

CHAPTER 2

GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS

- 2.1** (a) Exports and Imports shall be ‘Free’, except when regulated. Such regulation would be as per FTP and/or ITC (HS).
- Exports and Imports – ‘Free’, unless regulated** (b) ITC (HS) contains the item wise export and import policy regimes. The ITC (HS) is aligned with international Harmonized System goods nomenclature maintained by World Customs Organization (<http://www.wcoomd.org>).
- (c) Schedule 1 of ITC (HS) gives the Import Policy Regime and Schedule 2 of ITC (HS) gives the Export Policy Regime.
- (d) Except where it is clearly specified in Schedule 1 of ITC (HS), Import Policy is for new goods and not for Second Hand goods. For Second Hand goods, the Import Policy Regime is given in Para 2.17 on this FTP.
- 2.1.1** **Prohibition on Import and Export of ‘Arms and related material’ from / to Iraq** Despite the policy for ‘Arms and related material’ as is given in Chapter 93 of ITC (HS), the import / export of arms and related material from / to Iraq shall be ‘Prohibited’.
- 2.1.2** **Prohibition on Direct or Indirect Import and Export from / to Democratic People’s Republic of Korea** Direct or indirect export and import of following items, whether or not originating in Democratic People’s Republic of Korea (DPRK), to / from, DPRK is ‘Prohibited’:
All items, materials equipment, goods and technology including as set out in lists in documents S/2006/814, S/2006/815 (including S/2009/205), S/2009/364 and S/2006/853 (United Nations Security Council Documents) INFCIRC/254/Rev.9/Part1a and INFCIRC/254/Rev.7/Part 2a (IAEA documents) which could contribute to DPRK’s nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes.
- 2.1.3** (a) Direct or indirect export and import of all items, materials,

Prohibition on Direct or Indirect Import and Export from / to Iran	<p>equipment, goods and technology which could contribute to Iran's enrichment-related, reprocessing or heavy water related activities, or to development of nuclear weapon delivery systems, as mentioned below, whether or not originating in Iran, to / from Iran is 'Prohibited':</p> <p>(i) Items listed in INFCIRC/254/Rev.9/Part 1 and INFCIRC/254/Rev.7/Part 2 (IAEA Documents)</p> <p>(ii) Items listed in S/2006/263 (UN Security Council Document)</p> <p>(b) All the UN Security Council Resolutions / Documents and IAEA Documents referred to above are available on the UN Security Council website (www.un.org/Docs/sc) and IAEA website (www.iaea.org).</p>
2.1.4 Prohibition on Import of Charcoal from Somalia	<p>Direct or indirect import of charcoal is prohibited from Somalia, irrespective of whether or not such charcoal has originated in Somalia [United Nations Security Council Resolution 2036 (2012)]. Importers of Charcoal shall submit a declaration to Customs that the consignment has not originated in Somalia.</p>
2.2 Compliance of Imports with Domestic Laws	<p>In line with the National Treatment proviso of World Trade Organization (http://www.wto.org), Domestic Laws/ Rules/ Orders/ Regulations/ technical specifications/ environmental/ safety and health norms applicable to domestically produced goods shall apply, mutatis mutandis, to imports, unless specifically exempted.</p>
2.3 Interpretation of Policy	<p>(a) The decision of DGFT shall be final and binding on all matters relating to interpretation of Policy, or provision in HBP v1, HBP v2 or classification of any item for import / export policy in the ITC (HS).</p> <p>(b) A Policy Interpretation Committee (PIC) may be constituted to aid and advice DGFT.</p>
2.4 Procedure	<p>DGFT may, specify procedure to be followed by an exporter or importer or by any licensing / regional authority or by any other authority for purposes of implementing provisions of FT (D&R) Act, the Rules and the Orders made there under and FTP. Such procedures, or amendments if any, shall be published by means of a Public Notice.</p>
2.5	<p>DGFT may pass such orders or grant such relaxation or relief, as he</p>

Exemption from Policy/ Procedure

may deem fit and proper, on grounds of genuine hardship and adverse impact on trade. DGFT may, in public interest, exempt any person or class or category of persons from any provision of FTP or any procedure and may, while granting such exemption, impose such conditions as he may deem fit. Such request may be considered only after consulting committees as under:

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

2.6

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

Principles of Restriction

- (a) Protection of public morals;
- (b) Protection of human, animal or plant life or health;
- (c) Protection of patents, trademarks and copyrights, and the prevention of deceptive practices;
- (d) Prevention of use of prison labour;
- (e) Protection of national treasures of artistic, historic or archaeological value;
- (f) Conservation of exhaustible natural resources;
- (g) Protection of trade of fissionable material or material from which they are derived;
- (h) Prevention of traffic in arms, ammunition and implements of war.

2.7**Export / Import of Restricted Goods/ Services**

Any goods / service, the export or import of which is 'Restricted' may be exported or imported only in accordance with an Authorisation / Permission/ License or in accordance to the procedure prescribed in a notification / public notice issued in this regard.

2.8

Every Authorisation shall contain such terms and conditions as

may be specified by RA which may include:

Terms and Conditions of an Authorisation	<ul style="list-style-type: none"> (a) Description, quantity and value of goods; (b) Actual User condition; (c) Export Obligation; (d) Minimum Value addition to be achieved; (e) Minimum export/import price; (f) Validity period as specified in HBP v1.
2.9 Authorisation - not a Right	No person may claim an Authorisation as a right and DGFT or RA shall have power to refuse to grant or renew the same in accordance with provisions of FT (D&R) Act, Rules made there under and FTP.
2.10 Penalty	If an Authorisation holder violates any condition of such Authorisation or fails to fulfil export obligation, he shall be liable for action in accordance with FT (D&R) Act, the Rules and Orders made there under, FTP and any other law for time being in force.
2.11 State Trading	Any goods, import or export of which is governed through exclusive or special privileges granted to State Trading Enterprises (STE(s)), may be imported or exported by STE(s) as per conditions specified in ITC (HS). DGFT may, however, grant an Authorisation to any other person to import or export any of these goods. Such STE(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale in a non discriminatory manner and shall afford enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.
2.12 Importer-Exporter Code (IEC) Number	<ul style="list-style-type: none"> (a) No export or import shall be made by any person without an IEC number unless specifically exempted. An IEC number shall be granted on application by competent authority in accordance with procedure specified in HBP v1. (b) Exempt Categories and Permanent IEC numbers are given in Para 2.8 of HBP v1.
2.13 Trade with Neighbouring	DGFT may issue instructions or frame schemes as may be required to promote trade and strengthen economic ties with neighbouring countries.

Countries

2.14 Transit of goods through India from / or to countries adjacent to India shall be regulated in accordance with bilateral treaties between India and those countries and will be subject to such restrictions as may be specified by DGFT in accordance with International Conventions.

Transit Facility

2.15 In case of trade with Russia under Debt Repayment Agreement, DGFT may issue instructions or frame schemes as may be required, and anything contained in FTP, in so far as it is inconsistent with such instructions or schemes, shall not apply.

Trade with Russia under Debt-Repayment Agreement

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

Actual User Condition

2.17 For Second Hand goods, the Import Policy Regime is given as under:

Second Hand Goods

	Import Policy	Conditions, if any
I. Second Hand Capital Goods Group		
(a) Restricted Category:		
(i) Personal computers / laptops (ii) Photocopier machines / Digital multifunction Print & Copying Machines (iii) Air conditioners (iv) Diesel generating sets	Restricted	Allowed to be imported only as per provisions of FTP, ITC (HS), HBP v1, Public Notice or an Authorisation issued for import of the specified second hand item.
(b) Free Category:		
(i) Refurbished / re-conditioned spares of	Free	Subject to conditions

Capital Goods		specified in para 2.33 of HB Pv1
(ii) All other second hand capital goods	Free	
II. All other Second Hand Goods	Restricted	

2.17A A SEZ unit/Developer/ Co-developer may be allowed to dispose off in DTA, any waste or scrap, including any form of metallic waste and scrap, generated during manufacturing or processing activity, without an authorization, on payment of applicable Customs Duty, provided these are freely importable.

Removal of Scrap / Waste from SEZ

2.18 Import of samples shall be governed by Chapter 2 of HBP v1.

Import of Samples

2.19 Import of gifts shall be 'free' where such goods are otherwise freely importable under ITC (HS). In other cases, such imports shall be permitted against an authorisation issued by DGFT.

Import of Gifts

2.20 (a) Bona fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.

Passenger Baggage

(b) Samples of such items that are otherwise freely importable under FTP may also be imported as part of passenger baggage without an Authorisation.

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

2.21 Freely exportable new or second hand capital goods, equipments, components, parts and accessories, containers meant for packing of goods for exports, jigs, fixtures, dies and moulds may be imported for export without an Authorisation on execution of LUT / BG with Customs Authorities.

Import on Export Basis

2.22 Re-import of goods repaired abroad	Capital goods, equipments, components, parts and accessories, whether imported or indigenous, except those restricted under ITC (HS) may be sent abroad for repairs, testing, quality improvement or upgradation or standardization of technology and re-imported without an Authorisation.
2.23 Import of goods used in projects abroad	Project contractors after completion of projects abroad, may import without an Authorisation, goods including capital goods used in the project, provided they have been used for at least one year.
2.24 Sale on High Seas	Sale of goods on high seas for import into India may be made subject to FTP or any other law in force.
2.25 Import under Lease Financing	No specific permission of RA is required for lease financed capital goods.
2.26 Clearance of Goods from Customs	Good already imported / shipped / arrived, in advance, but not cleared from Customs may also be cleared against an Authorisation issued subsequently.
2.27 Execution of BG /LUT	<p>(a) Wherever any duty free import is allowed or where otherwise specifically stated, importer shall execute prescribed LUT/BG/Bond with Customs Authority before clearance of goods.</p> <p>(b) In case of indigenous sourcing, Authorisation holder shall furnish LUT/BG/Bond to RA concerned before sourcing material from indigenous supplier/nominated agency as prescribed in Chapter 2 of HBP v1.</p>
2.28 Private/Public Bonded Warehouses for Imports	<p>(a) Private / Public bonded warehouses may be set up in DTA as per terms and conditions of notification issued by DoR. Any person may import goods except prohibited items, arms and ammunition, hazardous waste and chemicals and warehouse them in such bonded warehouses.</p> <p>(b) Such goods may be cleared for home consumption in accordance with provisions of FTP and against Authorisation, wherever required. Customs duty as applicable shall be paid at the time of clearance of such goods.</p> <p>(c) If such goods are not cleared for home consumption within a period of one year or such extended period as the custom</p>

authorities may permit, importer of such goods shall re-export the goods.

- 2.29**
Free Exports
- All goods may be exported without any restriction except to the extent that such exports are regulated by ITC (HS) or any other provision of FTP or any other law for the time being in force. DGFT may, however, specify through a public notice such terms and conditions according to which any goods, not included in ITC (HS), may be exported without an Authorisation.
- 2.30**
Export of Samples
- Export of Samples and Free of charge goods shall be governed by provisions given in Chapter 2 of HBP v1.
- 2.31**
Export of Passenger Baggage
- (a) Bona fide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger's departure from India. However, items mentioned as restricted in ITC (HS) shall require an Authorisation. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry along with their personal baggage, food items (free, restricted or prohibited) strictly for their personal consumption.
- (b) Samples of such items that are otherwise freely exportable under FTP may also be exported as part of passenger baggage without an Authorisation.
- 2.32**
Export of Gifts
- Goods, including edible items, of value not exceeding Rs.500000/- in a licensing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC (HS) shall not be exported as a gift, without an Authorisation.
- 2.33**
Export of Spares
- Warranty spares (whether indigenous or imported) of plant, equipment, machinery, automobiles or any other goods, (except those restricted under ITC (HS)) may be exported along with main equipment or subsequently but within contracted warranty period of such goods subject to approval of RBI.
- 2.34**
Third Party Exports
- Third party exports, as defined in Chapter 9 shall be allowed under FTP.
- 2.35**
- (a) Goods imported, in accordance with FTP, may be exported in

Export of Imported Goods	<p>same or substantially the same form without an Authorisation provided that item to be imported or exported is not restricted for import or export in ITC (HS).</p> <p>(b) Exports of such goods imported against payment in freely convertible currency would be permitted against payment in freely convertible currency.</p>
2.36 Export of Imported Goods under Bond Procedures	<p>Goods, including those mentioned as 'Restricted' for import (except 'Prohibited' items) may be imported under Customs Bond for export in freely convertible currency without an Authorisation provided that item is freely exportable without any conditionality / requirement of Authorisation / Licence / permission as may be required under Schedule 2 – Export Policy of the ITC (HS).</p>
2.36A	<p>Hides, Skins and semi finished leather may be imported in the Public Bonded warehouse for the purpose of DTA sale and the unsold items thereof can be re-exported from such bonded warehouses at 50% of the applicable export duty. However, this facility shall not be allowed for import under Private Bonded warehouse.</p>
2.37 Export of Replacement Goods	<p>Goods or parts thereof on being exported and found defective/damaged or otherwise unfit for use may be replaced free of charge by the exporter and such goods shall be allowed clearance by Customs authorities, provided that replacement goods are not mentioned as restricted items for exports in ITC (HS).</p>
2.38 Export of Repaired Goods	<p>Goods or parts, except restricted under ITC (HS) thereof, on being exported and found defective, damaged or otherwise unfit for use may be imported for repair and subsequent re-export. Such goods shall be allowed clearance without an Authorisation and in accordance with customs notification.</p>
2.39 Private Bonded Warehouses for Exports	<p>(a) Private bonded warehouses exclusively for exports may be set up in DTA as per terms and conditions of notifications issued by DoR.</p> <p>(b) Such warehouses shall be entitled to procure goods from domestic manufacturers without payment of duty. Supplies made by a domestic supplier to such notified warehouses shall be treated as physical exports provided payments are made in free foreign exchange.</p>

- 2.40**
Denomination of Export Contracts
- (a) All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency.
- (b) However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of ACU or Nepal or Bhutan. Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account. Free foreign exchange remitted by buyer to his non-resident bank (after deducting the bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.
- (c) Contracts (for which payments are received through Asian Clearing Union (ACU) shall be denominated in ACU Dollar. Central Government may relax provisions of this paragraph in appropriate cases. Export contracts and Invoices can be denominated in Indian rupees against EXIM Bank / Government of India line of credit.
- 2.40A**
Export to Iran – Realisations in Indian Rupees
- Export proceeds against specific exports to Iran realized in Indian rupees are permitted to avail exports benefits/ incentives under the Foreign Trade Policy, 2009-14, at par with export proceeds realized in freely convertible currency.
- 2.41**
Realisation of Export Proceeds
- If an exporter fails to realize export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to action in accordance with provisions of FT (D&R) Act, Rules and Orders made there under and FTP.
- 2.42**
Free movement of export goods
- Consignments of items meant for exports shall not be withheld / delayed for any reason by any agency of Central / State Government. In case of any doubt, authorities concerned may ask for an undertaking from exporter.
- 2.42.1**
No seizure of Stock
- No seizure of stock shall be made by any agency so as to disrupt manufacturing activity and delivery schedule of exports. In exceptional cases, concerned agency may seize the stock on basis of prima facie evidence. However, such seizure should be lifted

within 7 days.

- 2.43** Basic objective of Export Promotion Councils (EPCs) is to promote and develop Indian exports. Each Council is responsible for promotion of a particular group of products, projects and services as given in HBP v1.
- Export Promotion Councils (EPC)**
- 2.44** Any person, applying for:
- Registration-cum-Membership Certificate (RCMC)**
- (a) An Authorisation to import / export, (except items) listed as 'Restricted' items in ITC (HS) or
- (b) Any other benefit or concession under FTP shall be required to furnish RCMC granted by competent authority in accordance with procedure specified in HBP v1 unless specifically exempted under FTP. Certificate of Registration as Exporter of Spices (CRES) issued by Spices Board shall be treated as Registration-Cum-Membership Certificate (RCMC) for the purposes under this Policy.
- 2.45** A secure EDI Message Exchange system for various documents i.e. Authorisations, Shipping Bills, IEC, Application Fee, RCMCs has been established with trade partners i.e. Customs, Banks and Export Promotion Councils. These documents are no longer required to be physically filed with DGFT or transmitted physically to the concerned partners. Therefore, it has reduced the transaction cost for the exporters. It is the endeavour of DGFT to enlarge the scope and domain of EDI exchange continuously.
- Trade Facilitation through EDI Initiatives**
- 2.45.1** DGCI&S has put in place a Data Suppression Policy. Transaction level data would not be made publically available to protect privacy. DGCI&S trade data shall be made available at aggregate level with a minimum possible time lag in a query based structured format on commercial criteria.
- DGCI &S Commercial Trade Data**
- 2.45.2** To encourage usage of 'on-line' filing of applications for authorizations/IEC, incentives are provided to applicants through a reduced application fee as detailed in the Hand Book of Procedures.
- Fiscal Incentives to promote EDI Initiatives adoption**
- 2.46** With a view to providing assistance to firms who have defaulted under FTP for reasons beyond their control as also facilitating

Regularization of EO default and settlement of customs duty and interest through Settlement Commission merger, acquisition and rehabilitation of sick units, it has been decided to empower Settlement Commission in Central Board of Excise and Customs to decide such cases also with effect from 01.04.2005.

2.47 Easing of Documentation Requirement DGFT has provided 'on-line' facility for filing applications to obtain various authorizations / IECODE. The authorizations are issued and transmitted electronically to Customs for clearance so as to reduce the required documentation. DGFT has also become India's first digital signature enabled department in Government of India, which has introduced a higher level of Encrypted 2048 bit Digital Signature for enhanced security in communications with essential features like authentication, Privacy, non-repudiation and integrity in the virtual world.

2.48 Exemption / Remission of Service Tax in DTA For all goods and services which are exported from units in DTA and units in EOU / EHTP / STP / BTP exemption / remission of service tax levied and related to exports, shall be allowed, as per prescribed procedure in Chapter 4 of HBP v1.

2.48.1 Exemption from Service Tax in SEZ Units in SEZ shall be exempted from service tax.

2.48.2 Exemption from Service Tax on Services received abroad For all goods and services exported from India, services received / rendered abroad, where ever possible, shall be exempted from service tax.

GRIEVANCE REDRESSAL

2.49 DGFT as a facilitator of exports / imports DGFT has a commitment to function as a facilitator of exports and imports. Focus is on good governance, which depends on clean, transparent and accountable delivery systems.

- 2.49.1** DGFT has in place a Citizen’s Charter, giving time schedules for providing services to clients, and details of grievance committees at different levels.
- Citizen’s Charter**
- 2.49.2** (a) In order to facilitate speedy redressal of grievances of trade and industry, a new grievance redressal mechanism has been put in place in the form of GRC by a Government Resolution.
- Grievance Redressal Committee (GRC)**
- (b) The Government is committed to resolving all outstanding problems and disputes pertaining to past policy periods through GRC set up on 27.10.2004, for condoning delays, regularizing breaches by exporters in bonafide cases, resolving disputes over entitlements, granting extensions for utilization of Authorisations.
- 2.50** To reduce transaction and handling costs, a single window system to facilitate export of perishable agricultural produce has been introduced. The system will involve creation of multi-functional nodal agencies to be accredited by Agricultural and Processed Food Products Export Development Authority (APEDA), New Delhi. The detailed procedures have been notified at Appendix 40 to HBP v1.
- Export of perishable agricultural products**
- 2.51** A novel ‘Niryat Bandhu’ scheme for mentoring first generation entrepreneurs has been conceptualised. The Officer (Niryat Bandhu) would primarily mentor interested individuals in the arena of international business. Such hand-holding by officers of DGFT would help the new exporters/importers by leveraging the knowledge base of officers and by providing timely and appropriate guidance.
- Niryat Bandhu**
- 2.52** Bank Realization Certificates (BRCs), evidencing receipt of export proceeds would be transmitted electronically from the respective banks to the DGFT. This will bring down transaction cost to the exporters as they will not be required to obtain physical copies of BRCs from the banks and then submit such physical copy to DGFT.
- e-BRC**