefits granted for all status holders put together does not exceed the limit prescribed for each half year in Para 3.8.6 of FTP (RE2008). Accordingly if the total eligible claim of all the status holders put together is, say, Rs 200 Cr, each applicant status holder would be granted one-fourth of the claim an applicant is eligible for.

FOCUS MARKET SCHEME (FMS)

3.20 Policy pertaining to FMS is given in Chapter 3 of FTP. Notified Markets are listed in Appendix 37C.

3.20.1 An application for exports made during 2006-07, 2007-08 and 2008-09 shall be filed separately, with RA concerned in ANF 3D along with documents prescribed therein. Applicant may file one or more applications subject to condition that each application shall contain not more than 50 shipping bills. For exporter with more than 50 shipping bills in one year, multiple applications can be filed and supplementary cut (Para 9.4 of HBP v1) shall not be applicable.

Shipments from EDI Ports and Non-EDI Ports cannot be clubbed in one application. Port of registration for EDI enabled ports shall be any one EDI port of exports, as per the choice of the applicant. In case of exports through non-EDI port, the port of registration shall be the relevant non EDI port of exports. Accordingly separate application shall be filed for each non EDI port.

Eligibility of Focus Market (as in Appendix 37C) shall be determined from date of export as per Para 9.12 of HBP v1. However, exports for which realizations have already been received till 17.1.2008, the last date of filing application shall be 30.7.2008.

3.20.2 Deleted.

3.20.3 Applicant shall be required to submit proof of landing of export consignment in specified market. Duty Credit scrip shall be granted on FOB value realized as per BRC / FIRC.

Any one of the following documents should suffice, as a proof of landing of export consignment in specified Focus Market:

- i. A self attested copy of import bill of entry filed by importer in specified market, or
- ii. Delivery order issued by port authorities, or
- iii. Arrival notice issued by goods carrier, or
- iv. Tracking report from the goods carrier duly certified by them, evidencing arrival of export cargo to destination Focus Market, or
- v. Lorry receipts of transportation of goods from Port into the Focus Market, or
- vi. For Land locked Focus Market, Lorry receipts of transportation of goods from Port to Land locked Focus Market, or
- vii. Any other documents that may satisfactorily prove to RA concerned that goods have landed in / reached the Focus Market.

3.20.4 to Deleted
3.20.8

FOCUS PRODUCT SCHEME (FPS)

3.21 Policy pertaining to FPS is given in Chapter 3 of FTP. Notified Products are listed in Appendix 37D.

3.21.1 An application for exports made during 2006-07, 2007-08 and 2008-09 shall be filed separately, with RA concerned in ANF 3E along with documents prescribed therein. Applicant may file one or more applications subject to condition that each application shall contain not more than 50 shipping bills. For exporter with more than 50 shipping bills in one year, multiple applications can be filed and supplementary cut (Para 9.4 of HBP v1) shall not be applicable.

Shipments from EDI Ports and Non-EDI Ports cannot be clubbed in one application. Port of registration for EDI enabled ports shall be any one EDI port of exports, as per the choice of the applicant. In case of exports through non-EDI port, the port of registration shall be the relevant non EDI port of exports. Accordingly separate application shall be filed for each non EDI port.

Eligibility of Focus Product (as in Appendix 37D) shall be determined from date of export as per Para 9.12 of HBP v1. However, exports for which realizations have already been received till 17.1.2008, the last date of filing application shall be 30.7.2008.

3.21.2 Deleted.

3.21.3 Duty Credit scrip shall be granted on FOB value realized as per BRC / FIRC.

3.21.4 to Deleted

3.21.8

3.21.9 For Market linked Focus Product, the procedure will be notified separately.

3.22 **HIGH-TECH PRODUCTS EXPORT PROMOTION SCHEME (HTPEPS)**

3.22.1 Policy pertaining to HTPEPS is given in Chapter 3 of FTP. Notified High Tech Products are listed in Appendix 37E.

3.22.2 In case the applicant wishes to avail the option given in Para 3.11.2 (a), the Procedure prescribed for claiming Focus Product Scheme benefits shall apply. For others, application for obtaining Duty Credit scrip for incremental growth in exports during current licensing year 2008-09 shall be filed in ANF 3F within a period of twelve months after expiry of current licensing year. Application filed in ANF 3F, shipments from EDI Ports and Non-EDI Ports can be clubbed in one application and the port of registration shall be any one of the ports of exports, as per the choice of the applicant.

3.23 **COMMON PROCEDURAL FEATURES FOR PROMOTIONAL SCHEMES, APPLICABLE TO ALL SCHEMES IN THIS CHAPTER, UNLESS SPECIFICALLY PROVIDED FOR:**

Jurisdictional RA / RA Concerned

3.23.1 Applicant shall have option to choose Jurisdictional RA on basis of Corporate Office, Registered Office, Branch Office address endorsed on IEC. However, once opted, no change would be allowed.

3.23.2 Provisions contained in Chapter 2, 9 of this HBP shall apply to all Promotional Schemes.

Port of Registration

3.23.3 Duty Credit scrip (including splits) shall be issued with a single port of registration as per choice of applicant. Before registration, authorities shall verify genuineness of Duty Credit scrip, from RA concerned, until EDI system of message exchange is put in place.

However, applicant may use Duty Credit scrip for imports from any other port (that includes ICD/LCS) after obtaining TRA from authorities at port of registration. The above procedure shall be applicable only in respect of EDI enabled ports. In case of exports through non-EDI ports, the port of registration shall be the port of exports.

Facility for Split Scrips 3.23.4 Split certificates of Duty Credit scrip subject to a minimum of Rs 5 lakh each and multiples thereof may also be issued, on request at the time of application with different port of registration. A fee of Rs 1000/- each shall be paid for each split certificate. After issue, request of splits shall be permitted with same port of registration as appearing on the original scrip.

The above procedure shall be applicable only in respect of EDI enabled ports. In case of exports through non-EDI ports, the facility of splits shall not be allowed, after issue of scrip.

Import from private / public bonded warehouses 3.23.5 Entitlement can be used for import from private / public bonded warehouses subject to fulfillment of paragraph 2.28 of FTP and terms and conditions of DoR notification.

Re-export of defective / unfit goods 3.23.6 Goods imported which are found defective or unfit for use, may be re-exported, as per DoR guidelines. Where Duty Credit scrip has been used for imports, Customs shall issue a certificate containing particulars of scrip used, date of import of re-exported goods and amount debited while importing such goods. Based on this certificate, upon application, a fresh Scrip shall be issued by concerned RA to extent of 98% of debited amount, with same port of registration and valid for a period equivalent to balance period available on date of import of the defective / unfit goods.

Validity Period & Revalidation 3.23.7 Duty Credit scrip shall be valid for a period of 24 months. Revalidation of Duty Credit scrip shall not be allowed.

Declaration of Intent on Free Shipping Bills 3.23.8 For export shipments filed under Free Shipping Bill category, for exports after 31.5.2008 of products / markets eligible under Chapter 3 of FTP (Appendix 37A, 37C, 37D, 37E), the exporter shall state the intention to claim benefits under chapter 3 of FTP by declaring on the Free Shipping Bills as under:

‘I/We, hereby, declare that I/We shall claim the benefits, as admissible, under Chapter 3 of FTP’.

This declaration shall not be required for export shipments under any of the schemes of Chapter 4 (including drawback) or Chapter 5 of FTP.

Further for products, markets notified during the year, this declaration shall be necessary for exports under Free Shipping Bills, only after a grace period of two months from the date of relevant public notice.

Moreover for exports made prior to date of notification of products/ markets, such a declaration will not be required, since export shipments under Free Shipping Bills have already taken place.

***Utilization of Duty
Credit Scrips under
Chapter 3 for payment
of duty under EPCG
Scheme***

3.23.9 From 1.1.2009, the duty credit scrips issued under Chapter 3 of FTP can also be utilized for payment of duty against imports under EPCG Scheme.

***Last date of filing of
application for Duty
Credit Scrips, except
Para 3.8.6***

3.23.10 Application for obtaining Duty Credit scrip shall be filed within a period of twelve months from date of exports or within six months from date of realization, or within three months from date of printing /release of shipping bill, whichever is later, in respect of shipments for which claim is being filed. For SFIS, last date shall be 31st December.

CHAPTER-4

DUTY EXEMPTION / REMISSION SCHEME

- Policy** 4.1 Policy relating to Duty Exemption / Remission Scheme is prescribed in Chapter 4 of FTP.
- General Provision** 4.2 An application for grant of an Advance Authorisation / Advance Authorisation for Annual Requirement / DEPBB / DFIA may be made by Registered office or Head office or a branch office or manufacturing unit of eligible exporter, to RA concerned.
- 4.3 Where applicant is branch office or manufacturing unit(s) of an exporter, it shall furnish self certified copy of valid RCMC where name of branch office or manufacturing unit is given.
- Advance Authorisation** 4.4 Where SION have been published, an application in ANF 4A, along with documents prescribed therein, shall be submitted to RA concerned.
- 4.4.1 In case of export of gold /silver / platinum jewellery and articles thereof, quantity, wastage and value addition norms shall be as prescribed in paragraph 4A of FTP and HBP v1.
- 4.4.2 In case where norms have not been published, an application in ANF 4B, along with prescribed documents, shall be furnished to concerned Norms Committee (NC) at DGFT Headquarter for fixation of Norms.
- In such cases, original copy of application along with prescribed fee shall be filed with RA concerned and a self attested copy of same shall be filed with NC. Authorisation in such cases shall be issued by RA as per NC recommendation.
- NC shall also function as a recommendatory authority for SION. DGFT may notify such norms.
- 4.4.3 Applications, where Acetic Anhydride, Ephedrine and Pseudo-ephedrine is required as an input for import, shall be filed with RA concerned. Copies of such applications shall also be simultaneously endorsed to the Drug Controller of India, Nirman Bhawan, New Delhi, Narcotics Commissioner, Central Bureau of Narcotics, Gwalior and respective Zonal Director of Narcotics Control Bureau, alongwith a declaration that applicant will maintain prescribed records and also submit prescribed returns.
- 4.4.4 RA, while issuing Advance Authorisation for import of Acetic Anhydride, Ephedrine and Pseudo-ephedrine, shall endorse a condition that before effecting imports, NOC shall be obtained from Narcotics Commissioner of India, Central Bureau of Narcotics, Gwalior and shall also endorse a copy of Authorisation

to Drug Controller, Nirman Bhawan, New Delhi and concerned Zonal Director of Narcotics Control Bureau.

- 4.4.5 Deleted
- Advance Authorisation for applicants with multiple units*** 4.5 Transfer of any duty free material imported or procured against Advance Authorisation from one unit of company to another for manufacturing purpose shall be done with prior intimation to jurisdictional Excise Authorities with a clear understanding that no benefit of CENVAT shall be claimed on such transferred inputs. However, such transfers shall not be allowed to units located in areas covered by Central Excise Notification No. 39/2003 and 50/2003 (i.e. Himachal Pradesh / Uttaranchal). In case of non-excisable company / products, units should maintain a proper record. However to avail facility, all such units should be available in IEC certificate and follow rules and regulation of Central Excise for job work. Large Taxpayer Units (LTUs) having multiple units, may not follow above job work procedure, after fulfillment of EO.
- Advance Authorisation for Free of Cost and Paid Material*** 4.6 For policy in paragraph 4.1.8, a specific endorsement shall be made on exchange control copy of Advance Authorisation disallowing remittances for material being supplied free of cost. All inputs imported shall be utilised in manufacturing of product except wastage.
- Self Declared Authorisations where SION does not exist*** 4.7 RA may also issue Advance Authorisations, where SION are not fixed, based on self declaration and an undertaking by applicant for a final adjustment as per Adhoc / SION fixed by NC.
- However, no Advance Authorisation shall be issued under this paragraph for import of following products:-
- i. All vegetable / edible oils classified under Chapter 15 and all types of oilseeds classified under Chapter 12 of ITC (HS) book;
 - ii. All types of cereals classified under Chapter 10 of ITC (HS) book;
 - iii. All spices other than light black pepper (light berries) having a duty of more than 30%, classified under Chapter 9 and 12 of ITC (HS) book;
 - iv. All types of fruits / vegetables having a duty of more than 30%, classified under Chapter 7 and 8 of ITC (HS) book;
 - v. Horn, hoof and any other organ of animal; and
 - vi. Honey.
- For export of perfumes, perfumery compounds and various feed ingredients containing vitamins, no Authorisation shall be issued by RA and applicants may apply under Para 4.4.2 above. Where

| | | |
|--|-------|--|
| | | <p>export and / or import of bio-technology items are involved, Authorisation under this paragraph shall be issued by RA only on submission of a “No Objection Certificate” from Department of Bio-technology.</p> |
| <i>Entitlement</i> | 4.7.1 | <p>CIF value of one or more such Authorisations shall be maximum 500% of FOB and / or FOR value of preceding year’s exports and / or supplies in case of status holders, and Rs. 5 crore or 500% of the FOB and / or FOR value of preceding year exports and / or supply, whichever is more, for others.</p> <p>However, in cases where NC has already ratified norms for same export and import products in respect of an Authorization obtained under paragraph 4.7, such norms shall be valid for a period of one year reckoned from the date of ratification.</p> <p>In such cases Authorisations shall be issued by RA concerned under “Adhoc Norms Fixed” category and application copies need not be forwarded to NC for fixation / ratification of norms.</p> <p>Authorisation holder in such cases shall be entitled for further Authorisation(s) as per norms ratified by NC without need for subsequent ratification by NC. In such cases applicant would file application under Adhoc Norms Fixed category.</p> <p>However, NC should ensure that such adhoc norm(s), if not notified already, are notified within six months of the ratification of such adhoc norm(s).</p> |
| | 4.7.2 | <p>Once norms are fixed by NC, value limits mentioned in above paragraph would not be applicable to Advance Authorisations issued under this paragraph. Such Authorisations, subsequent to fixation of norms by NC, may be enhanced.</p> <p>It is mandatory for industry to provide production data etc. as may be required by DGFT / EPC for fixation of SION. Otherwise, applicant shall not be allowed to take benefit of Advance Authorization scheme for taking repeat Advance Authorizations on self-declared basis.</p> |
| <i>Authorisation in Excess of Entitlement</i> | 4.7.3 | <p>An applicant shall be entitled for Authorisation in excess of entitlement mentioned in paragraph 4.7.1 subject to furnishing of 100% Bank Guarantee to Customs authority to cover exemption from customs duties. A specific endorsement to this effect shall be made on Authorisation.</p> |
| <i>Application</i> | 4.7.4 | <p>Original application with prescribed documents shall be submitted to concerned RA. RA shall forward a copy of application within 7 days from Authorisation issue date to NC for fixation of norms within prescribed time.</p> |
| <i>Undertaking</i> | 4.7.5 | <p>Applicant shall give an undertaking that he shall abide by norms fixed by NC and accordingly pay duty, together with interest, on</p> |

unutilised inputs as per norms fixed by NC. However Authorisation holder has option to undertake additional EO in proportion to excess unutilized inputs. In case application is rejected by NC, Authorization holder shall pay customs duty saved along with interest on imported inputs, as notified. However in such cases where the NC decides adhoc norms based on information available to it and the exporter represents against the decision of the NC, time limit for filing representation, if any, before the Norms Committee shall be four months from the date of communication of decision of the fixation of adhoc norms by NC .

In addition, an amount as per Para 4.28(i)(b) below has to be deposited.

4.7.6 In such cases, where norms are not finalised by NC within four months from Authorisation issue date, norms as applied for shall be treated as final and no adjustment will be made. However, where application for fixation of adhoc / SION is rejected on account of non-furnishing of required documents / information, Authorisation holder shall be liable for penalty as stated in above paragraph.

In case SION for the said product is notified, SION would be made applicable for deciding wastage norm and EO.

In such cases where export obligation is completed pending fixation of norms by NC, entitlement for Authorisation as given in paragraph 4.7.1 may be re-credited upon production of documentary evidence (copies of Shipping bill / bill of export / Central Excise certified copies of invoices) showing fulfillment of export obligation in respect of previous Authorisations. However, bond waiver / redemption shall not be allowed pending fixation of norms in such cases.

Financial Powers

4.8 Financial powers of RA and NC are given in table below:

| Category of Application | On published norms and under paragraph 4.7 of HBP v1 | | | |
|-----------------------------------|--|---------------------|--|------------------------|
| | RA | | RA on recommendation of DGFT Hqr (SION cases) / NC (Adhoc Norms cases) | |
| | Advance Authorisation for Petroleum / Petrochemical products & Advance Authorisation for Annual Requirements | Others | Advance Authorisation for Petroleum / Petrochemical products & Advance Authorisation for Annual Requirements | Others |
| CIF value of Authorisation | Below Rs. 500 crore | Below Rs. 100 crore | Rs.500 crore or above | Rs. 100 crore or above |

***Standardisation
of Adhoc Norms***

4.9 For standardization of norms, an application may be made by manufacturer exporter or merchant exporter tied to supporting manufacturer, duly filled in with complete data. Such applications shall be made to NC in ANF 4B.

Import of fuel may also be allowed under SION by NC subject to following: -

- (a) Facility of import of fuel shall be allowed only to manufacturer having captive power plant.
- (b) In cases where SION specifically allows fuel, same shall be permitted under advance Authorisation. However, if fuel is not covered specifically under SION, it may be allowed as per General Fuel Policy for products covered under SION or under paragraph 4.7 above.
- (c) Fuel should be allowed only against an actual user Authorisation. However in case of DFIA, fuel can only be transferred to agencies granted marketing rights by the Ministry of Petroleum and Natural Gas.
- (d) Deleted
- (e) Applications for fixation of fuel entitlement for new sectors and modification of the existing entitlement as per General Note for Fuel in HBP v2 would be made to NC along with requisite data in ANF 4C pertaining to "Data Sheet for Fuel Rate".

Modification of SION

4.10 An application for modification of existing SION may be filed before the NC by manufacturer exporter or merchant-exporter, tied to supporting manufacturer, in form given in ANF 4B.

***Amendment of Export
item and inputs***

4.10.1 An application for amendment of an export item or inputs under SION or under Adhoc Norms may be filed by any manufacturer or merchant exporter as per ANF 4B.

Applicant would give justification for seeking amendment and same would be considered by Regional Authority with specific approval of Head of Office. In case of any major change in input or request for more wastage to that allowed under SION or adhoc norm, same should be referred to NC for ratification.

Revision of SION by NC

4.10.2 NC may identify SIONs which in its opinion are required to be reviewed. Exporters are required to submit revised data in ANF 4B for such revision. It is mandatory for industry / exporter(s) to provide production and consumption data etc. as may be required by DGFT / EPC for revision of SION. Otherwise, applicant shall not be allowed to take benefit of Advance Authorization scheme.

***Description of an
Advance Authorisation***

- 4.11 An Advance Authorisation shall specify:
- (a) names and description of items to be imported and exported/ supplied;
 - (b) quantity of each item to be imported or wherever quantity cannot be indicated, value of item shall be indicated. However, if in SION, quantity and value of individual inputs is a limiting factor, same shall be applicable.
 - (c) aggregate CIF value of imports; and
 - (d) FOB / FOR value and quantity of exports / supplies.

***Exports in Anticipation
of Authorisation***

- 4.12 Exports / supplies made from the date of EDI generated file number for an Advance Authorisation, may be accepted towards discharge of EO. Shipping / Supply document(s) should be endorsed with File Number or Authorisation Number to establish co-relation of exports / supplies with Authorisation issued. The requirement of endorsement of file number or Authorisation number on the shipping bill would be dispensed with once the EDI Data Transmission System for the shipments becomes operational.

If application is approved, authorisation shall be issued based on input / output norms in force on the date of receipt of application by RA in proportion to provisional exports / supplies already made till any amendment in norms is notified. For remaining exports, Policy / Procedures in force on authorisation issue date shall be applicable.

- 4.12.1 Exports / supplies made in anticipation of grant of an Advance Authorisation shall be entirely on risk and responsibility of exporter.
- 4.12.2 Conversion of duty free shipping bills to drawback shipping bills may also be permitted by customs authorities in case application for an Advance Authorisation is rejected or modified by RA.

***Advance Authorisation
or DFIA for
Intermediate Supplies***

- 4.13 Application for grant of Advance Authorisation or DFIA for Intermediate supply may be made on the basis of a tie-up agreement with exporter (physical / deemed) holding an Advance Authorisation or DFIA. RA concerned shall consider such requests.

Advance Authorisation or DFIA for Intermediate supply shall be issued after making Authorisation invalid for direct import of items, to be supplied by intermediate manufacturer. In such cases, a copy of the invalidation letter will be given to Authorisation holder and copy thereof will be sent to intermediate supplier as well as RA of intermediate supplier. Authorisation holder in such case has an

option either to supply intermediate product to holder of Advance Authorisation or DFIA or to export (physical / deemed) directly. However, once Electronic message transfer facility among the RAs becomes fully operational, sending copy of invalidation letter / ARO to jurisdictional RA shall not be required.

Facility of Advance Authorisation shall be available even in cases where intermediate supplier has supplied or intends to supply material, subsequent to fulfilment of EO by exporter holding Advance Authorisation / DFIA from where invalidation letter was issued.

Advance Release Order (ARO)

4.14 An application may be made to RA concerned for grant of ARO to procure inputs from indigenous sources / STEs.

4.14.1 Application shall specify:

- (i) name, description and quantity of items and
- (ii) individual value of items to be procured. An ARO may be issued along with Advance Authorisation / DFIA or subsequently, and its validity shall be co-terminus with validity of Advance Authorisation / DFIA.

An ARO issued for procurement of an individual item shall be automatically valid for procurement from one or more indigenous sources.

Back to Back Inland Letter of Credit (L/C)

4.15 Exporter may alternatively avail facility of a back to back inland letter of credit from banks. An Advance Authorisation / DFIA holder may approach a bank for opening an inland letter of credit (L/C) in favour of an indigenous supplier.

4.15.1 Before opening the L/C, bank will ensure that necessary BG / LUT has been executed by Advance Authorisation / Non Transferable DFIA holder and an endorsement to that effect has been made on the Authorisation.

However, execution of BG / LUT shall not be required against transferable DFIA. After opening inland L/C, bank shall make following endorsement on Exchange Control and Customs copy of Advance Authorisation / DFIA:

Value of this Advance Authorisation / DFIA stands reduced by a sum of Rs. _____, being value of inland L/C No. _____ opened today by Authorisation holder in favour of M/s _____ (name and address of indigenous supplier).

- 4.15.2 Authorisation shall be invalidated by bank for direct import only in respect of full quantity and value of item being sourced indigenously.
- 4.15.3 Original Letter of credit (L/C) may be retained by bank for negotiation and only non-negotiable copy of L/C may be given to indigenous supplier.
- 4.15.4 Responsibility of bank shall be confined to making endorsement. Bank shall not be liable for any misrepresentation or false statement made by Authorisation holder while requesting bank to make endorsement. Inland L/C opened by bank in favour of indigenous supplier shall not be cancelled for any reason whatsoever.
- 4.15.5 Non negotiable copy of inland L/C together with photocopy of Advance Authorisation / DFIA duly carrying endorsements made by bank shall be sufficient for indigenous supplier to claim deemed export benefits. L/C issued shall be entitled to benefits given in paragraph 8.3 (b) and (c) of FTP, as applicable.
- 4.15.6 Where import is permitted as an input under this scheme, gold / silver can be sourced through nominated agencies as given in FTP (Chapter 4) for supply against the Advance Authorisations / DFIA issued. Before supply of material, nominated agencies should follow same procedure as given in paragraph 4.15.1 above.
- Facility of Supporting Manufacturer(s) / Jobber / co-licensee*** 4.16 Imported material may be used in any unit of holder of Advance Authorisation or Non Transferable DFIA (subject to condition of paragraph 4.5 of this Handbook) or jobber / supporting manufacturer provided same is endorsed on Authorisation by RA. If applicant desires to have name of any manufacturer or jobber added to Authorisation, he may apply. Such endorsement shall be mandatory where prior import before export is a condition for availing Advance Authorisation / DFIA scheme and Authorisation holder desires to have material processed through any other manufacturer or jobber.

Upon such endorsement made by RA, Authorisation holder and co- Authorisation holder shall jointly and severally be liable for completion of EO. Any one of co-Authorisation holders may import goods in his name or in joint names. BG / LUT shall also be furnished in their joint names.

However if Authorisation holder is registered with Central Excise, he has an option of getting names of jobber endorsed by Central Excise as per Central Excise Rules in lieu of RA's endorsement. In case manufacturer exporter holding authorisation is not registered / not required to be registered with Central Excise authority, job work may be allowed as per Central Excise Rules

and regulations, without insisting for endorsement of supporting manufacturer's name. However, Authorisation holder shall be solely responsible for imported items and fulfillment of EO.

In case BG / LUT has been redeemed, Advance Authorization holder can get duty free inputs processed from any manufacturer under Actual User condition as per job work regulations prescribed under Central Excise Rules. However such restriction shall not be applicable in case of transferable DFIA holder.

| | | |
|--|------|---|
| <i>Facility of Co- Licensee</i> | 4.17 | Deleted. |
| <i>Acceptance of BG/LUT</i> | 4.18 | At the time of issue of Authorisation, acceptance of undertaking given by applicant to RA concerned in relevant ANF will be endorsed on the reverse of Advance Authorisation. Authorisation holder shall execute Bank Guarantee / Legal Undertaking, as the case may be, in terms of para 2.20 of HBP v1. |
| <i>Port of Registration</i> | 4.19 | Advance Authorisation shall be issued for the purpose of import and export through one of sea ports or airports or ICDs or LCS specified below. Authorisation holder shall register Authorisation at the port specified in Authorisation and thereafter all imports against said Authorisation shall be made only through that port, unless the Authorisation holder obtains permission from customs authority concerned to import through any other specified port. However, exports may be made through any of the specified ports. |
| Sea Ports | | Mumbai, Kolkata, Cochin, Kakinada, Kandla, Mangalore, Marmagoa, Chennai, Paradeep, Pipavav, Sikka, Tuticorin Vishakhapatnam, Dahej, Nagapattinam, Okha, Mundhra, Surat (Magdalla), Jamnagar, Nhava Sheva |
| Airports | | Ahmedabad, Bangalore, Bhubaneshwar, Mumbai, Kolkata Coimbatore Air Cargo Complex, Cochin, Delhi, Hyderabad, Jaipur, Srinagar, Trivandrum, Varanasi, Nagpur, Chennai, Indore. |
| ICDs | | Agra, Bangalore, Coimbatore, Delhi, Faridabad, Gauhati (Amingaon), Guntur, Hyderabad, Jaipur, Jalandhar, Kanpur, Ludhiana, Moradabad, Nagpur, Pimpri (Pune), Pitampur (Indore), Surat, Tirupur, Varanasi, Nasik, Rudrapur (Nainital), Dighi (Pune), Vadodara, Daulatabad (Wanjarwadi and Maliwada), Waluj (Aurangabad), Anaparthi, Salem Mallanpur, Singanalur, Jodhpur, Kota, Udaipur, Ahmedabad, Bhiwadi, Madurai, Bhilwara, Pondicherry, Garhi Harsaru, Bhatinda, Dappar, Chheharata (Amritsar), Karur, Miraj, Rewari, Bhusawal, Jamshedpur, Surajpur, Dadri, Tuticorin. |

LCS Ranaghat , Singhabad , Raxaul, Jogbani, Nautanva (Sonauli), Petrapole, Mahadipur, Hilly, Chengrabanda, Dawki, Atari, Ghojadanga.

SEZ As notified by Central Government, any SEZ can be a specified port for import and export.

4.19.1 Commissioner of Customs may permit imports and exports from any other seaport / airport / ICD or LCS .

4.19.2 In such cases, where authorisation has not been registered at specified port (in Authorisation) and no import has taken place, request for change in Port of Registration may be considered by RA provided the Authorisation has not been redeemed.

4.19.3 For imports from Airport / Seaport / ICD / LCS other than port of registration, a TRA shall also be issued by the customs authority at the port of registration to customs authority at port of import. However, w.e.f. 1.1.2009, the requirement of TRA would be dispensed with for import from any existing EDI Port.

Facility of Clubbing

4.20 Facility of clubbing shall be available only for redemption / regularisation of cases and no further import or export shall be allowed. For this facility, Authorisations are required to have been issued under similar Customs notification even pertaining to different financial years. However in case of Authorisations issued in 2004-09 period, Advance Authorisations with different customs notification can be clubbed.

4.20.1 RA, under whose jurisdiction Authorisation is issued or NC in other cases, shall consider a request in ANF 4D for clubbing all imports and exports of more than one Advance Authorisation provided imported inputs are properly accounted for as per norms. Value addition of the Authorisations so clubbed shall be average of minimum value addition prescribed in FTP and Procedure laid thereunder, imposed on individual Authorisations. Upon clubbing, Authorisations shall, for all purposes, be deemed to be one Authorisation and thereafter shortfall, if any, shall be regularized in terms of para 4.28 of HBP v1.

4.20.2 Accountability of imports and exports shall be restricted in relation to individual categories of Advance Authorisations including Advance Authorisation for annual requirements.

4.20.3 Facility is available only for Advance Authorisation(s) where there is shortfall in fulfillment of EO, and which is sought to be clubbed with an Advance Authorisation(s) which is valid for imports. For expired Authorisation(s) with EO shortfall and which is sought to

be clubbed with an Advance Authorisation(s) which is valid for imports, applicant shall pay composition fee for EO period extension as per paragraph 4.22 below.

4.20.4 Wherever exports are effected beyond EO extension period (allowed vide paragraph 4.22 below) of earlier Authorisation, no clubbing shall be permitted.

4.20.5 Notwithstanding provisions of para 4.20.3 and 4.20.4 above, Clubbing of all expired Authorisations may also be permitted provided all expired Authorisations have been issued during Exim Policy period 1992-1997 & 1997-2002 i.e., 1st April 1992 to 31st March, 2002. However clubbing of erstwhile Value Based Advance licences shall not be allowed.

***Enhancement/
Reduction In the
Value of Authorisation***

4.21 In respect of an Advance Authorisation, RA concerned (as per their financial powers) may consider a request for:

- (a) enhancement / reduction in CIF value of Advance Authorisation;
- (b) enhancement / reduction in CIF value, quantity of inputs, FOB value and quantity of exports of an Advance Authorisation;

provided VA after such enhancement does not fall below minimum VA stipulated in FTP and HBP v1 laid thereunder and there is no change in input-output norms and FTP under which Advance Authorisation was issued.

4.21.1 Deleted.

4.21.2 Request for prorata enhancement in value and quantity may be made either before or after exports. In such cases where there is a change in SION prior to export of said product, pro-rata enhancement shall be given after calculating entitlement on revised SION.

4.21.3 The application for the enhancement/ reduction in the value of Authorisation shall be made in ANF 4E.

***Application fee
for enhancement***

4.21.4 Application fee leviable for enhancement would be on the difference in CIF values of original and final Authorisation. However, no application fee would be charged if value of Authorisation is being reduced or applicant has paid maximum fee of Rs 150,000 (for manual applications) and Rs 75,000 (for digitally signed applications) respectively in original application for Advance Authorisation.

***Export Obligation
(EO) Period and
its Extension***

4.22 Fulfillment Period of EO under an Advance Authorisation shall commence from Authorisation issue date. EO shall be fulfilled within 24 months except in case of supplies to projects / turnkey projects in India / abroad under deemed exports category where EO must be fulfilled during contracted duration. In case of Spices {(covered by chapter 9 of ITC (HS)}, EO shall be fulfilled within 90 days from the date on which first import consignment is cleared by Customs Authorities.

However, in case of import of spices for VA purpose like crushing/ grinding / sterilisation or for manufacture of oils and oleoresins of pepper, cardamom and chillies and not for simple cleaning, grading, repacking etc., EO shall be fulfilled within 120 days from the date of importation of first consignment. In case of import of spices (other than pepper, cardamom and chillies) for manufacture of spice oils and oleoresins, EO shall be fulfilled within 12 months from the date of issuance of Advance Authorization.

EO Period for import of drugs (with a specific export order and pre-import condition) and for import of tea shall be 6 months from the date of importation of first consignment.

4.22.1 Request for extension in EOP may be made in ANF 4E. RA shall grant one extension for six months from expiry date with payment of composition fee of 2% of duty saved on all unutilized imported items as per Authorisation.

Request for a further extension of six months may be considered by RA with payment of composition fee of 5% of duty saved, based on all unutilized imported items as per Authorisation.

Facility of extension of EOP shall not be allowed in case of Advance Authorisation wherein import of penicillin and its salts (ITC (HS) Code No. 29411010) and 6 – APA (ITC (HS) Code No. 29411 050) have been allowed as an input and also for import of spices and tea. RA shall make an endorsement in Advance Authorisation to this effect.

Such extensions would not be permitted in erstwhile Value Based Advance Authorisations (VABALs). Additionally, no extension in EO would be allowed in respect of Authorisations where misrepresentation / fraud has come to notice of RA. Further, in respect of Authorisations where adjudication orders have already been passed, no extension in EOP shall be admissible.

The period for discharge of export obligation against Advance Authorisations (erstwhile licences) issued for Export of Sugar stands automatically extended for one year (without payment of Composition Fee) w.e.f the date on which their export obligation

period expires provided the export obligation period did not expire prior to 19-4-2007.

- 4.22.2 Customs may allow provisional clearance of export consignment as and when Authorisation holder produces documentary evidence of having applied for EO extension to concerned RA.
- Revalidation of Authorisation** 4.23 RA may consider a request of original Authorisation holder and grant one revalidation for six months from expiry date. Request(s) for revalidation of Authorisation shall be made in ANF 4E.

- Monitoring of Obligation** 4.24 RA, with whom undertaking is executed by Advance Authorisation holder, shall maintain a proper record in a master register, indicating starting and closing dates of obligation period and other particulars to monitor EO.

Within two months from date of expiry of period of obligation, Authorisation holder shall submit requisite evidence in discharge of export obligation in accordance with paragraph 4.25 below.

However, in respect of shipments where six months period (one year in case of status certificate holder) for realisation of foreign exchange has not become due, RA shall not take action for non submission of bank certificate of exports and realisation, provided other document substantiating fulfillment of EO have been furnished.

- 4.24.1 In case Authorisation holder fails to complete EO or fails to submit relevant information / documents, RA shall take action by refusing further Authorisations, enforce condition of Authorisation and Undertaking and also initiate penal action as per law.
- Advance Authorisation for Annual Requirement** 4.24A (a) Exporters eligible for such Authorisations shall file an application in ANF 4A to RA concerned. All provisions as to Advance Authorisation given above would apply except the following:

- (i) RA while issuing Authorisation shall mention technical characteristics quality and specifications in respect of following inputs:-

Alloy steel including stainless steel, copper alloy, synthetic rubber, bearings, solvents, perfumes/ essential oils/aromatics chemicals, surfactants, relevant fabrics and marble.

- (ii) Authorisation holder shall have flexibility to export any product falling under export product group using duty exempted material.

- (iii) Within eligible entitlement, an exporter may apply for one or more than one Authorisations in a licensing year, subject to condition that against one port of registration only one Authorisation can be issued for same product group. One time enhancement / reduction of the Authorisation shall be available in terms of paragraph 4.21 above.
- (iv) On completion of EO against one or more Authorisations, all issued in same licensing year, entitlement of an exporter for that licensing year shall be deemed to be revived by an amount equivalent to EO completed against Authorisation(s).

(b) to (g) Deleted

4.24B Deleted

***Fulfillment of
Export Obligation***

4.25 Authorisation holder shall furnish prescribed documents in ANF 4F in support of fulfillment of EO.

A
(i) to (iv) Deleted.

B
(i) to (iv) Deleted.

***Discharge of export
obligation against
advance licences
issued prior to 1.4.2002***

4.25A Quantity Based Advance licences issued prior to 1.4.2002 shall be disposed off as per Public Notice No. 79 dated 2.1.2006, as amended from time to time.

***Redemption /
No Bond Certificate***

4.26 In case EO has been fulfilled, RA shall redeem the case. After redemption, RA shall forward a copy of redemption letter, indicating shipping bill number(s), date(s), FOB value in Indian rupees as per shipping bill(s), and description of export product in respect of shipment which were taken into account for the purpose of fulfillment of EO, to Customs authority at port of registration. Such details shall also be placed by the Zonal Offices in their website immediately after issuance of export obligation discharge /redemption letter / No Bond Certificate (in case of “No BG / LUT” facility), and by DGFT Hqr in DGFT website on monthly basis, for customs authority to access it from website.

Cancellation / redemption of BG / LUT would be undertaken by Customs, within 30 days of issue of Export Obligation Discharge Certificate (EODC) / bond waiver by RA.

Ordinarily, redemption of BG / LUT shall not preclude customs authority from conducting random checks and from taking action

against Authorisation holder for any misrepresentation, mis-declaration and default detected subsequently.

Further RA shall also take action against authorisation holder in case of non-submission of Appendix 23, duly filled in, as stipulated in Paragraph 4.30 below or for any misrepresentation, misdeclaration and default detected subsequently in details declared and furnished in Appendix 23. An endorsement to this effect shall be made by RA in the redemption certificate.

***Transitional Arrangement
for Authorisations
issued upto 31.8.2004*** 4.27

Advance Licences, including Advance Licences for Annual Requirement issued upto 31.8.2004, shall be governed by provisions contained in Chapter-7 of HBP v1 (RE-2001) and Chapter 4 of HBP v1 (2002-2007) as Notified on 31.3.2002 respectively as amended from time to time, excepting provisions relating to clubbing and extension in E.O. period which shall be governed by provisions of paragraphs 4.20 and 4.22.1 respectively above, and any other provision, as notified by DGFT.

However, wherever Customs duty is to be paid on unutilised material, same shall be paid alongwith interest thereon as notified.

***Regularisation of
Bonafide Default*** 4.28

Cases of bonafide default in fulfillment of EO may be regularised by RA as under:

- (i) If EO is fulfilled in terms of value, but there is a shortfall in terms of quantity, the Authorisation holder shall, for regularisation, pay:-
 - a) to customs authorities, customs duty on unutilized value of imported / indigenously procured material along with interest as notified; and
 - b) an amount equivalent to 3% of the CIF value of unutilised imported material through a TR in authorised branch of Central Bank of India indicating the "Head Account: 1453, Foreign Trade and Export Promotion and Minor Head 102". Authorisation holder shall also be required to obtain a separate Authorisation for regularisation of excess imported input. However, provisions of this sub-paragraph shall not be applicable if unutilised imported material was freely importable on the date of import.
- (ii) If the EO is fulfilled in quantity but there is shortfall in value, no penalty shall be imposed if Authorisation holder has achieved minimum value addition prescribed. However, if value addition falls below the minimum value addition prescribed, Authorisation holder shall be required

to deposit an amount equal to 1% of shortfall in FOB value in Indian Rupee, through TR in authorised branch of Central Bank of India as above, or through EFT mode.

Value wise shortfall shall be calculated with reference to actual quantity of exports and FOB value of realisation with reference to prorata quantity of imports and CIF value. For example, if export performance is only 50% quantitywise, but import has been for complete CIF value permitted, then value addition would be calculated on a prorata basis, i.e with reference to 50% of CIF value of imports. This would accordingly imply that where Authorisation holder is unable to export, no penalty on valuwewise shortfall shall be imposed.

- (iii) If EO is not fulfilled both in terms of quantity and value, the Authorisation holder shall, for the regularisation, pay as per (i) and (ii) above.
- (iv) In case an exporter is unable to complete EO undertaken in full and he has not made any import under Authorisation, Authorisation holder will also have an option to get the Authorisation cancelled and apply for drawback after obtaining permission from Customs authorities for conversion of shipping bills to Drawback Shipping Bills.
- (v) RA shall compare relevant portion of Appendix-23 duly verified and certified by Chartered Accountant with that of norms allowed in Authorisation(s) and actual quantity imported against Authorisation(s) in the beginning of licensing year for all such Authorisations redeemed in preceding licensing year. In this verification process, in case it is found that Authorisation holder has consumed lesser quantity of inputs than imported, Authorisation holder shall be liable to pay customs duty on unutilized value of imported material, alongwith interest thereon as notified, or effect additional export within the EO period.

***Time Period For
Depositing Fines,
Customs Duty, Etc.***

4.29

Customs duty with interest to be recovered from Authorisation holder on account of regularisation or enforcement of BG/LUT, shall be deposited by Authorisation holder in relevant Head of Account of Customs Revenue i.e., "Major Head 0037 - Customs and minor head 001- Import Duties" in prescribed T.R. Challan, within 30 days of demand raised by Regional / Customs Authority and documentary evidence shall be produced to this effect to RA/Customs authority immediately.

On receipt of such documentary evidence from Authorisation holder, RA shall intimate details of recovery / deposits made to

Customs Authority at port of registration under intimation to Joint Secretary (Drawback), Department of Revenue, Ministry of Finance, Jeevan Deep Building, New Delhi.

Payment of amount of duty, interest and any dues for regularisation shall, however, be without prejudice to any other action that may be taken by Customs Authorities at any stage under Customs Act, 1962.

Maintenance of Proper Accounts

4.30 Every Advance Authorisation holder shall maintain a true and proper account of consumption and utilisation of duty free imported / domestically procured goods against each Authorisation as prescribed in Appendix-23. These records are required to be sent to the concerned RA at the beginning of each licensing year for all those Authorisations, which have been redeemed in previous licencing year. However, these records in said format are required to be submitted for Authorisations issued on or after 13-05-2005. Such records should be preserved for a period of at least three years from date of redemption.

Consideration of cases against lost EP copy of the Shipping Bills and / or Bank Realisation Certificate

4.30A In case where Original EP copy of Shipping Bill / original BRC has been lost, request for EODC, "No BG / LUT condition" under Advance Authorisation / DFIA scheme, or endorsement of transferability under DFIA scheme can be considered, subject to submission of following documents in lieu of those original documents: -

- a) A duplicate / certified copy of concerned document issued by Customs Authority / Bank in lieu of original;
- b) An application fee equivalent to 1% of duty saved amount. However, no fee shall be charged when such document is lost by Government agencies and a documentary proof to this effect is submitted;
- c) An affidavit by exporter about loss of document and an undertaking to surrender it immediately to concerned RA, if found subsequently;
- d) An indemnity bond by exporter to the effect that he would indemnify Government for financial loss, if any, on account of duty free import entitlement availed / allowed against lost Shipping Bills / BRC. Customs Authority, before allowing redemption of BG / LUT or clearance after endorsement of "No BG / LUT condition" or endorsement of transferability, shall ensure that no double benefit against such shipping bill has been availed.

However, in case of submission of reconstructed copy of shipping bill in lieu of original shipping bill, conditions at b), c) and d) above shall not be applicable.

Duty Free Replenishment Certificate(DFRC) 4.31 to 4.36A Deleted.

DUTY ENTITLEMENT PASSBOOK (DEPB) SCHEME

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| <i>Duty Entitlement Passbook (DEPB) Scheme</i> | 4.37 | Policy relating to Duty Entitlement Passbook (DEPB) Scheme is given in Chapter-4 of FTP. Duty credit under the scheme shall be calculated by taking into account deemed import content of said export product as per SION. Value addition achieved by export of such product shall also be taken into account while determining the rate of duty credit under the scheme. |
| <i>Fixation of DEPB Rate</i> | 4.38 | ANF 4C prescribes form regarding fixation of DEPB rates. All applications for fixation of DEPB rates shall be routed through concerned EPCs which shall verify the FOB value of exports as well as international price of inputs covered under SION. |
| <i>Provisional DEPB Rate</i> | 4.38A | To encourage diversification and to promote export of new products, DEPB Committee would be empowered to notify provisional DEPB rates. However, such DEPB rates would be valid for a limited period of time during which exporter would furnish data on export and import for regular fixation of rates. |
| <i>Exports in anticipation of DEPB Rate</i> | 4.39 | No exports shall be allowed under DEPB scheme unless DEPB rate of concerned export product is notified. |
| <i>Port of Registration</i> | 4.40 | Exports / imports made from specified Sea Ports, Airports, ICD & LCSs given in paragraph 4.19 above and made to any Special Economic Zone (SEZ), notified by Central Government, are entitled to DEPB. |
| | 4.40.1 | DEPB shall be issued with single port of registration, which will be port from where exports have been effected. |
| <i>Maintenance of Record</i> | 4.40.2 | Each Custom House at ports shall maintain a separate record of details of exports made under DEPB. |
| <i>Credit under DEPB and Present Market Value</i> | 4.41 | In respect of products where rate of credit entitlement under DEPB Scheme comes to 10% or more, amount of credit against each such export product shall not exceed 50% of Present Market Value (PMV) of export product. During export, exporter shall declare on shipping bill that benefit under DEPB Scheme would not exceed 50% of PMV of export product. However PMV declaration shall not be applicable for products for which value cap exists irrespective of DEPB rate of product. |

- Utilisation of DEPB credit** 4.42 Credit under DEPB shall be utilised for payment of customs duty on any item including capital goods, which is freely importable. DEPB Scrips can also be utilized for payment of duty against imports under EPCG Scheme w.e.f 1.1.2009.
- Application for DEPB** 4.43 An application for grant of credit under DEPB may be made to RA concerned in ANF 4G alongwith prescribed documents. Agency commission shall be allowed for DEPB entitlement upto 12.5% of FOB value only. FOB value in free foreign exchange shall be converted into Indian rupees as per exchange rate for exports, notified by Ministry of Finance, as applicable on the date of order of “Let Export” by Customs.
- 4.43A In respect of consignment exports wherein exporter has declared FOB value on a provisional basis, exporter shall be eligible for final assessment of such shipping bill based on actual FOB realised upon sale of such goods in freely convertible currency.
- 4.43B An application for grant of credit for supplies from DTA to SEZ can be made by DTA unit or SEZ unit. DTA unit may claim benefits either from RA or Development Commissioner concerned. In case claim have been filed with RA, RA while allowing benefits to the DTA unit will simultaneously endorse a copy of communication to concerned Development Commissioner alongwith details of export documents . In case DTA supplier prefers claim with Development Commissioner, the Development Commissioner will verify Denied Entity List (DEL) status of supplier from DGFT website before allowing DEPB benefits. SEZ unit will file application with Development Commissioner concerned in ANF 4G along with prescribed documents.
- 4.44 DEPB shall be issued with transferable endorsement after payment confirmation. In other cases, DEPB shall be initially issued with non-transferable endorsement and upon realization, can be endorsed as transferable.
- Monitoring of Realisation** 4.45 RA shall monitor earlier cases where DEPB has been granted prior to realisation of export proceeds so as to ensure that realisation takes place within prescribed time. Failing this, RA shall initiate action for recovery of an amount equivalent to DEPB credit with interest as notified. Recovered amount in such cases shall be deposited in head of account of Customs as stated in paragraph 4.29 above.
- 4.45.1 If export proceeds are not realised within the stipulated time period, DEPB holder shall pay in cash an amount equivalent to duty free credit utilised on imports, against such exports with interest as notified, from date of import till date of deposit. If amount realised in foreign exchange is less, then payable amount would be reduced proportionately.

| | | |
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| <i>Time Period</i> | 4.46 | <p>Application for obtaining credit shall be filed within a period of twelve months from the date of exports or the date of up linking of EDI shipping bill details in the DGFT website, or within six months from the date of realisation, or within three months from the date of printing / release of shipping bill, whichever is later, in respect of shipments for which claim has been filed.</p> <p>Application for obtaining credit shall be filed within a period of twelve months from the date of exports, or within six months from the date of realization, or within three months from the date of printing / release of shipping bill, whichever is later, in respect of shipments for which claim has been filed.</p> |
| | 4.47 | <p>Wherever provisional shipment has been allowed by customs authorities, DEPB against such exports shall be issued only after release of shipping bill by Customs. In such cases, application for DEPB shall be filed within six months from date of release of such shipping bill, or six months from date of realisation, whichever is later.</p> |
| <i>Frequency of Application</i> | 4.48 | <p>All shipping bills in any one application must relate to exports made from one Custom House only. There is no limit on number of shipping bills which can be filed through EDI mode in a single application.</p> |
| <i>Verification by Customs</i> | 4.49 | <p>In case of EDI shipping bills before 1.10.2005 and non-EDI shipping bills, RA shall ensure that while issuing DEPB, Shipping Bill No(s) and date(s), FOB value in Indian Rupees as per Shipping Bill(s) and description of export product are endorsed on DEPB. Before allowing imports against such DEPB, Customs shall verify that details of exports, as given on DEPB, are as per their records. However, in case of EDI shipping bills issued on or after 1-10-2005 from EDI ports which are being transmitted electronically by Customs to DGFT, DEPBs issued shall be sent to Customs at port of registration through an electronic message exchange system, and DEPB shall be registered at port of registration electronically. No verification of shipping bills against which such DEPBs have been issued, will be required before allowing imports against these DEPBs.</p> |
| <i>Revalidation</i> | 4.50 | <p>No revalidation shall be granted beyond original period of validity of DEPB, unless it expires in custody of Regional / Customs Authorities as per paragraph 2.13 of HBP v1.</p> |
| <i>Re-export of goods imported under DEPB Scheme</i> | 4.51 | <p>Goods imported under DEPB scheme, which are found defective or unfit for use, may be re-exported, as per guidelines given in paragraph 3.23.6 of HBP v1.</p> |

Issuance of DEPB and other duty credit certificates against lost EP copy of the Shipping Bills

4.52 In case where EP copy of Shipping Bill has been lost, DEPB and other duty credit certificates' claim can be considered, subject to submission of following documents:-

- a) A duplicate / certified copy of Shipping Bill issued by Customs authority in lieu of original;
- b) An application fee equivalent to 2% of the DEPB or other duty credit entitlement in respect of lost Shipping Bills. However, no fee shall be charged when Shipping Bill is lost by Government agencies and a documentary proof to this effect is submitted;
- c) An affidavit by exporter about loss of Shipping Bills and an undertaking to surrender it immediately to concerned RA, if found subsequently; and
- d) An indemnity bond by exporter to the effect that he would indemnify Government for financial loss, if any, on account of DEPB or other duty credit certificate issued against lost Shipping Bills.

Customs authority, before allowing clearance, shall ensure that no DEPB benefit has been availed against same shipping bill.

4.52.1 Claim against lost Shipping Bill shall be preferred within a period of six months from date of release of duplicate copy of shipping bill and any application received thereafter will be rejected. This is subject to the condition that the request for duplicate copy of Shipping Bill to Customs Authority was filed within the time period similar to that mentioned in paragraph 4.46 above. However, if a provisionally assessed DEPB shipping bill is lost, time period for filing an application for DEPB would be six months from the date of release of the finally assessed shipping bill.

Loss Of Original Bank Certificate

4.53 In such cases where original Bank Realisation Certificate (BRC) has been lost, the DEPB claim can be considered subject to submission of following documents:

- a) A duplicate copy of BRC issued by bank authority in lieu of original loss;
- b) An application fee equivalent to 2% of the DEPB entitlement in respect of lost BRC;

- c) An affidavit by exporter about loss of BRC and an undertaking to surrender it immediately to RA, if found subsequently;
- d) An indemnity bond by exporter to the effect that he would indemnify Government for financial loss, if any, on account of DEPB issued against lost BRC.

Claim against lost BRC shall be preferred within a period of six months from date of realisation and application received thereafter will be rejected.

In such cases, where both documents have been lost, exporter shall follow procedure laid down in paragraph 4.52 and 4.53. Time period for such application shall be as per paragraph 4.52 and 4.53, whichever is later.

DUTY FREE IMPORT AUTHORISATION (DFIA) SCHEME

| | | |
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| <i>Duty Free Import Authorisation (DFIA) Scheme</i> | 4.54 | Policy relating to the Duty Free Import Authorisation (DFIA) Scheme is prescribed in Chapter 4 of FTP. |
| <i>Application</i> | 4.55 | An application in ANF 4H along with documents therein, shall be submitted to RA concerned. |
| | 4.55.1 | Guidelines as in paragraph 4.4.1 and 4.4.3 above would be adhered to. |
| | 4.55.2 | Deleted |
| | 4.55.3 | However in respect of following items, exporter shall be required to give declaration with regard to technical characteristics, quality and specification in shipping bill. RA while issuing DFIA shall mention technical characteristics, quality and specification in respect of such inputs: Alloy steel including Stainless Steel, Copper Alloy, Synthetic Rubber, Bearings, Solvent, Perfumes/ Essential Oil/ Aromatic Chemicals, Surfactants, Relevant Fabrics, Marble, Articles made of polypropylene, Articles made of Paper and Paper Board, Insecticides, Lead Ingots, Zinc Ingots, Citric Acid, Relevant Glass fibre reinforcement (Glass fibre, Chopped / Stranded Mat, Roving Woven Surfacing Mat), Relevant Synthetic Resin (unsaturated polyester resin, Epoxy Resin, Vinyl Ester Resin, Hydroxy Ethyl Cellulose), Lining Material. |
| | 4.55.4 | Deleted |

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| <i>DFIA for applicants with multiple units</i> | 4.56 | Transfer of any duty free material imported or procured against actual user DFIA shall be governed by provisions of paragraph 4.5 above. |
| <i>DFIA for Free of Cost and Paid Material</i> | 4.57 | Procedure would be as per paragraph 4.6 above and 4.2.7 in FTP. |
| <i>Financial Powers</i> | 4.58 | Financial powers shall be as per paragraph 4.8 above. |
| <i>Description of a DFIA</i> | 4.59 | A DFIA shall specify details as per paragraph 4.11 above. |
| <i>Exports in Anticipation of DFIA</i> | 4.60 | Exports / supplies made from date of EDI generated file number for an DFIA, may be accepted on similar lines as in paragraph 4.12, 4.12.1 & 4.12.2 above. |
| | 4.60.1 | Deleted |
| | 4.60.2 | Deleted |
| <i>Port of Registration</i> | 4.61 | Provision of paragraph 4.19 above shall be applicable in case of DFIA. |
| <i>Acceptance of BG / LUT</i> | 4.62 | Provision of paragraph 4.18 above shall be applicable. |
| <i>Enhancement / Reduction in the Value of DFIA</i> | 4.63 | Provision of paragraph 4.21 above shall be applicable. |
| <i>Export Obligation period (EOP) and its extension</i> | 4.64 | Export obligation fulfillment period and its extension shall be governed as per paragraph 4.22 above. However, any extension beyond 36 months from the date of issue of the authorisation issue date shall not be allowed. |
| <i>Revalidation of DFIA</i> | 4.65 | Facility of revalidation shall be available to DFIA holder as per paragraph 4.23 above. |
| <i>Re-export of goods imported under DFIA Scheme</i> | 4.66 | Goods imported against transferable DFIA, which are found defective or unfit for use, may be re-exported, as per DoR guidelines. In such cases 95% of CIF value debited against DFIA for export of such goods, shall be generated by concerned Commissioner of Customs as an Authorisation, containing amount generated and the details of original DFIA. Based on the certificate, a fresh DFIA shall be issued by concerned RA. Fresh DFIA, so issued, shall have same port of registration and shall be valid for a period equivalent to balance period available on date of import of such defective/unfit goods. |

| | | |
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| <i>Monitoring of Export Obligation</i> | 4.67 | Provision of paragraph 4.24 above shall apply. |
| <i>Fulfillment of Export Obligation and maintenance of proper accounts of imports</i> | 4.68 | <p>Provision of paragraph 4.25 above shall apply.</p> <p>Original DFIA holder shall maintain a true and proper account of consumption and utilisation of duty free imported / domestically procured goods against each authorisation as prescribed in Appendix-23. These records are required to be sent to concerned RA along with request for bond waiver / redemption / discharge of export obligation/ transferability. Such records should be preserved for a period of at least three years from date of redemption.</p> |
| <i>Facility for Split DFIA</i> | 4.68A | <p>Split Authorisations of DFIA subject to a minimum of CIF value of Rs. 10 lakhs each and multiples thereof may also be issued, on request, at the time of seeking transferability. A fee of Rs. 1000/- each shall be paid for each split authorization.</p> <p>Split-up DFIA's shall be permitted with same Port of Registration as appearing on the original DFIA.</p> |
| | 4.69 | Deleted. |
| <i>Redemption</i> | 4.70 | Provision of paragraph 4.26 above shall apply. |
| <i>Regularisation of Bonafide default</i> | 4.71 | Cases of bonafide default in fulfillment of export obligation may be regularised by as prescribed in paragraph 4.28 above. |
| <i>Transferability of the DFIA</i> | 4.72 | <p>Once export obligation is fulfilled and required documents as stipulated in Paragraph 4.68 above have been furnished, RA shall make authorisation transferable subject to conditions stipulated for this scheme including an endorsement on the authorisation itself as to liability of additional customs duty / excise duty in respect of imported / indigenously procured inputs, as the case may be, which have already been imported under Actual User DFIA and are sought to be transferred after fulfillment of E.O. DFIA holder shall deposit additional customs duty / excise duty alongwith applicable interest as per Customs Notification in relevant Head of Account of Customs Revenue i.e., "Major Head 0037 – Customs and Minor Head 001 – Import Duties" in prescribed T.R. Challan and furnish a documentary evidence to RA alongwith the application for endorsement of transferability.</p> <p>However, restricted items endorsed in authorisation shall be allowed to be transferred only against a separate authorisation / permission issued as per FTP and the procedure laid there under.</p> |

GEMS AND JEWELLERY

- Replenishment Authorisation**
- 4A Policy relating to Gem Replenishment Authorisation, and scheme for gold/ silver/platinum jewellery is given in paragraph 4A of FTP.
- 4A.1 An application for REP Authorisation may be made in ANF 4I alongwith documents prescribed therein to RA concerned as in Appendix-1A.
- 4A.1.1 Application shall be filed within six months following the month during which the export proceeds are realised. For export proceeds realised during month, consolidated application for entire month shall be filed.
- 4A.1.2 Deleted
- 4A.1.3 In case where payment is received in advance and exports take place subsequently, application for REP Authorisation shall be filed within six months following the month during which exports are made.
- 4A.1.4 For purpose of clarity, it is again reiterated that the month in which the export has been made in case of advance payment and the month in which export proceeds have been realised, in part or full after making of exports, shall be excluded while calculating period of six months for filing of application for REP Authorisation.
- Wastage Norms**
- 4A.2 Wastage or manufacturing loss on gold/silver/ platinum jewellery and articles thereof is as follows:

| Item of exports | Percentage of wastage by weight with reference to Gold / Platinum / Silver content in export item | | |
|-----------------|---|---------------|--------|
| | | Gold/Platinum | Silver |
| a) | Plain jewellery and articles and ornaments like Mangalsutra containing gold and black beads/ imitation stones, cubic zirconia diamonds, precious, semi-precious stones. | 3.5% | 4.5% |
| b) | Studded jewellery and articles thereof | 9.0% | 10% |
| c) | Mountings and findings manufactured (by non-mechanised process) indigenously | 3.5% | 4.5% |
| d) | Any jewellery/articles manufactured by a fully mechanised process and unstudded. | 1.25% | 1.25% |
| e) | Mountings, whether imported or indigenously procured/ manufactured, used in studded jewellery | 2.5% | 2.5% |
| f) | Gold/silver/platinum medallions and coins (excluding coins of nature of legal tender) | 0.25% | 0.25% |
| g) | Findings and mountings manufactured by mechanized process | 1.25% | 1.25% |

Value Addition

4A.2.1 Under scheme for export of jewellery, value addition shall be calculated as per paragraph 4A.6 of FTP. Minimum value addition shall be:

| S.No. | Item of Export | Minimum Value Addition |
|-------|---|------------------------|
| a) | Plain gold / platinum / silver jewellery and Articles and ornaments like Mangalsutra containing gold and black beads / imitation stones, except in studded form of jewellery. | 4% |
| b) | All types of Studded gold / platinum / silver Jewellery and articles thereof. | 6.5% |
| c) | Any jewellery / articles manufactured by fully mechanised process | 2% |
| d) | Gold / silver / platinum medallions & coins (excluding coins of nature of legal tender) | 2% |
| e) | Gold / silver / platinum findings / mountings manufactured by mechanised process | 3% |

4A.2.2 Entitlement of quantity of gold / silver / platinum against the export shall be quantity of gold / silver / platinum in item of export plus admissible wastage / manufacturing loss.

Loss of Gem and Jewellery

4A.3 Consignments of gem and jewellery items exported out of country and lost in transit after exports, where foreign exchange against such exports has been realised or insurance claims settled, will also be eligible for REP Authorisation.

Gem & Jewellery Replenishment Authorisations

4A.4 Gem REP Authorisations shall be valid for import of precious stones, semi-precious and synthetic stones and pearls. In addition, Authorisation shall also be valid for import of empty jewellery boxes, upto 5% of value of Authorisation within its overall CIF value. Gem REP Authorisations issued against export of studded gold / silver / platinum jewellery articles, shall also be valid for import of cut and polished precious / semi-precious stones other than emerald, upto 10% of CIF value of Authorisation, within its overall CIF value.

4A.4.1 Gem REP Authorisation are available as per scale given in Appendix-12B.

Filing of Application

- 4A.4.2
- (i) An application for Gem Rep Authorisation may be given to RA concerned as given in Appendix-1A in the form given in Appendix-22-F alongwith prescribed documents.
 - (ii) In case E.P Copy of Shipping Bill and Customs attested invoice is submitted to nominated agencies, exporter shall furnish a self certified photo copy of same along with a certificate from nominated agencies certifying carat / value

of studdings in case of studded jewellery and excess value addition achieved in case of plain jewellery and articles.

- (iii) Provision of paragraph 4A.1.1 to 4A.1.4 will also be applicable for Gem Rep Authorisations.

Agency Commission

4A.5 Exporter availing scheme of gold / silver / platinum jewellery are allowed to pay agency commission. Value addition shall be calculated after deducting agency commission.

Endorsement on shipping Bill and Invoice

4A.6 During export of jewellery, shipping bill and invoice presented to customs authorities shall contain description of item, its purity, weight of gold/ silver/ platinum content, wastage claimed thereon, total weight of gold/ silver/ platinum content plus wastage claimed and its equivalent quantity in terms of 0.995/0.999 fineness for gold/ silver and in terms of 0.9999 fineness for platinum and its value, fob value of exports and value addition achieved. If purity of gold/silver/platinum used is same in respect of all or some of items made out from each of these metals for export, exporter may give total weight of gold/silver/platinum and other details of such similar items which are of same purity. In case of studded items, shipping bill shall also contain description, weight and value of precious/ semi-precious stones/diamonds/ pearls used in manufacture, and weight / value of any other precious metal used for alloying gold/silver.

Conditions of Exports

4A.7 Exports shall be allowed by customs authorities provided endorsement made on shipping bill and invoice are correct and value addition achieved is not below minimum prescribed in FTP.

Proof of Exports

4A.8 Exporter has to furnish the proof of exports, wherever required for export of gold / silver / platinum jewellery and articles thereof, by furnishing following documents:

- (a) E.P copy of the shipping bill;
- (b) Customs attested invoice;
- (c) Bank certificate of realisation in Appendix 22A.

In case of Personal carriage of jewellery by foreign buyer, following documents should be submitted by the exporter/seller as proof of exports for claiming export entitlements:

- (a) Copy of shipping bill filed by Indian Seller;
- (b) A copy of Currency Declaration Form filed by Foreign Buyer with Customs at the time of his arrival; and

- (c) Foreign Exchange Encashment Certificate from Bank.

In addition to this, Personal Carriage on Documents Against Acceptance (DA)/ Cash On Delivery (COD) basis is also allowed. Exporter will have to furnish following documents as proof of exports for claiming export entitlements:

- (i) Copy of Shipping Bill filed by Indian Seller; and
- (ii) Bank Certificate of Export and Realisation

Instructions issued by Customs Department in this regard should be followed mutatis mutandis.

Conversion of Purity/Fineness

4A.9 For conversion of quantity of gold/ silver/platinum in terms of equivalent quantity in terms of fineness, following formula shall be used:

- (i) Where item of gold has been exported in terms of carats, quantity of gold shall be multiplied by number of carat of gold exported, divided by 24 and thereafter again divided by 0.995/0.999/0.900 to arrive at equivalent quantity of gold in terms of fineness of 0.995/0.999/0.900 respectively; and
- (ii) Wherever purity of item of export is expressed in terms of fineness, the quantity of gold/silver/platinum shall be multiplied by fineness of gold/silver/platinum exported and thereafter divided by 0.995 / 0.999 / 0.900 to arrive at equivalent quantity of gold/ silver/platinum in terms of 0.995 / 0.999 / 0.900 fineness respectively.

Release of Gold/ Silver/ Platinum by Nominated Agencies

4A.10 Gold / silver / platinum shall be released to exporter of jewellery by nominated agencies/RBI authorised banks in multiples of 10 gms or in Ten Tola Bars in respect of gold. However, silver shall be released to exporters in multiples of 1 Kg only. Any balance of gold/ silver/ platinum shall be available to exporter along with his future entitlement. Gold/ silver shall be released by the nominated agencies in terms of 0.995 fineness or more and platinum in terms of 0.900 fineness or more.

Terms of payment

4A.11 Export of gold / silver / platinum jewellery and articles thereof shall be against irrevocable letter of credit, payment of cash on delivery basis, Documents Against Acceptance (DA) basis or advance payment in foreign exchange.

Port of Export

4A.12 Exports under schemes of gold /silver/platinum jewellery and articles thereof shall be allowed by airfreight and Foreign Post

Office through the Customs House at Mumbai, Calcutta, Chennai, Cochin, Delhi, Jaipur, Bangalore, Kochi, Coimbatore, Ahmedabad, Dabolin Airport, Goa, Hyderabad and Surat (Surat Hira Bourse). Export by courier shall also be allowed through Custom Houses at Mumbai, Calcutta, Chennai, Cochin, Coimbatore, Delhi, Jaipur, Bangalore, Ahmedabad and Hyderabad upto FOB value of Rs.20 lakhs per consignment.

Export by Post

4A.13 Policy for export of gems and jewellery parcel by post is in paragraph 4A.17 of FTP. At the time of exports, exporter shall submit following documents:

- (i) Shipping bills or invoice presented at foreign Post Office;
- (ii) Certificate from nominated agencies indicating price at which gold/ silver/platinum was booked or given on outright sale basis or loan basis;
- (iii) Three copies of invoice.

4A.14 Deleted

***Export Against
Supply By
Foreign Buyer***

4A.15 Before clearance of each consignment of import supplied by foreign buyer, nominated agency shall execute a bond with Customs, undertaking to export within stipulated period in contract, gold/ silver/platinum jewellery or articles equivalent to entire import quantity of gold/silver/platinum, mountings and findings etc excluding admissible wastage.

In case of direct supply of gold /silver / platinum, alloys, findings and mountings of gold / silver / platinum and plain semi-finished gold / silver / platinum jewellery to status holder / exporter, Status Holder/exporter shall furnish a Bank Guarantee / LUT, as per Customs Rules and regulations to Customs, equivalent to Customs Duty leviable on imported gold / silver / platinum, alloys, findings and mountings of gold / silver / platinum and plain semi-finished gold/ silver / platinum jewellery etc.

BG / LUT, executed with Customs shall be valid for one year. In case of direct supply to Status Holder / exporter, exports shall be completed within 90 days. In case of non-fulfillment of *EO* / non-achievement of stipulated value addition, Customs Department shall proceed to recover custom duty alongwith interest which may include enforcement of *BG /LUT*. Besides importer will be liable to penal action under Customs Act

4A.15.1 Nominated agency / Status Holder / exporter shall be liable to pay customs duty leviable on that quantity which is proved to have been not exported.

- 4A.15.2 Goods shall be cleared through Customs by nominated agency Status Holder / exporter. Even where export order is received by an Associate, goods shall be cleared through Customs by nominated agency only and not Associate. Associate shall, in such cases, authorise nominated agency to act as its agent to file Bill of Entry and shipping bill.
- 4A.15.3 At time of export, shipping bill presented to Customs shall also contain the following:
- (i) Name and address of associate / Status Holder / exporter;
 - (ii) An endorsement by nominated agency that export is made against an order received by concerned associate, its date of registration with nominated agency. In case of exports by Status Holder / exporter, a Self Declaration shall be provided to this effect;
 - (iii) Name of Customs House through which gold / silver / platinum / plain semi-finished gold / silver / platinum jewellery was imported and corresponding Bill of Entry No. and date and date of import.
- 4A.15.4 Each shipping bill shall be valid for exports only through Customs House located at the place where office of nominated agency / Status Holder / exporter concerned is situated. It shall be valid for shipment for a period of seven days including the date on which endorsement was made by nominated agency in case of exports through nominated agency. If exports cannot be made within this period, exporter shall file a fresh shipping bill.
- 4A.15.5 At the time of export, exporter shall submit following documents:
- (i) Shipping bill with two extra copies where exports are made from a Customs House other than Customs House through which corresponding import of gold / silver / platinum / plain semi-finished gold / silver / platinum jewellery was effected. In other cases, shipping bill with an extra copy;
 - (ii) Three copies of invoice;
 - (iii) Certificate from nominated agency indicating quantity and value of items supplied by foreign buyer.
- 4A.15.6 Customs authorities shall return two copies of shipping bill and connected invoice duly attested. One copy shall be sent to person who presented documents and the other copy shall be sent by Customs to office of nominated agency / Status holder / exporter.

4A.15.7 In case of exports through nominated agency, exporter shall submit proof of exports to nominated agency within 15 days of exports, who shall, after verifying documents, release admissible quantity of the gold / silver / platinum etc. to exporter.

4A.15.8 Exporter may also obtain, in advance, gold / silver / platinum etc. supplied by foreign buyer, by furnishing a BG / LUT for an amount equal to international price of such items plus customs duty payable thereon. BG / LUT shall be redeemed only when the exporter has furnished proof of exports to nominated agency and accounted for the use of items supplied in advance in export product.

4A.15.9 For redemption of bond / BG / LUT executed with Customs, nominated agency / Status Holder / exporter shall furnish a statement indicating items, its quantity and value supplied by foreign buyer, corresponding Bill of Entry number and date, number of each of shipping bills against which corresponding exports was made.

Maintenance of Accounts

4A.16 Nominated agency shall maintain complete account, consignment-wise, of the gold, silver, platinum, mountings, findings / plain semi-finished gold / silver / platinum jewellery etc. imported for execution of each export order, exports effected and quantity of gold, silver, platinum mountings, findings etc. released against such exports. For direct exports, similar accounts shall also be maintained by Status Holder. Such accounts shall be maintained for a minimum period of three years from date of exports.

Export Through Exhibitions / Export Promotion Tours / Export of Branded Jewellery

4A.17 Nominated agencies shall produce to Customs Authorities, letter in original or its certified copy, containing Government's approval for holding exhibition / export of branded jewellery. Any other person shall produce to Asst. Commissioner Customs, letter in original or its certified copy containing GJEPC's approval for holding exhibitions / export promotion tour/export of branded jewellery.

In case of re-import, such items, on arrival, shall be verified alongwith export documents before clearance.

4A.18 (a) Exports under this scheme shall be subject to following conditions for following modes of export:

(i) Export of Gems and Jewellery for holding / participating in overseas exhibition.

Exports under this scheme shall be subject to the following conditions:

Items not sold abroad shall be re-imported within

60 days of close of exhibition. However in case exporter is participating in more than one exhibition within 45 days of close of first exhibition, then 60 days shall be counted from date of close of last exhibition. In case of personal carriage of gems and jewellery for holding / participating in overseas exhibitions, value of such gems and jewellery shall not exceed US \$ 2 million. Gold/ silver/ platinum content on items sold in such exhibitions may be imported as replenishment.

Exporter shall take replenishment, from nominated agency, within 120 days from the close of the exhibition, gold / silver / platinum for replenishment content against items sold abroad in exhibition.

- (ii) Personal Carriage of gems & jewellery or export through airfreight / post parcel route for Export Promotion Tours / photo shoots / fashion shows overseas.

Personal carriage / export through airfreight / post parcel route of gold / silver / platinum jewellery, cut and polished diamonds, precious, semi-precious stones, beads and articles as samples upto US\$ 100,000 for export promotion tours / photo shoots/ fashion shows and temporary display / sale abroad is also permitted with approval of Gem & Jewellery EPC subject to the condition that promoter would bring back jewellery / goods or repatriate sale proceeds within 45 days from date of departure through normal banking channel. In case of personal carriage for export promotion tours, exporter shall declare personal carriage of such samples to Customs while leaving country, and obtain necessary endorsement on Export Certificate issued by Jewellery Appraiser of Customs. In such cases, exporter shall book with nominated agency, within 120 days after export promotion tour or expiry of stipulated period of 45 days, whichever is earlier, gold/silver/platinum for replenishment content against items sold abroad.

- (iii) Export of branded jewellery.

Export of branded jewellery is also permitted with approval of Gem & Jewellery EPC for display / sale in permitted shops set up abroad or in showroom of their distributors/ agents. Items not

sold abroad within 365 days shall be re-imported. Exporter shall book with nominated agency within 120 days after the end of stipulated period of 365 days, gold/silver/platinum for replenishment content against items sold abroad.

- (b) Following documents shall be submitted for claiming such replenishment:
 - (i) Customs attested invoice;
 - (ii) Copy of the approval letter issued by Government/ GJEPC;
 - (iii) Certificate from nominated agency / GJEPC as in Appendix-22F.
- (c) In case of exhibitions organised by nominated agencies, gold / silver / platinum shall be imported as replenishment by nominated agencies within 60 days from close of exhibition.

4A.19 Nominated agencies shall maintain a complete account of exports made, goods sold abroad, goods re-imported, and metals purchased abroad and imported into India. Such account shall be maintained for a minimum period of three years from date of close of exhibition.

***Export Against
Supply By Nominated
Agencies***

4A.20 Exporter may obtain gold / silver / platinum on following basis:-

- (i) Replenishment basis after completion of exports;
- (ii) Outright purchase basis in advance;
- (iii) Loan basis.

Replenishment Basis

4A.21 Exporter may apply to nominated agency for booking of precious metal gold / silver / platinum. Quantity of precious metal booked with nominated agency shall be equivalent to precious metal content in the export product and admissible wastage.

4A.21.1 Applicant shall at the time of booking, deposit an earnest money for a minimum amount of 20% of notional price of precious metal, which shall be adjusted at actual sale.

4A.21.2 Exporter may also export jewellery on a notional rate based on certificate provided by Bank. Exporter must fix price within credit terms allowed to buyer, and realise proceeds within the due date of the credit terms or 180 days, whichever is earlier. Exporter exporting on a notional basis under Replenishment Scheme must book the same quantity of gold with Nominated Agency on same

rate that he may have booked with buyer. Nominated agencies shall purchase precious metal on behalf of exporter at the rate so fixed and thereafter issue a purchase certificate bearing a serial number to exporter indicating quantity of gold / silver / platinum and CIF value, in dollars including the Rupee equivalent. Price shall be actual price at which gold / silver / platinum is purchased by nominated agencies, plus permitted service charges levied by nominated agencies shall be included with the price of gold / silver / platinum for value addition. Duplicate and triplicate copies of exporter's application, together with copies of purchase certificate for exporter shall be sent by nominated agencies to concerned Custom House, as well as to the negotiating bank, who will confirm realization at which gold has been purchased. Exporter exporting under notional rate will get replenishment only after proceeds are realised.

4A.21.3 Exports shall be effected within a period of 120 days from date of booking and drawal of precious metal shall be completed within a period of 150 days from date of booking, or within 30 days from date of export, whichever is later.

***Outright Purchase
Basis in Advance***

4A.22 Exporter may obtain required quantity of precious metal in advance on outright purchase basis subject to furnishing of BG / LUT to nominated agencies, for an amount as may be prescribed by nominated agency. On failure to effect exports within period prescribed, the nominated agencies shall enforce BG / LUT, as the case may be.

4A.22.1 Exports shall be effected within a maximum period of 90 days from date of outright purchase of precious metal.

Loan Basis

4A.23 Exporter may obtain required quantity of precious metal on loan basis subject to furnishing of BG / LUT, for customs duty to nominated agencies, for an amount as may be prescribed by nominated agencies. On failure to effect exports within period prescribed, the nominated agencies shall enforce the BG / LUT.

4A.23.1 Exporter has to pay interest on gold taken on loan basis at the rate as may be specified.

4A.23.2 Export has to be completed within a maximum period of 90 days from date of release of gold on loan basis. No extension for fulfillment of EO shall be allowed.

4A.23.3 Exporter shall be permitted to export jewellery on the basis of a notional rate certificate to be issued by nominated agency / GJEPC. This rate will be based on prevailing Gold/USD rate and the USD/ INR rate in notional rate certificate. Certificate issued by nominated

agency / GJEPC should not be older than 7 working days of date of shipment.

Value addition will have to be achieved on rate as may be got fixed with buyer and Nominated Agency.

Exporter shall have flexibility to fix the price and repay Gold Loan within 180 days from date of export. This price shall be communicated to nominated agencies who will issue a certificate showing final confirmation of the rate to the bank negotiating documents, to ensure export proceeds are realized at this rate.

***Exports against
Advance Authorisation***

4A.24 Nominated agencies may accept payment in dollars towards cost of import of precious metal from EEFC account of exporter.

4A.25 Procedure applicable to Advance Authorisations under Chapter 4 of HBP v1 shall generally apply to this scheme except norms for value addition, EO period and regularization of default.

4A.25.1 EO will be required to be fulfilled within 120 days from date of import of each consignment against Authorisation. However EO period shall be 180 days from date of import of findings, mountings made of gold, platinum and silver and export of jewellery. No further extension in EO period will be allowed. Advance Authorisation holder may also import gold as replenishment after completion of exports.

4A.25.2 Advance Authorisation holder may obtain gold / silver / platinum from nominated agencies in lieu of direct imports. In such a case, nominated agency shall make, both exchange control copy and customs purpose copy of Authorisation invalid for direct imports.

***Diamond Imprest
Authorisation***

4A.26 Deleted.

Application

4A.26.1 Deleted.

Export Obligation

4A.26.2 Deleted.

***Regularisation of
Bonafide Default***

4A.27 Cases of bonafide default in fulfillment of EO by an exporter who has obtained precious metals from nominated agencies may be regularised provided exporter has paid customs duty along with interest thereon as notified to Customs. However, in case of Advance Authorisation, the provisions as given in paragraph 4.28 above shall apply. This shall be without prejudice to any action that may be taken against exporter under FT(D&R) Act, Order or Rules issued thereunder'.

- Replenishment Authorisation for Import of Consumables etc.*** 4A.28 A Replenishment Authorisation for duty free import of consumables, tools, machinery and equipments (as notified by Customs) for Jewellery made out of precious metals (other than Gold & Platinum) equal to 2% and for Cut and Polished Diamonds and Jewellery made out of Gold and Platinum equal to 1% of FOB value of exports of the preceding year, may be issued on production of Chartered Accountant's Certificate indicating the export performance. However, in case of Rhodium finished Silver jewellery, entitlement will be 3% of FOB value of exports of such jewellery. This Authorisation shall be non-transferable and subject to actual user condition.
- Personal Carriage of Gems & Jewellery Export Parcels*** 4A.29 Personal Carriage of gems & jewellery parcels by Foreign Bound Passengers from all EOU / SEZ units and all firms in DTA, through Airports in Delhi, Mumbai, Kolkata, Chennai, Cochin, Coimbatore, Bangalore, Hyderabad, Jaipur is permitted. Procedure for Personal Carriage of exports shall be as prescribed by Customs. Export proceeds shall, however, be realised through normal banking channel. For claiming Replenishment in case of Personal Carriage of Exports by Foreign Bound passenger, documents shall be same as mentioned under paragraph 4A.21.2 above. Authorised Courier Companies are also permitted to operate on the above lines.
- Personal Carriage of Gems & Jewellery Import Parcels*** 4A.30 Personal carriage of gems & jewellery import parcels by an Indian importer / Foreign National may be permitted into all EOUs / SEZ units and all firms in DTA through airports in Delhi, Mumbai, Kolkata, Chennai, Bangalore, Hyderabad, Jaipur. Procedure will be same as for import of goods by air-freight, except that parcels shall be brought to Customs by Importer / Foreign National for examination and release. Clearance of imports under this scheme shall be as per normal customs clearance procedure.
- Duty free import of samples*** 4A.31 Duty free import of gems and jewellery samples upto Rs 3 lakhs or 0.25% of the average of last three years export turnover of gems and jewellery items, whichever is lower, shall be allowed in a financial year as per of Customs notification.
- Re-import of rejected jewellery*** 4A.32 An exporter of plain/ studded precious metal jewellery shall be allowed to re-import duty free jewellery rejected and returned by buyer upto 2% of FOB value of exports in preceding licencing year (based on CA certified copy of export of preceding year) with refund of any duty exemption/refund/replenishment benefit availed on inputs used, as per customs rules and regulations.
- 4A.32.1 Deleted.

| | | |
|--|-------|---|
| <i>Diamond & Jewellery Dollar Accounts</i> | 4A.33 | Policy for Diamond and Jewellery Dollar Accounts is given in paragraph 4A.19 of FTP. Detailed procedure for its operation will be notified separately. |
| <i>Import of precious metal scrap/used jewellery for melting and re-export of jewellery</i> | 4A.34 | <p>Policy for Import of precious metal scrap/used jewellery for melting and re-export of jewellery is given in paragraph 4A.21 of FTP. Procedure is laid as under:</p> <p>Imported precious metal scrap / used jewellery shall be allowed to be cleared by Customs subject to the condition:</p> <ul style="list-style-type: none">a) that importer files a bond along with Bank Guarantee for a sum equivalent to one and half times customs duty leviable on said used jewellery/precious metal scrap;b) importer fulfils the export obligation and value addition as notified by Central Government;c) such import will not be allowed through Hand Baggage. <p>Detailed procedure including value addition requirement and export obligation etc. for operationalisation of the facility under this paragraph shall be notified separately by DGFT.</p> |
| <i>Export of Diamond, Gemstone & Jewellery on consignment basis</i> | 4A.35 | <p>Policy for export of diamond, gemstone and jewellery on consignment basis is given in paragraph 4A.23 of FTP.</p> <p>Detailed procedure in this regard shall be governed as per the relevant Customs Rules & Regulations. Re-import of these items (either in complete or partial lot) exported on consignment basis shall be subject to condition that exporter follows prescribed provisions of relevant customs notification to establish that goods are the same which were exported.</p> |

CHAPTER-5

EXPORT PROMOTION CAPITAL GOODS (EPCG) SCHEME

- | | | |
|---|-------|--|
| <i>Policy</i> | 5.1 | Policy relating to EPCG Scheme is given in Chapter 5 of FTP. |
| <i>Application Form</i> | 5.2 | An application for grant of an authorization, upto Rs.50 Crore of duty saved amount may be made to RA concerned in ANF 5A along with documents prescribed therein. |
| <i>Consideration of Applications</i> | 5.3 | For cases wherein duty saved amount is above Rs. 50 crores, applicant may apply to DGFT Headquarters directly with a copy endorsed to concerned RA. In such cases, concerned RAs will issue EPCG authorisation according to directions from DGFT. |
| | 5.3.1 | RA concerned shall, on the basis of nexus certificate from an Independent Chartered Engineer (CEC) submitted by the applicant in Appendix 32A, issue EPCG authorization and thereafter forward a copy of the EPCG authorization to the concerned Jurisdictional Central Excise Authority. |
| | 5.3.2 | Authorisation holder shall produce to the concerned RA a certificate from the Jurisdictional Central Excise Authority, confirming installation of Capital Goods at factory premises of authorization holder or his supporting manufacturer(s) /vendor(s) within six months from date of completion of import. In the case of import of spares, the installation certificate shall be submitted by the Authorisation holder within a period of three years from the date of import. However, in case of units not registered with Central Excise Authorities, the Authorisation holder shall produce to the concerned R.A, a certificate from an independent Chartered Engineer confirming the said installation of Capital goods / spares. |
| | 5.3.3 | EPCG authorization shall be issued with a single port of registration mentioned in paragraph 4.19 of HBP v1 for imports. However, exports can be made from any port specified in paragraph 4.19. |
| | 5.3.4 | (i) An applicant may also apply for import of spares, tools, spare refractories and catalyst as are required for installation and maintenance of capital Goods. Application shall contain list of plant / machinery installed in factory / premises of applicant for which spares, tools, spare refractories and catalyst are required, duly certified by Chartered Engineer or Jurisdictional Central Excise authorities. |

In such cases EPCG authorization shall not specify list of spares but shall indicate:-

- (a) Name of plant/machinery for which spares are required.
- (b) Value of duty saved allowed under the authorization.
- (c) Description of product to be exported with value of export obligation as per FTP.

(ii) Deleted

(iii) Further, at time of final redemption of export obligation, authorization holder shall submit certificate from Independent Chartered Engineer confirming use of spares tools, spare refractories and catalyst so imported in the installed capital goods on the basis of stock & consumption register maintained by authorization holder.

EPCG Scheme to resultant DTA Unit from conversion of EOU / Relocated SEZ Units

5.4

An EOU/a relocated SEZ unit after conversion to DTA Unit, may apply for an EPCG authorization in ANF alongwith documents prescribed therein. "No Objection Certificate" should be produced from concerned Development Commissioner.

Indigenous Sourcing of Capital Goods

5.5

EPCG authorization holder intending to source capital goods indigenously, either alongwith application or after issuance of EPCG authorisation, shall request to RA for invalidation of EPCG authorization for direct import / issue of ARO, alongwith name and address of source person of the capital goods.

5.5.1

RA concerned will issue such invalidation letter / ARO, in duplicate.

5.5.2

Indigenous manufacturer intending to supply capital goods to EPCG authorization holder may apply to RA in ANF for issuance of Advance authorization for import of inputs including components required for manufacture of capital goods to be supplied to EPCG authorization holder.

5.5.3

Deleted

Leasing of Capital Goods

5.6

An EPCG authorization holder may, source capital goods from a domestic leasing company. In such cases, the Bill of Entry of imported capital goods or commercial invoice of indigenous capital goods, shall be signed jointly by EPCG authorization holder and leasing company. However, EPCG authorization holder shall alone be fully responsible for fulfillment of export obligation.

Condition for Fulfilment of Export Obligation

5.7

In addition to conditions mentioned in paragraph 5.4 of FTP following conditions shall also be applicable for fulfillment of export obligation.

- 5.7.1 EPCG authorisation holder shall export either directly or through third party(s). If a merchant exporter is EPCG authorisation holder, name of supporting manufacturer shall also be indicated on shipping bills. At the time of export, EPCG authorisation No. and date shall be endorsed on shipping bills which are proposed to be presented towards discharge of export obligation.
- 5.7.2 Export proceeds shall be realised in freely convertible currency except for deemed exports. Exports to SEZ Units/Supplies to developers/Co-developers, irrespective of currency of realization would also be counted for discharge of Export obligation.
- 5.7.3 Deleted.
- 5.7.3.1 Supplies made to Oil and Gas sector also may be counted towards discharge of export obligation against an EPCG Authorisation provided it has been issued on or before 31.3.2000 and no benefit under paragraph 8.3 of FTP has been claimed on such supplies.
- 5.7.4 Exports made to former USSR, or to such countries as notified by DGFT, shall not be counted for fixing average level of exports.
- Additional Export Obligation (over and above indicated average) for all previous EPCG Licenses, which have not been redeemed, will be indicated separately.
- 5.7.5 Exports under EPCG scheme shall also be entitled for benefits under Chapter 4 of FTP.
- 5.7.6 In case of export of goods relating to handicraft, handlooms, cottage, tiny sector, agriculture, aqua-culture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture, shall not be required to maintain average level of exports.
- Goods, excepting tools imported under EPCG scheme by such sectors, shall not be allowed to be transferred for a period of five years from date of imports even in cases where export obligation has been fulfilled. Transfer of capital goods would be permitted within the group companies, after fulfillment of EO but before five years from the date of imports, under intimation to RA and jurisdictional Central Excise Authority.
- 5.7.7 Deleted
- 5.7.8 Deleted

5.8 The Authorisation holder under the EPCG scheme shall fulfill the export obligation over the specified period in the following proportions:

| Period from the date of issue of Authorisation | Minimum export obligation to be fulfilled |
|---|---|
| Block of 1 st to 6 th year | 50% |
| Block of 7 th and 8 th year | 50% |

5.8.1 In respect of Authorisations, on which the value of duty saved is Rs.100 crore or more, the export obligation shall be fulfilled over a period of 12 years in the following proportion:-

| Period from the date of issue of Authorisation | Minimum export obligation to be fulfilled |
|---|---|
| Block of 1 st to 10 th year | 50% |
| Block of 11 th and 12 th year | 50% |

5.8.2 However, the export obligation of a particular block of year may be set off by the excess exports made in the preceding block year. The Authorisation holder would intimate the regional authority on the fulfillment of the export obligation, as well as average exports, within three months of completion of the block, by secured electronic filing using digital signatures.

5.8.3 Where export obligation of any particular block of years is not fulfilled in terms of the above proportions, except in such cases where the export obligation prescribed for a particular block of years is extended by the Regional Authority for authorizations upto Rs.50 crores, and by DGFT for other cases, subject to payment of composition fee of 2% on duty saved amount equal to unfulfilled portion of EO, such Authorisation holder shall, within 3 months from the expiry of the block of years, pay duties of customs (along with applicable interest as notified by DoR) of an amount equal to that proportion of the duty leviable on the goods which bears the same proportion as the unfulfilled portion of the export obligation bears to the total export obligation.

5.8.4 EPCG Authorisations issued upto 31.3.2000 shall be governed by provisions laid down in paragraph 6.11 in HBP v1 (RE-99). Notwithstanding the same in HBP v1 (RE-99), authorisation holder shall not have to surrender Special Import licence in case of value wise shortfall.

Authorisations issued from 1st April, 2000 upto 31st March, 2002 shall be governed by provisions of Chapter 6 of HBP v1 (RE-01) as amended from time to time.

Authorisations issued from 1st April, 2002 upto 31st August, 2004 shall be governed by provisions of para 5.8 of HBP v1 (RE-02) as amended from time to time.

5.8.5 Deleted

5.8.6 Deleted.

***Monitoring of
Export Obligation***

5.9.1 Authorization holder shall submit to RA concerned by 30th April of every year, report on fulfillment of export obligation. Such report shall also be submitted electronically on DGFT website. RA concerned may issue partial EO fulfillment certificate, provided export performance is proportionately adequate to fulfillment of export obligation.

***Automatic Reduction/
Enhancement upto 10%
of CIF value and Prorata
Reduction/ Enhancement
in Export Obligation***

5.10 If authorization issued has actually been utilized for import of a value in excess, upto 10% of CIF value / duty saved amount of authorization, authorization shall be deemed to have been enhanced by that proportion. Customs shall automatically allow clearance of goods in excess, upto 10% of authorization value / duty saved amount, without endorsement by concerned RA.

In such cases, authorization holder shall furnish additional fee to cover excess imports effected, in terms of CIF value / duty saved amount, to RA concerned, within one month of excess imports taking place. Export obligation shall automatically stand enhanced proportionately.

In case of utilization being more than 10%, concerned RA as per their financial powers, may endorse as per extant provisions. Authorisation holder shall furnish additional BG/ LUT to the customs authority.

5.10.1 Similarly, if EPCG authorization holder has utilised authorization less than the value earmarked in authorization, his export obligation shall stand reduced on prorata basis with reference to actual utilisation of authorization.

***Extension of Export
Obligation Period***

5.11 Concerned RA, may consider one or more request for grant of extension in export obligation period, on payment of composition fee of 2% of total duty saved under authorization or an enhancement in export obligation imposed to the extent of 10% of total export obligation imposed under authorization, as the case may be, at the choice of exporter, for each year of extension sought. Such extension can be for a maximum period of 2 years.

Extension in EO period beyond two years' period available above, may be considered, for a further extension upto 2 years with a condition that 50% of duty payable in proportion to the unfulfilled

export obligation is paid by authorization holder to Custom authorities before an endorsement of extension is made on EPCG authorization by RA concerned. In such cases, no composition fee is to be paid or additional EO is to be imposed as prescribed in the Para above. In case the firm is still not able to complete the export obligation, duty already deposited will be deducted from total duty plus interest to be paid for EO default.

Extension in export obligation period shall also be subject to such terms and conditions as may be prescribed by competent authority.

- 5.11.1 The firm / company, which is applying for registration with BIFR/ Rehabilitation Department of State Government, shall also intimate DGFT with regard to relief sought for EPCG authorization, if any, within 30 days of receipt of application by agency concerned.

DGFT, thereafter shall take up the matter with agency concerned to safeguard government interest on account of default in fulfillment of export obligation imposed on EPCG authorization obtained by such firm/companies.

DGFT may consider such application for grant of period of extension upto 12 years, or as per rehabilitation package prepared by operating agency and approved by BIFR board / state authority.

- 5.11.2 Waiver of EO may be considered where, because of force majeure or other unforeseen circumstances / reasons which are beyond the control of the exporters (like steep fall in international prices, technological obsolescence etc.), and the exporter is unable to fulfill export obligation. Such requests shall be considered by a committee comprising representative(s) of DoC and DoR under DGFT. Decision of this committee shall be notified by DoR for implementation.

- 5.11.3 To provide relief to exporters of those sectors where total exports in that sector / product group has declined by more than 5%, average export obligation for 2007-08 may be reduced proportionate to reduction in exports of that particular sector / product groups during 2007-08 as against 2006-07.

The sectors / product groups for which this relaxation is to be allowed shall be conveyed by the DGFT to all the RAs within three months of the end of the previous financial year, and the RAs shall re-fix the EO for previous year accordingly, for exporters in that sector / product group.

Export Obligation Shortfall 5.12

RA concerned may condone shortfall upto 5% in export obligation arising out of duty saved amount.

Redemption

5.13 As evidence of fulfillment of export obligation, authorization holder shall furnish application in ANF 5B with documents prescribed therein.

(a) to (c). Deleted.

On being satisfied, RA concerned shall issue a certificate of discharge of export obligation to the EPCG authorization holder and send a copy to customs authorities with whom BG/LUT has been executed.

RA shall ensure disposal of such applications within 30 days. Shortcomings, if any, shall be pointed out in one go. All correspondence, thereafter, shall relate to these deficiencies only. Fresh correspondence, if necessary, shall be within 15 days. Once documents are complete EO will be discharged within 30 days of receipt of complete documents/information.

Process of issue of final discharge certificate/rejection shall be completed within a period of 90 days from date of receipt of initial request. Applications that remain outstanding beyond a period of 90 days shall be reported to DGFT alongwith reasons thereof, immediately thereafter.

Regularisation of Bonafide Default

5.14 In case, EPCG authorization holder fails to fulfill prescribed export obligation, he shall pay duties of Customs plus interest as prescribed by Customs authority. Such facilities can be availed by EPCG authorisation holder to exit at his option.

Maintenance of Records

5.15 Every EPCG authorization holder shall maintain, for a period of 3 years from date of redemption, a true and proper account of exports/supplies made and services rendered towards fulfillment of export obligation.

Re-Export of Capital Goods Imported Under EPCG Scheme

5.16 Capital Goods imported under EPCG scheme, which are found defective or unfit for use, may be re-exported back to foreign supplier within three years from the date of payment of duty on importation thereof, with permission of RA / Customs Authority. Consequently, EO would be refixed.

Replacement of Capital Goods

5.16.1 Capital Goods imported and found defective or otherwise unfit for use may be exported, and Capital Goods in replacement thereof be imported under EPCG scheme. In such cases, while allowing export, the Customs shall credit the duty benefit availed which can be debited again at the time of import of such replaced Capital Goods.

- Penal Action***
- 5.17 In case of failure to fulfill export obligation or any other condition of authorization, authorization holder shall be liable for action under FT (D&R) Act, 1992, Orders and Rules made there under, provisions of FTP and Customs Act, 1962.
- Clubbing of EPCG authorizations***
- 5.18 Clubbing of two or more EPCG authorizations of same authorization holder would be permitted.
- 5.18.1 Deleted
- 5.18.2 An application for clubbing can be made only to RA concerned in ANF 5D. Clubbing shall not be permitted in case authorisations are issued by different RAs.
- (a) Deleted.
- (b) Deleted.
- (c) Deleted.
- 5.18.3 Total export obligation would be refixed taking into account total of duty saved or total of CIF value of imports.
- 5.18.4 On clubbing, authorizations for all purposes shall be deemed to be a single EPCG authorization. Export obligation period for clubbed authorization shall be reckoned from first authorization issue-date. However, in cases where clubbed CIF/duty saved value exceeds Rs 100 crore, no corresponding benefit of increase in export obligation period shall be admissible.
- 5.18.5 Average export obligation for clubbed authorizations would be highest of average export obligations endorsed on individual authorizations so clubbed.
- 5.18.6 No clubbing would be permitted after expiry of EOP.
- 5.18.7 The aforesaid provisions for Clubbing of EPCG Authorisations shall be applicable for authorizations issued on or after 1-4-2007. However, EPCG authorizations issued prior to 1-4-07 shall be governed by provisions contained in Chapter 5 of HBP v1 (RE - 2006).
- Refixation of Export Obligation upon conversion from CIF based to duty based EO***
- 5.19 (a) EPCG authorization holder can apply for refixation of export obligation as given in para 5.4 (i) of FTP in ANF 5C.
- (b) Deleted.

- (c) For all EPCG authorizations, authorization holder should have fulfilled mandated (original or amended) block wise export obligation, till previous block to application date. In all such cases, refixed export obligation would be computed as under:

(% export obligation unfulfilled) x (8) x (duty saved on authorization issue-date)

- (d) Deleted
- (e) There would be no change in average export obligation fixed or export obligation period of original authorization.
- (f) Deleted

***Technological
Upgradation of
Capital Goods***

5.20 Application for technological upgradation of the capital goods would be made in ANF 5A.

***Import of Refurbished/
Reconditioned
Spares and Tools***

5.21 Import of refurbished spares shall be permitted under EPCG Scheme.

However such refurbished / reconditioned spares must have a residual life not less than 80% of life of original spare, which would be certified by EPCG authorization holder.

The tools imported under EPCG Scheme may be transferred to any of units or group companies of applicant.

5.22 Revalidation of authorizations issued under EPCG scheme shall not be allowed.

CHAPTER-6

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

| | | |
|--|---------|---|
| <i>Scheme</i> | 6.1 | Policy relating to EOUs, EHTPs, STPs and BTPs Schemes is given in Chapter 6 of FTP. |
| | 6.2 | Deleted |
| <i>Approval / Application and renewal of Application</i> | 6.3.1 | For setting up an EOU, three copies of application as in Appendix 14-I-A may be submitted to Development Commissioner (DC). |
| | 6.3.2 | Applications for setting up units under EOU scheme other than proposals for setting up of unit in service 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 Units Approval Committee within 15 days, as per criteria indicated in Appendix 14-I-B and sector specific conditions relating to approval as in Appendix 14-I-C. In other cases, approval may be granted by DC after clearance by Board of Approval (BoA). |
| | 6.3.3 | Proposals for setting up EOU requiring industrial licence may be granted approval by DC after clearance of proposal by BoA (as per Appendix 14-I-D) and Department of Industrial Policy and Promotion (DIPP) within 45 days on merits. |
| | 6.3.4.1 | STP / EHTP complexes can be set up by Central Government, State Government, Public or Private Sector Undertakings or any combination thereof, duly approved by Inter-Ministerial Standing Committee (IMSC) in Ministry of Communication and Information Technology (Department of Information Technology). Application for setting up EHTP / STP unit shall be in format prescribed by Ministry of Communication and Information Technology (Department of Information Technology - DoIT) and shall be submitted to officer designated by DoIT. |
| | 6.3.4.2 | BTP can be set up by Central Government, State Government, Public or Private Sector Undertakings or any combination thereof. Application for setting up of BTP shall be submitted to Department of Bio-Technology (DoBT) and such applications which meet guidelines prescribed by DoBT will be approved and recommended to DGFT for notification. Application for setting up of BTP unit shall be submitted to Officer designated by DoBT. |

- 6.3.6 LoP/LoI shall specify item(s) of manufacture / service activity, annual capacity, projected annual export for first five years in dollar terms, Net Foreign Exchange (NFE) earnings, limitations, if any, regarding sale of finished goods, by-products and rejects in DTA and such other matter as may be necessary and also impose such conditions as may be required.
- 6.3.7 LoP/LoI issued to EOU / EHTP / STP / BTP units by concerned authority would be construed as an authorization for all purposes. Standard format for LoP for EOU units is given in Appendix 14-I-E.
- 6.3.8 EOUs shall have separate earmarked premises for separate LoP. Similarly, EOUs may be approved on leased premises provided lease has been obtained from Government Department / Undertaking / Agency. However, in case lease is obtained from private parties, it shall have a validity period of five years from date of LUT and DC shall satisfy himself of genuine nature of lease.
- 6.3.9 On completion of approval period as provided for in paragraph 6.6 of FTP, it shall be open to unit to continue under scheme or opt out of scheme. If no intimation in this regard is received from unit within a period of six months of expiry of approval period, DC will take action, suo moto, to cancel approval under EOU scheme and take further action in this regard. Where unit opts to continue, DC concerned will extend approval period.
- Legal Undertaking (LUT)***
- 6.4.1 Approved EOU / EHTP / STP / BTP unit shall execute a LUT with DC / Designated Officer concerned as in Appendix 14- I-F.
- 6.4.2 All EOU / EHTP / STP / BTP units should have permanent e-mail address. No LUT for new units shall be executed unless unit has its permanent e-mail address and digital signature on said e-mail ID. In event of an EOU not having permanent e-mail address and digital signature, further imports and DTA sale shall not be permitted by DC.
- Export of goods and services***
- 6.5.1 Software units may undertake exports using data communication links or in form of physical exports (which may be through courier service also), including export of professional services.
- 6.5.2 EOUs shall be permitted to export jewellery on basis of a notional rate certificate issued by nominated agency. This rate will be based on prevailing Gold / US\$ rate and US\$ / INR rate in notional rate certificate. Certificate issued by nominated agency should not be older than 3 working days of date of shipment.

6.5.3 Exporter shall have flexibility to fix price and repay gold loan within 180 days from date of export. Price shall be communicated to nominated agencies who will issue a certificate showing final confirmation of rate to bank negotiating document, to ensure export proceeds are realized at this rate.

6.5.4 Gem & Jewellery and Jewellery EOUs may re-export imported goods and export domestically procured goods, including goods generated out of partial processing / manufacture. Besides, supply of unsuitable / broken cut and polished diamonds, precious and semi-precious stones upto 5% of value of imported or indigenously procured goods to DTA against valid Gem & Jewellery REP as applicable on payment of appropriate duty is also permitted.

***Import / Domestic
Procurement of Goods***

6.6.1 Goods permitted to be imported / procured from DTA shall include:

- (a) Raw materials, components, consumables, intermediates, spares and packing materials;
- (b) Capital goods, whether new or second-hand, including inter-alia following and their spares:
 - (i) DG sets, captive power plants, transformers and accessories for all above.
 - (ii) Pollution control equipment.
 - (iii) Quality assurance equipment.
 - (iv) Material handling equipment, like fork lifts and overhead cranes, mobile cranes, crawler cranes, hoists and stackers.
 - (v) Un-interrupted Power Supply System (UPS), Special racks for storage, storage systems, modular furniture, computer furniture, anti-static carpet, teleconference equipment, Servo Control System, Air-conditioners / Airconditioning system, panel for electricals and special data transmission cable.
 - (vi) Security Systems.
 - (vii) Tools, jigs, fixtures, gauges, moulds, dyes, instruments and accessories.
- (c) Raw material for making capital goods for use within unit
- (d) Others including:
 - (i) Prototypes and technical samples for existing

product(s) and product diversification development or evaluation.

(ii) Drawings, blue prints, charts, microfilms and technical data.

(iii) Office equipment, including PABX, Fax machines, projection system, Computers, Laptop, Server.

(e) Spares and consumables for above items.

(f) Any other items not mentioned above with approval of BoA.

6.6.2 EOUs may import plain / studded gold / platinum or silver jewellery for export after repairs / remaking.

Conditions of Import

6.7 Import of goods by EOU / EHTP / STP / BTP units shall be subject to following conditions:

(a) Goods shall be imported into EOU / EHTP / STP / BTP premises. However, agriculture and allied sectors and granite sector units in EOU may supply / transfer capital goods and inputs in farm / fields / quarries with prior intimation to jurisdictional Customs / Central Excise authorities, provided ownership of goods rests with EOU units. Granite sector would also be allowed to take spares upto 5% of value of Capital Goods to quarry site.

(b) Procedure as prescribed under Customs / Excise rules for EOUs and units in EHTP / STP / BTP will be followed and appropriate bond executed with Customs / Excise authorities

(c) Goods, except capital goods and spares, shall be utilized by EOU / EHTP / STP / BTP units within a period of three years or as may be extended by Customs authorities. However, imported tea shall be utilized within a period of 6 months from date of import. Similarly, export obligation against import of items {covered by Chapter 9 of ITC(HS)} and coconut oil shall be fulfilled within a period of 90 days from the date on which first import consignment is cleared by Customs Authorities.

However in case of import of spices for VA purpose like crushing / grinding / sterilisation or for manufacture of oils and oleoresins and not for simple cleaning, grading, re-packing etc., EO shall be fulfilled within 120 days.

- (d) Goods already imported / shipped / arrived before issue of LoP / LoI are also eligible for duty free clearance under EOU / EHTP / STP / BTP scheme, provided customs duty has not been paid and goods have not been cleared from Customs.
- (e) Consumption of inputs by the EOU / EHTP / STP / BTP unit shall be based on the Standard Input Output Norms (SION) provided that:
 - (i) where no SION have been notified, generation of waste, scrap and remnants upto 2% of input quantity shall be allowed;
 - (ii) where additional items other than those given in SION are required as inputs or where generation of waste, scrap and remnants is beyond 2% of input quantity, use of such inputs shall be allowed by the jurisdictional Development Commissioner within a period of three months from the date of and based on self-declared norms, with the unit undertaking to adjust self-declared / ad-hoc norms in accordance with norms as finally fixed by Norms Committee in DGFT;
 - (iii) in case of any difficulty in fixation of SION as above, Board of Approval, in consultation with Norms Committee in DGFT, will decide on a case to case basis.

***Fax machines/
laptop computers
outside approved premises***

- 6.8.1 EOU / EHTP / STP / BTP units may install one fax machine at a place of its choice, outside premises of unit, subject to intimation of its location to concerned Customs / Central Excise authorities.
- 6.8.2 EOU / EHTP / STP / BTP units may, temporarily take out of premises of unit, duty free laptop computers and video projection systems for working upon by authorized employees.
- 6.8.3 EOU / EHTP / STP / BTP units may install personal computers not exceeding two in number, imported / procured duty free in their registered / administrative office subject to DoR guidelines.
- 6.8.4 For IT and IT enabled services, persons authorized by software units may access facility installed in EOU / EHTP / STP / BTP unit through communication links.

Leasing of Capital Goods

- 6.9 Value of imported capital goods financed through leasing companies or obtained free of cost and / or on loan / lease basis shall also be taken into account for purpose of calculation of NFE as defined in FTP.

**Net Foreign Exchange
(NFE) Earnings**

6.10.1 EOU / EHTP / STP / BTP unit shall be a positive net foreign exchange earner. Net Foreign Exchange (NFE) Earnings shall be calculated cumulatively for a block of five years from commencement of production according to formula given below. Items of manufacture for export specified in Letter of Permission (LoP) / Letter of Intent (LoI) alone shall be taken into account for calculation of NFE.

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

Where

‘NFE’ is Net Foreign Exchange;

‘A’ is FOB value of exports by EOU/EHTP/STP/BTP unit;

‘B’ is sum total of CIF value of all imported inputs and CIF value of all imported capital goods, and value of all payments made in foreign exchange by way of commission, royalty, fees, dividends, interest on external borrowings / high sea sales during first five year period or any other charges. It will also include payment made in Indian Rupees on high sea sales. “Inputs” mean raw materials, intermediates, components, consumables, parts and packing materials.

6.10.2 If any goods are obtained from another EOU / EHTP / STP / SEZ / BTP unit, or procured from an international exhibition held in India, or bonded warehouses or precious metals procured from nominated agencies, value of such goods shall be included under ‘B’.

6.10.3 If any capital goods are imported duty free or leased from a leasing company, received free of cost and / or on loan basis or transfer, CIF value of capital goods shall be included pro-rata, under ‘B’ for period it remains with units.

6.10.4 For annual calculation of NFE, value of imported capital goods and lumpsum payment of foreign technical know-how fee shall be amortized as under:

1st – 10th year 10%.

Provided that above amortization rates would be applicable only if an undertaking is given by an unit that it will not exit to DTA in the first 10 years. For existing units, proportionate Customs and excise duty must be paid where NFE is less than depreciation already claimed, before exit.

Maintenance of accounts

6.11.1 EOU / EHTP / STP / BTP unit shall maintain proper account, and shall file digitally signed quarterly and annual report as prescribed

in Annexure to Appendix 14-I-F to DC / Designated Officer in DoIT / DoBT and Customs and Central Excise authorities.

- 6.11.2 Unit shall be able to account for entire quantity of each category of homogenous goods imported / procured duty free, by way of exports, sales / supplies in DTA or transfer to other SEZ / EOU / EHTP / STP / BTP units and balance in stock. However, at no point of time, units shall be required to correlate every import consignment with its exports, transfer to other SEZ / EOU / EHTP / STP / BTP units, sales in DTA and balance in stock. Any matter for clarification as to whether goods are homogenous or not shall be decided by Units Approval Committee.
- Monitoring of NFE***
- 6.12.1 Performance of EOUs shall be monitored by Units Approval Committee as per guidelines given in Appendix 14-I-G. Performance of EHTP / STP / BTP shall be monitored by DoIT / DoBT jointly with jurisdictional Central Excise / Customs authority.
- 6.12.2 Failure to ensure positive NFE or to abide by any of terms and conditions of LoP / LoI / IL / LUT shall render unit liable to penal action under provisions of FT (D&R) Act, 1992 and Rules and Orders made there under, without prejudice to action under any other law / rules and cancellation or revocation of LoP / LoI / IL.
- Conversion of Scrap / dust / sweeping of Gold / silver / platinum into standard Bars***
- 6.13 Scrap / dust / sweeping of gold / silver / platinum may be sent to Government of India Mint / Private Mint from EOU / EHTP / STP units and returned to them in standard bars in accordance with procedure prescribed by Customs authorities, or may be permitted to be sold in DTA on payment of applicable customs duty, on basis of gold / silver / platinum content, as may be notified by Customs authorities.
- DTA supplies***
- 6.14 Notwithstanding provision of DTA sales in Para 6.8 of FTP, such DTA sales shall not affect application, to any goods, of any other prohibition or regulation affecting import thereof in force at the time, when such goods are imported. This also does not confer any immunity, exemption or relaxation at any time from any commitment or compliance with any requirements to which importer may be subject to under other laws or regulations.
- Supplies to other EOU/EHTP/STP/ SEZ/BTP units***
- 6.15 Supplies to other EOU / SEZ / EHTP / STP / BTP units shall be counted towards NFE provided that such goods are permissible for procurement by these units.
- Transfer of Power from one unit to another***
- 6.16 Transfer of power from Captive Power plants (DG Sets) from one unit of EOU / EHTP / STP / BTP to another is permitted as prescribed in sector specific condition in Appendix 14-I-C.

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| <i>Supply of precious / semiprecious / Synthetic stones from DTA</i> | 6.17 | Supplier of precious and semi-precious stones, synthetic stones and processed pearls from DTA to EOUs shall be eligible for grant of Replenishment Authorisation at rates and for items mentioned in HBP v1. Procedure for submission of application for grant of Replenishment Authorisation as contained in relevant Chapter of HBP v1 shall be applicable. However, application shall be made to DC concerned. Such supplies to EOUs are not treated as deemed exports for purpose of any of deemed export benefits. |
| <i>Application for grant of entitlements</i> | 6.18 | Application for grant of all entitlements may be made to DC concerned. |
| <i>Export through other exporters</i> | 6.19 | <p>An EOU / EHTP / STP / BTP unit may export goods manufactured / software developed by it through other exporter, or any other EOU / EHTP / STP / SEZ / BTP unit, subject to condition that:</p> <ul style="list-style-type: none">(a) Goods shall be produced in EOU / EHTP / STP / BTP unit concerned.(b) Level of NFE or any other conditions relating to imports and exports as prescribed shall continue to be discharged by EOU / EHTP / STP unit concerned.(c) Export orders so procured shall be executed within parameters of EOU / EHTP / STP / BTP schemes and goods shall be directly transferred from unit to port of shipment.(d) Fulfillment of NFE by EOU / EHTP / STP / BTP units in regard to such exports shall be reckoned on basis of price at which goods are supplied by EOUs to other Exporter or other EOU / EHTP / STP / BTP / SEZ unit.(e) All export entitlements, including recognition as Status Holder would accrue to exporter in whose name foreign exchange earnings are realized. However, such export shall be counted towards fulfillment of obligation under EOU / EHTP / STP / BTP scheme only. |
| <i>Others Entitlements</i> | 6.20.1 | FOB value of export of an EOU / EHTP / STP / BTP unit can be clubbed with FOB value of exports of its parent company in DTA or vice versa for purpose of according Export House and Trading House status. |
| | 6.20.2 | Sectoral norms as notified by Government shall apply to FDI in service activities. |
| | 6.20.3 | Software units may also use computer system for training purpose |

(including commercial training), subject to condition that no computer terminal shall be installed outside bonded premises for this purpose.

6.20.4 Export of iron ore shall be subject to decision of Government. Requirements of other conditions of exports like minimum export price / export in consumer pack etc. as per ITC(HS) shall apply in case raw materials are sourced from DTA and exported without further processing / manufacturing by EOU. Export of textile items shall be covered by bilateral agreements. Wood based units shall comply with direction of Supreme Court contained in its order dated 12.12.1996 in Writ (civil) No 202 of 1995-T.N.Godavarman Thirrumulppad v/s Union of India and others with WP(Civil) No 171 of 1996 in regard to use of timber / other wood.

Sub-Contracting

6.21.1 Sub-contracting by EOU gems and jewellery units through other EOUs, or SEZ Units, or units in DTA, shall be subject to following conditions:-

- (a) Goods, finished or semi finished, including studded jewellery, taken out for sub- contracting shall be brought back to unit within 90 days.
- (b) No cut and polished diamonds, precious and semiprecious stones (except precious, semi-precious and synthetic stones having zero duty) shall be allowed to be taken out for sub-contracting.
- (c) Receive plain gold / silver / platinum jewellery from DTA / EOU / SEZ units in exchange of equivalent quantity of gold / silver / platinum, as case may be, contained in said jewellery.
- (d) EOUs shall be eligible for wastage as applicable as per para 4A.2 of HBP v1 for sub-contracting and against exchange.
- (e) DTA unit undertaking job work or supplying jewellery against exchange of gold / silver / platinum shall not be entitled to deemed export benefits.

6.21.2 Facility of getting job work done from DTA unit will be available even when job worker is not registered with Central Excise authority, subject to condition that goods are brought back to premises of Unit on completion of job work.

6.21.3 Export of finished goods from job worker's premises may be permitted, provided such premises are registered with Central

Excise authorities. Where job worker is SEZ / EOU / EHTP / STP / BTP unit, no such excise registration is required and export may be effected either from job worker's premises or from premises of unit. Export of such products from job worker's premises shall not be allowed through third parties as provided in FTP.

6.21.4 EOUs may be permitted to remove moulds, jigs, tools, fixtures, tackles, instruments, hangers and patterns and drawings to premises of sub-contractors, subject to conditions that these shall be brought back to premises of units on completion of job work within a stipulated period. Raw materials may or may not be sent along with these goods.

6.21.5 In case of sub-contracting of production process abroad, goods may be exported from sub-contractor premises subject to conditions that job work charges shall be declared in export declaration forms, invoices etc. and full repatriation of foreign exchange.

Contract Farming

6.22 EOUs engaged in production / processing of agriculture / horticulture/ aquaculture products, may, on basis of annual permission from Customs authorities, take out inputs and equipments (specified at Appendix 14-I-J) to DTA farm subject to following conditions:-

- (a) Supply of inputs by EOUs to contract farm(s) shall be subject to input-output norms approved by DGFT / BoA.
- (b) There shall be contract farming agreement between EOU and DTA farmer(s).
- (c) Unit has been in existence for at least two years and engaged in export of agriculture / horticulture /aquaculture products; otherwise it shall furnish bank guarantee equivalent to duty foregone on capital goods /inputs proposed to be taken out to Deputy / Assistant Commissioner of Customs / Central Excise, till unit completes two years.

Export through Exhibitions / Export Promotion tour

6.23 EOU / EHTP / STP / BTP units may export goods for holding / participating in exhibitions abroad, with permission of DC, subject to following conditions:-

- (a) Unit shall produce to Customs authorities letter in original, or its certified copy containing approval of DC. For gems and jewellery items, a self-certified photograph of products shall also be submitted.

- (b) In case of re-import, such items, on arrival shall be verified along with export documents before clearance.
- (c) Items not sold abroad shall be re-imported within 60 days of close of exhibition. However, in case exporter is participating in more than one exhibition within 45 days of close of first exhibition, then 60 days shall be counted from date of close of last exhibition.
- (d) In case of personal carriage of goods and for holding/ participating in overseas exhibitions, value of such gems and jewellery shall not exceed US \$ 2 million.
- Personal Carriage of gems and jewellery for Export promotion tours*** 6.24 Personal carriage of gold / silver / platinum jewellery, cut and polished diamonds, precious, semi-precious stones, beads and articles as samples upto US \$ 100,000 for export promotion tours, and temporary display / sale abroad, by EOUs, is also permitted with approval of DC subject to following conditions:-
- (a) EOU shall bring back goods or repatriate sale proceeds within 45 days from date of departure through normal banking channel.
- (b) Unit shall declare personal carriage of such samples to Customs while leaving country and obtain necessary endorsement.
- Export through show-rooms abroad/duty free shops*** 6.25 Export of goods is also permitted for display / sale in permitted shops set up abroad or in showrooms of their distributors / agents. Items not sold abroad within 180 days shall be re-imported within 45 days.
- Sale through showrooms / retail outlets at International Airports*** 6.26 EOUs may set up showrooms / retail outlets at International Airports for sale of goods in accordance with procedure laid down by Customs authorities. Items remaining unsold after a period of 60 days shall be exported or returned to respective EOUs.
- Personal carriage of Import/export Parcels including through foreign bound passengers*** 6.27.1 Import / export through personal carriage of gem and jewellery items may be undertaken as per procedure prescribed by Customs. Export proceeds shall be realized through normal banking channel. Import / export through personal carriage, other than gem and jewellery units, shall be allowed provided goods are not in commercial quantity.
- 6.27.2 For Personal carriage of jewellery by foreign bound passenger, following documents shall be submitted by EOUs as proof of exports:

***Replacement /
Repair of imported /
indigenous goods***

- (a) Copy of shipping bill filed by EOUs;
 - (b) A copy of Currency Declaration Form filed by Foreign buyer with Customs at time of his arrival; and
 - (c) Foreign Exchange Realisation / Encashment Certificate from Bank.
- 6.27.3 In addition to this, Personal Carriage by foreign bound passenger on Document Against Acceptance (DA) / Cash On Delivery (COD) basis is also allowed. EOUs will have to furnish following documents as proof of exports:-
- (a) Copy of Shipping Bill;
 - (b) Bank Certificate of Export and Realisation.
- 6.27.4 Procedure for personal carriage of import parcels will be same as for import of goods by airfreight except that parcels shall be brought to Customs by EOUs / foreign national for examination and release. Instructions issued by Customs authorities in this regard should be followed mutatis mutandis.
- 6.27.5 Personal carriage of parts by foreign bound passengers shall be allowed in case same are required for repairs of exported goods at customer site. Following documents should be submitted as proof of exports:-
- (a) Permission letter from Customs for exports.
 - (b) Invoice with value (for payment or free of charge).
- 6.28.1 Units may send capital goods abroad for repair with permission of Customs authorities. Any foreign exchange payment for this purpose will also be allowed. However, no permission will be required for sending capital goods for repair within country.
- 6.28.2 EOU/EHTP/STP/BTP units may, on basis of records maintained by them and prior intimation to Customs authorities:-
- (a) Transfer goods to DTA / abroad for repair / replacement, testing or calibration and return.
 - (b) Transfer goods for quality testing / R&D purpose to any recognised laboratory / institution upto Rs.5 lakhs per annum without payment of duty, on giving suitable undertaking to Customs for return of goods. However, if goods have been consumed / destroyed in process of testing etc. a certificate from laboratory / institution to this effect be furnished to Customs.

Samples

- 6.29.1 EOU / EHTP / STP / BTP units may on basis of records maintained by them, and on prior intimation to Customs authority supply or sell samples in DTA for display / market promotion on payment of applicable duties.
- 6.29.2 Remove samples without payment of duty, on furnishing a suitable undertaking to Customs authorities for bringing back samples within a stipulated period.
- 6.29.3 An EOU may export free samples, without any limit, including samples made in wax moulds, silver mould and rubber moulds through all permissible mode of export including through courier agencies / post.
- 6.29.4 An EOU on basis of records maintained by them and on prior intimation to customs authorities may send samples to other EOUs for display on returnable basis within a period of 30 days.

***Donation of
Computer and
Computer peripherals***

- 6.30 EOU / EHTP / STP / BTP unit may be allowed by Customs authorities concerned to donate imported / indigenously procured (bought or taken on loan) computer and computer peripherals, including printer, plotter, scanner, monitor, keyboard and storage units without payment of duty, two years after their import / procurement and use by units, to a school run by Central Government, or Government of a State or, a Union Territory or, a local body, an Educational Institution run on non-commercial basis by any organization, a Registered Charitable Hospital, a Public Library, a Public Funded Research and Development Establishment, a Community Information Center run by Central Government or, Government of a State or, a Union Territory or local body, an Adult Education Center run by Central Government or, Government of a State or, a Union Territory or a local body, or an organization of Central Government or, a Government of a State or, a Union Territory as per Customs / Central Excise notification.

Destruction of goods

- 6.31 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 Custom 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.

Distinct Identity

- 6.32 If an industrial enterprise is operating both as a domestic unit as well as an EOU / EHTP / STP / BTP unit, it shall have two distinct identities with separate accounts, including separate bank accounts. It is, however, not necessary for it to be a separate legal entity, but it should be possible to distinguish imports and exports or

supplies affected by EOU / EHTP / STP / BTP units from those made by other units of enterprise.

***Unit Approval
Committee for EOUs***

6.33.1 Powers and functions of Unit Approval Committee of EOUs shall be as under:-

- (a) To consider applications for setting up EOUs other than proposals for setting up of unit in services sector (except R&D, software and IT enabled services, or any other service activity as may be delegated by BoA). Items of manufacture requiring industrial licence under Industrial (Development & Regulation) Act, 1951 shall be considered by BoA.
- (b) to consider and permit conversion of units in SEZ to EOU;
- (c) to monitor performance of Units;
- (d) to supervise and monitor permission, clearances, licences granted to units and take appropriate action in accordance with law;
- (e) to call for information required to monitor performance of unit under permission, clearances, licenses granted to it;
- (f) to perform any other function delegated by Central Government or its agencies;
- (g) to perform any other function as may be delegated by State Governments or its agencies; and
- (h) to grant all approvals and clearances for establishment and operation of EOUs.

***Approval of EHTP /
STP / BTP units***

6.33.2 In case of units under EHTP / STP scheme, necessary approval / permission shall be granted by officer designated by DoIT/ Director (STPI). Designated officer shall also exercise powers of adjudication under Section 13 read with Section 11 of FT (D&R) Act, 1992 in respect of STP / EHTP as mentioned in Gazette Notification No. S.O. 106 (E) dated 30-1-2006. Similarly in case of units under BTP, necessary approval / permission shall be granted by officer designated by DoBT. However, designated officers shall adopt criteria for automatic approval of new units as laid down in Appendix 14-I-B.

***Administration of
EOUs / Power of DC /
Designated Officer***

6.34 DC / Designated Officer shall have following powers in respect to units. Jurisdiction of DC is given in Appendix 14-I-K.

- (1) Conversion of sick / closed DTA unit into EOU;
- (2) Conversion of EOU to STP / EHTP / BTP and vice-versa as per prescribed procedure;
- (3) To allow increase in value of capital goods in terms of Indian Rupees, on account of foreign exchange rate fluctuations;
- (4) To permit capacity enhancement without any limit in case of de-licensed industries only;
- (5) Permit broad-banding for similar goods and activities mentioned in LoP or to provide for backward or forward linkages to existing line of manufacture;
- (6) Authorize change in name of company or implementing agency and change from a company to another provided new implementing agency / company undertakes to take over assets and liabilities of existing unit;
- (7) Permit change of location from place mentioned in LoP to another and / or include additional location provided that no change in other terms and conditions of approval is envisaged and that new location is within territorial jurisdiction of DC / Designated Officer;
- (8) Extend validity period of LoP by three years beyond initial validity period of LoP (except in case where there is a restriction on initial period of approval, like setting up of oil refinery projects);
- (9) Cancel LoP wherever warranted;
- (10) Permit merger of two or more units into one unit provided units fall within jurisdiction of same DC / Designated Officer subject to conditions that activities are covered under provision of broad banding;
- (11) Exercise powers of adjudication under Section 13 read with Section 11 of FT (D&R) Act, in respect of EOUs as mentioned in Gazette Notification No. SO. 194(E) dated 6.3.2000;
- (12) Do valuation of exports declared on SOFTEX form by EOUs as per RBI A.D. (M.A Series) Circular AP (DIR series Circular No.9 dated 25.10.2001);

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| | | (13) Issue eligibility certificates for grant of employment visa to low level foreign technicians to be engaged by EOUs as per Ministry of Home Affairs' letter No. 25022 / 7 / 99-F.1 dated 20.9.1999; |
| <i>Registration – cum - Membership Certificate</i> | | (14) Function as a Registering authority for EOU / EHTP / STP/ BTP. A separate Registration cum- Membership Certificate shall not be required in their cases as provided for in paragraph 2.44 of FTP except in case of spices. In case of spices, it would be mandatory for units to get themselves registered with Spices Board also. |
| <i>Importer Exporter Code No.</i> | | (15) Allot Importer-Exporter Code number for EOUs, if same has already not been allotted to entity; |
| <i>Green Card</i> | | (16) Issue of Green Card automatically after execution of LUT; |
| | | (17) Grant / renewal of Status Certificate in respect of EOUs provided it does not involve clubbing of FOB value of exports of its parent company in DTA; |
| | | (18) Publicity of EOU / EHTP / STP / BTP Scheme under their jurisdiction. |
| <i>Change of location / inclusion of additional location with BoA approval</i> | 6.34A | BoA may consider change of location of EOU / EHTP / STP / BTP unit from place mentioned in LoP to another and / or to include additional location outside territorial jurisdiction of original DC / Designated Officer, subject to such conditions as BoA may decide. |
| <i>Clearance of Capital Goods in DTA</i> | 6.35 | Clearance of Capital Goods including second hand in DTA shall be allowed as per FTP under EPCG Scheme. In other cases, clearance in DTA may be allowed on payment of applicable duty and Import Policy in force on date of such clearance. |
| <i>Depreciation norms</i> | 6.36.1 | Depreciation up to 100% is permissible for Computers and Computer peripherals in 5 years and 10 years in case of other items. |
| <i>Depreciation norms for Computers and Computer peripherals</i> | 6.36.2 | Depreciation for computers and computer peripherals shall be as follows: 10% for every quarter in first year; 8% for every quarter in second year; 5% for every quarter in third year; 1% for every quarter in fourth and fifth year. |

***Depreciation norms
for other Capital goods***

- 6.36.3 For capital goods, other than above, depreciation rate would be as follows:
4% for every quarter in first year;
3% for every quarter in second and third year;
2.5% for every quarter in fourth and fifth year,
2% for every quarter thereafter.

Conversion

- 6.37.1 Existing DTA units, may also apply for conversion into an EOU / EHTP / STP / BTP unit, but no concession in duties and taxes would be available under scheme for plant, machinery and equipment already installed. On conversion, they would get Income Tax concessions but limited to period of 10 year from original commencement of manufacture or that prescribed under Section 10 of Income Tax Act whichever is earlier. For this purpose, DTA unit may apply to DC / Designated Officer concerned in same manner as applicable to new units. In case there is an outstanding export commitment under EPCG scheme / Advance Authorization Scheme, it will follow the procedure laid down in Appendix 14-I-O of HBP v1.

- 6.37.2 Existing EHTP / STP / BTP units may also apply for conversion / merger to EOU unit and vice-versa. In such cases, units will continue to avail permissible exemption in duties and taxes as applicable under relevant scheme. EHTP / STP / BTP units desiring conversion as an EOU may apply to DC concerned through Officer designated by DoIT / DoBT in same manner as applicable to new units. Likewise EOU desiring conversion into EHTP / STP / BTP may apply to officer designated by DoIT / DoBT through DC concerned.

- 6.37.3 An EOU may be shifted to SEZ with approval of DC provided EOU unit has achieved pro-rata obligation under EOU scheme

Revival of Sick units

- 6.38 Subject to a unit being declared sick by appropriate authority, proposals for revival of unit or its take over may be considered by BoA. Guidelines on revival of sick units are given in Appendix 14-I-M.

6.39 **FAST TRACK CLEARANCE PROCEDURE**

Eligibility

- 6.39.1 EOUs having a status holder certificate under FTP shall be eligible for Fast Track Clearance Procedure.

***Examination of
Import Cargo***

- 6.39.2 Status holder units shall be exempted from examination of import cargo at Port of import. Jurisdictional Commissioner of Customs / Central Excise may, however, examine consignments at unit's place on random basis.

| | | |
|--|--------|--|
| <i>Domestic procurement and import of goods</i> | 6.39.3 | Units having physical export turnover of Rs. 15 crores and above in preceding financial year shall be allowed to import goods without payment of duty on basis of pre-authenticated procurement certificate issued by jurisdictional Customs / Central Excise Authority. |
| <i>Installation of Fax Machine/Computers</i> | 6.39.4 | Eligible EOUs may install one fax machine and two computers in their administrative / registered office outside bonded premises under prior intimation to jurisdictional Asst / Deputy Commissioner of Customs or Central Excise. |
| <i>Procurement of DG sets</i> | 6.39.5 | Procurement of DG set of capacity commensurate with actual requirement of unit shall be permitted under intimation to DC and jurisdictional Central Excise authority. |
| <i>Temporary removal of Capital Goods</i> | 6.39.6 | Eligible EOU units may remove their capital goods or parts thereof for repairs under prior intimation to jurisdictional Asstt. / Deputy Commissioner of Customs or Central Excise. |
| <i>Clearance of rejects in DTA</i> | 6.39.7 | Request for permission for DTA clearance of rejects shall be considered by jurisdictional Excise Authority on priority basis. |
| <i>Personal carriage of samples</i> | 6.39.8 | Personal carriage of samples of Gems & Jewellery by status holder EOUs are allowed subject to limit fixed in Para 6.24 without a need for prior permission from DC / Customs / Central Excise. |
| <i>Activities which do not require permission</i> | 6.39.9 | In respect of following activities of a status holder, permission will not be required from DC or jurisdictional Central Excise authority: DTA sale of finished products in terms of para 6.8(a) of FTP; Participation in exhibition and Personal carriage of Gems & Jewellery for export promotion tours subject to fulfillment of conditions of para 6.24 of HBP v1. However, prior intimation thereof needs to be given. |
| <i>Time bound disposal of applications</i> | 6.40 | DC shall dispose off applications expeditiously. Following time schedule shall normally be followed to dispose of applications provided application is complete in all respects and is accompanied by prescribed documents. |

| S. No | Category of Application | Time limit for disposal (days) |
|--------------|--------------------------------|---------------------------------------|
| 1 | Issue of LoP / LoI | 15 |
| 2 | Conversion of LoP / LoI | 15 |
| 3 | Acceptance of LUT | 3 |
| 4 | Renewal of LUT | 3 |

| S. No | Category of Application | Time limit for disposal (days) |
|--------------|---|---------------------------------------|
| 5 | Permission for broad banding / diversification | 3 |
| 6 | Permission for change in locations | 7 |
| 7 | Permission for Advance DTA sale | 2 |
| 8 | Permission for merger of units | 7 |
| 9 | Permission for enhancement of production capacity | 3 |
| 10 | Cancellation of LoP | 3 |
| 11 | Permission for debonding / exit | 7 |
| 12 | Permission for DTA sale | 2 |
| 13 | Eligibility certificate for employment visa for lower level technicians | 2 |
| 14 | Issue of Green Card | 2 |
| 15 | Renewal of Green Card | Same day |
| 16 | Permission to lease CG | 1 |
| 17 | Permission for disposal of scrap/waste | 2 |
| 18 | Permission for change in name | 2 |
| 19 | Inter Unit Transfer | 2 |
| 20 | Wastage Norms, ad-hoc | 2 |
| 21 | Permission for re-import | Same day |
| 22 | Permission for re-export | Same day |
| 23 | Permission for replacement/repair of goods | Same day |
| 24 | Allotment of I.E. Code | 1 |
| 25 | Authorization of softex form | 1 |
| 26 | Reimbursement of CST claims | 7 |
| 27 | Issue of GSP Certificate | Same day |
| 28 | Permission for conversion of EOU to STPI, EPCG | 5 |
| 29 | Permission of final exit of EOU | 5 |
| 30 | Permission of extension of EOU | 2 |
| 31 | Permission to allow increase in value of CG | 2 |
| 32 | Permission for export through exhibition / tour | 2 |
| 33 | Reimbursement of Duty Drawback / TED | 7 |

CHAPTER – 7

SPECIAL ECONOMIC ZONES

Policy relating to Special Economic Zones is contained in Special Economic Zone Rules, 2006 notified in the Gazette of India, Extraordinary No. GSR 54(E) dated 10.2.2006.

CHAPTER – 8

DEEMED EXPORTS

- Policy*** 8.1 Policy relating to Deemed Exports is in Chapter-8 of FTP.
- Criteria for claiming Deemed Exports Benefits***
- 8.2.1 In respect of supplies under Paragraph 8.2(a) of FTP, procedure for issue of ARO and Back-to-Back Inland Letter of Credit is given in paragraphs 4.14 and 4.15 of HBP v1.
- 8.2.2 In respect of supplies under paragraph 8.2(b) of FTP and DFIA, deemed export benefits may be claimed from Development Commissioner or RA concerned. Advance Authorisation and DFIA shall be claimed from the concerned RA. Such supplies shall be certified by receiving agencies.
- 8.2.3 In respect of supply of capital goods under paragraph 8.2 (c) of FTP, supplier shall produce a certificate from EPCG Authorisation holder evidencing supplies / receipt of manufactured capital goods.
- 8.2.4 In respect of supplies under categories mentioned in paragraphs 8.2(d), (e), (f), (g), (i) and (j) of FTP, application for advance authorisation shall be accompanied with a Project Authority Certificate in Appendix 27. Payment against such supplies shall be certified by Project Authority concerned as in Appendix 22 C.
- Procedure for claiming Deemed Exports Drawback & Terminal Excise Duty Refund/ Exemption from payment of Terminal Excise Duty*** 8.3.1 Procedure for claiming benefits under paragraph 8.3(b) and (c) of FTP shall be as under:-
- (i) An application in ANF 8 along with prescribed documents, shall be made by supplier to RA concerned. Recipient may also claim benefits on production of a suitable disclaimer from supplier along with a self declaration in Appendix 22C of HBP v1 regarding non-availment of CENVAT credit in addition to prescribed documents.
- (ii) In case of supplies under paragraph 8.2(a), (b) & (c) of FTP, claim shall be filed against receipt of payment through normal banking channel as in Appendix 22B. Claims should be filed within a period of twelve months from the date of payment. In cases where payment is received in advance, last date for submission of application may be correlated with date of supply instead of date of receipt of payment. Claim can be filed 'Invalidation Letter/ARO wise' against individual licences within the time limit as specified above. 100% TED refund may be allowed after 100% supplies have been made physically and payment received at least up to 90%. However, grant of deemed

export duty draw back will be limited to the extent of payment received.

- (iii) In respect of supplies under paragraph 8.2(b) of FTP where supplier wants to claim benefits from RA, RA shall allow deemed export benefits to DTA supplier, on receipt of certified copies of Central Excise attested invoice as proof of supplies made and / or Excise attested CT3 form and proof of validity of LoP.
- (iv) In respect of supplies under categories mentioned in paragraphs 8.2(d), (e), (f), (g), (h), (i) & (j) of FTP, claim may be filed either on the basis of proof of supplies effected or payment received. Claims should be filed within a period of twelve months from date of receipt of supplies by project authority or from date of receipt of the payment as per the option of applicant either against a particular project or all the projects. Claims may also be filed where part payments have been received. 100% TED refund may be allowed after 100% supplies have been made physically and payment received at least up to 90%. However, grant of deemed export duty draw back will be limited to the extent of payment received.

8.3.2 For claiming exemption from payment of terminal excise duty, procedure prescribed by Central Excise authority shall be followed.

8.3.3 Where All Industry Rate of Drawback is not available or same is less than 4/5th of duties actually paid on materials or components used in production or manufacture of the said goods, an application in ANF 8 along with prescribed documents may be made to RA or DC, for fixation of brand rate. Recipient may claim benefits on production of a suitable disclaimer from supplier along with a self declaration in Appendix 22 C of HBP v 1 regarding non-availment of CENVAT credit in addition to prescribed documents.

8.3.4 Claim application shall be filed along with application for fixation of brand rate of duty drawback in case brand rate is required to be fixed. Provision of late cut under paragraph 9.3 and supplementary claim under paragraph 9.4 shall also be applicable under this sub-paragraph.

8.3.5 RA may consider provisional payment up to 75% of drawback claim in case of private companies and 90% in case of PSUs, pending fixation of Brand Rate.

8.3.6 Subject to procedure laid down in this Handbook, Customs and Central Excise Duty Drawback Rules, 1995 shall apply mutatis mutandis to deemed exports.

***Procedure for claiming
deemed export benefits
by Sub-contractor***

8.4 In respect of supplies made by sub-contractor to main contractor under paragraph 8.2(d), (e), (f), (g), (i) and (j), main contractor may make payment to sub-contractor and issue payment certificate as in Appendix 22-C as Form 1-C. However, for supplies under paragraph 8.2(d), (e), (f), (g) and (j), payment certificate from main contractor shall not be insisted for refund of Terminal Excise duty. Deemed exports benefits to sub-contractor would be available to the extent of goods that are manufactured and supplied by him or outsourced from other manufacturers, for value as indicated in Appendix 22-C of HBP v1.

***Payment of interest on
delayed refund of Duty
Drawback / TED on
deemed exports***

8.5 In accordance with Para 8.5.1 of Foreign Trade Policy, simple interest @ 6% per annum is payable in the case of delayed refund of Duty drawback and TED under deemed export if the claim which has become due on or after 01.04.2007, is not settled within 30 days after its final approval by the Regional Authorities. This period of 30 days will be reckoned from the date of approval of the case by the Regional Authority and communicated to the firm through a standard letter. The application for claiming interest shall be filed in prescribed Aayaat Niryaat Form within a period of 90 days after receipt of cheque for the main claim. The Regional Authorities will issue a separate cheque for payment of interest and also maintain accounts separately.

CHAPTER – 9

MISCELLANEOUS MATTERS

Change In Name and Constitution 9.1 An IEC holder must get the change in name / address / constitution incorporated within 90 days of such change. Provided, however, RA issuing IE Code may, condone delay on payment of penalty of Rs. 1000/-.

Change in constitution, aforesaid, does not include change in directors of Public Limited Company.

Denomination of Import Authorisation / Licence / Certificate / Permissions 9.2 CIF value of Authorisation / FOB value of export obligation shall be indicated both in Rupees and in freely convertible currency(s) at the exchange rate(s) prevailing on Authorisation issue date.

9.2.1 Remittance of foreign exchange and discharge of export obligation against Authorisation shall be regulated in freely convertible currency.

9.2.1.1 No enhancement in Rupee value shall be necessary if remittance of foreign exchange is covered by CIF value of Authorisation shown in freely convertible currency.

9.2.2 However, on Advance Authorisation(s), issued for exports to ACU countries, export obligation shall be denominated and discharged in ACU dollars.

9.2.3 Export obligation in Advance Authorisation for intermediate supply and for deemed export, where supplies are to be made within the country, shall be denominated and discharged in Indian rupees.

Applications Received After Expiry of Prescribed Date of Receipt 9.3 Wherever any application is received after expiry of last date for submission of such application, the application may be considered after imposing a late cut in the following manner:

| | | |
|----|---|----|
| 1. | Application received after the expiry of last date but within six months from the last date | 2% |
| 2. | Application received after six months from the prescribed date of submission but not later than one year from the prescribed date | 5% |

Supplementary Claims 9.4 Wherever any application for supplementary claim is received, within specified time limits, such application may also be considered after imposing a cut @2% on the entitlement.

- Furnishing of Information*** 9.5 Every importer/ exporter shall furnish such information as may be called for by DGFT or any officer duly authorised.
- Clarifications On Policy / Procedures*** 9.6 A request seeking clarifications on any provision of FTP or HBP, importability or exportability of items under ITC(HS), may be made to DGFT in the form in Appendix-28. Clarification may also be sought on E-mail.
- Consumption Register*** 9.7 Importer shall maintain a register as in Appendix-23 (for 3 years period) of items imported under an Authorisation and separately for items imported with actual user condition and its consumption. In respect of particular schemes such register shall be maintained for specified period.
- Export Facilitation*** 9.8 In order to resolve exporters' problems in a co-ordinated manner, field offices of DGFT shall act as Export Facilitation Centres and nodal agencies. In addition, Nodal Officers have also been nominated in other Ministries/ Departments and a list of such officers nominated to assist exporters is given in Appendix-17.
- Standing Grievance Committee*** 9.9 Detail of the Grievance Redressal Mechanism is given in para 2.49 of FTP.
- For speedy redressal of genuine grievances of trade and industry pertaining to FTP and Procedure, Grievance Committees have been constituted chaired by (i) DGFT at Headquarters and (ii) head(s) of RA(s) in regional offices. Grievance Committee will include representatives of Federation of Indian Export Organisations (FIEO), Export Promotion Councils/ Commodity Boards, Development Authorities, and Government Departments/ technical authorities as their members.
- 9.9.1 Chairman of the respective Grievance Committee(s) may also co-opt any other member. Meetings of such Committees shall be held on a monthly basis.
- 9.9.2 Every exporter/importer shall have a right to seek and have an opportunity to make a representation (in writing) to and be personally heard, if he so desires, by Grievance Committee.
- 9.9.3 A representation to Grievance Committee may be made in as in Appendix-26.
- Counter Assistance*** 9.10 For speedy disposal of applications, "Counter Assistance" will function in all offices of DGFT.
- An FTDO shall be in charge of counter in each office. On submission of application at the counter, applicant will be handed over a token and would be advised on same day whether his

application is complete and admitted for further processing by the office or whether there is any deficiency that needs to be rectified.

- 9.10.1 Counter Assistant will send application to concerned section on day of receipt for necessary scrutiny. If there are any deficiencies, these will be noted by concerned section and returned to counter on the same day. In case of complete applications, applicant will be given a formal receipt indicating file number for further reference. Deficient applications will be returned to applicant for complying with all deficiencies. Complete applications shall be processed by concerned section within the time frame as given under paragraph 9.11.

Communication of any deficiency noted subsequently should be undertaken only with approval of head of office who shall be responsible for effective functioning of Counter Assistance.

- 9.10.2 Counter Assistance may also be availed of for amendments of minor nature/enquiries. Applications, in such cases, will be received in regional offices at counter against a proper receipt. Authorisation/licence/list/enquiry, shall be returned after carrying out necessary amendments/ giving necessary reply as far as possible on the same day, across the Counter.

Time Bound disposal of applications

- 9.11 RA shall dispose off applications expeditiously. Following time schedule shall normally be followed to dispose of applications provided it is complete in all respects and is accompanied by prescribed documents.

| S.No. | Category of Application | Time Limit For Disposal (in working days) |
|-------|---|---|
| a) | IEC Number | 2 |
| b) | Advance Authorisation where Input-Output norms are notified or under paragraph 4.7, Advance Authorisation for Annual Requirement and DFIA | 3 |
| | Advance Authorisation where Input-Output norms are notified but where cases are to be approved by Commerce & Industry Minister | 15 |
| | Advance Authorisations where Input-Output Norms are not notified | 45 |
| | Fixation of input output norms | 90 |

| | | |
|----|---|----|
| c) | DEPB | 3 |
| d) | (i) EPCG Authorisations on self declaration basis | 3 |
| | (ii) EPCG Authorisations for fixation of nexus (other than those covered in (i) above | 45 |
| e) | All Authorisations under Gem & Jewellery scheme. | 3 |
| f) | Revalidation of Authorisation and extension of export obligation period by R.A. | 3 |
| g) | Acceptance of BG/LUT | 3 |
| | Redemption of BG/LUT for Advance Authorisations and DFIA. | 15 |
| | Redemption of BG/LUT for EPCG Authorisations. | 30 |
| h) | Issuance/renewal of status certificate. | 3 |
| i) | Amendment of any category of Authorisation | 3 |
| j) | Fixation of deemed exports Drawback rate | 45 |
| k) | Miscellaneous | 10 |
| l) | All applications filed through EDI mode | 1 |

Cases of undue delay in disposal of applications may be brought to notice of head of regional offices by way of a written representation, which shall be promptly enquired into and responded to.

***Date of Shipment/
 Dispatch In respect
 of Imports***

| | | |
|--------|---|---|
| 9.11 A | Date of shipment/dispatch for imports will be reckoned as under:- | |
| | Mode of Transportation | Date of Shipment / Dispatch |
| | (i) By Sea | The date affixed on the Bill of Lading |
| | (ii) By Air | Date of relevant Airway Bill provided this represents date on which goods left last airport in the country from which the import is effected. |

- (iii) From land-locked countries Date of dispatch of goods by rail, road or other recognised mode of transport to consignee in India through consignment basis.
- (iv) By Post Parcel Date stamp of office of dispatch on the packet or dispatch note
- (v) By Registered Courier Service Date affixed on Courier Receipt / Waybill
- (vi) Multimodal transport Date of handing over goods to first carrier in a combined transport Bill of Lading.

***Date of Shipment/
 Dispatch in respect
 of Exports***

9.12 Date of shipment/despatch for exports will be reckoned as under:-

- | Mode of Transportation | Date of Shipment / Dispatch |
|-----------------------------------|--|
| (i) By Sea | <p>For bulk cargo, date of Bill of Lading or date of mate receipt, whichever is later.</p> <p>a) For containerised cargo, date of “Onboard Bill of Lading”, or “Received for Shipment Bill of Lading”, where the L/C provides for such Bill of Lading. For exports by containers from Inland Container Depot (ICD), date of Bill of Lading issued by shipping agents at the time of loading of export goods in ICD after customs clearance.</p> <p>b) For Lash barges, date of Bill of Lading evidencing loading of export goods on board.</p> |
| (ii) By Air | Date mentioned by appropriate Officer of Customs on Shipping Bill, evidencing loading or handing over of goods to air cargo complex, which are not international airports, or by way of rotation of flight number and date. |
| (iii) By Post Parcel | Date stamped on postal receipt. |
| (iv) By Rail | Date of RR (Railway Receipt). |
| (v) By Registered Courier Service | Date affixed on Courier Receipt/ Waybill. |

- (vi) By Road Date on which goods crossed Indian border as certified by Land Customs Authorities.

However, wherever Procedural / Policy provisions have been modified to disadvantage of exporters, same shall not be applicable to consignments already handed over to Customs for examination and subsequent exports upto Public Notice / Notification date.

Similarly, in such cases where goods are handed over to the customs authorities before expiry of export obligation period but actual Exports take place after expiry of the export obligation period, such exports shall be considered within export obligation period and taken towards fulfilment of export obligation.

General Power of review. 9.13

DGFT may, on his own or otherwise, call for records of any case pending with or decided by an officer subordinate to him or an officer of any EPC/FIEO including a Group/ Committee of officers nominated, appointed or authorised by him and pass such orders as he may deem fit.

APPENDICES

APPENDICES ARE AN INTEGRAL PART OF THE HANDBOOK OF PROCEDURES – VOLUME 1 (2004-2009) INCORPORATING THE ANNUAL SUPPLEMENT AS NOTIFIED BY THE PUBLIC NOTICE NO.1 (RE-2008) / 2004-2009 DATED 11TH APRIL 2008 AND HAVE BEEN PUBLISHED SEPERATELY.

APPENDICES ARE ALSO AVAILABLE ON THE DGFT WEBSITE AND CAN BE ACCESSED AT <http://dgft.gov.in>

