

CHAPTER II

EXTRACTS FROM FOREIGN TRADE POLICY

CHAPTER - 2

GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS

2.1 Exports and Imports free unless regulated

Exports and Imports shall be free, except in cases where they are regulated by the provisions of this policy or any other law for the time being in force. The item wise export and import policy shall be, as specified in ITC (HS) published and notified by Director General of Foreign Trade, as amended from time to time.

2.2 Compliance with Laws

Every exporter or importer shall comply with the provisions of the Foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders made thereunder, the provisions of this Policy and the terms and conditions of any licence/certificate/permission granted to him, as well as provisions of any other law for the time being in force. All imported goods shall also be subject to domestic Laws, Rules, Orders, Regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods. No import or export of rough diamonds shall be permitted unless the shipment parcel is accompanied by Kimberley Process (KP) Certificate required under the procedure specified by the Gem & Jewellery Export Promotion Council (GJEPC).

2.6 Principles of Restriction

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

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

2.7 Restricted goods

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

2.8 Terms and Conditions of a Licence/Certificate/Permission

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

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

2.14 Transit Facility

Transit of goods through India from or to countries adjacent to India shall regulated in accordance with the 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.

2.18 Import of samples

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

2.19 Import of gifts

Import of gifts shall be permitted where such goods are otherwise freely importable under this Policy. In other cases, a Customs Clearance Permit (CCP) shall be required from the DGFT.

2.20 Passenger Baggage

Bonafied household goods and personal effects may be imported as part of passenger baggage as per the limits, terms and conditions thereof in the baggage rule notified by the Ministry of Finance. Samples of such items that are otherwise freely importable under this Policy may also be imported as part of Passenger baggage without a licence / certificate / permission. Exporters coming from abroad are also allowed to Import drawings, patterns, labels, price tags, buttons, belts, trimming, and embellishments required for export, as part of their passenger baggage without a licence / certificate / permission.

2.23 Import of goods used in projects abroad

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

2.29 Free Exports

All goods may be exported without any restriction except to the extent such exports are regulated by ITC (HS) or any other provision of this Policy or any other law for the time being in force. The Director General of Foreign Trade may, however, specify through a Public Notice such terms and conditions according to which any goods, not included in the ITC (HS), may be exported without a license / certificates / permission.

2.30 Export of Samples

Export of samples and Free of charge goods shall be governed by the provisions given in Handbook (Vol. 1).

2.31 Export of Passenger Baggage

Bonafide personal baggage may be exported either along with the passenger or, if unaccompanied, within one year before or after the passenger's departure from India. However, items mentioned as Restricted in ITC (HS) shall require a licence / certificate / permission, except in the case of edible items.

2.32 Exports of Gifts

Goods including edible items, of value not exceeding Rs. 5,00,000/- in licencing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC (HS) shall not be exported as a gift, without a licence / certificate / permission.

2.35 Export of Imported Goods

Goods imported, in accordance with this Policy, may be exported in the same or substantially the same form without a licence / certificate / permission provided that the item to be imported or exported is not mentioned as restricted for import or export in the ITC (HS). Exports of such goods imported against payment in freely convertible currency would be permitted against payment in freely convertible currency.

2.36 Goods, including those mentioned as restricted item for import or export (except prohibited items) may be imported under Customs Bond for export in freely convertible currency without a licence / certificate / permission provided that the item is freely exportable without any conditionality / requirement of licence / permission as may be required under ITC (HS) Schedule II.

CHAPTER - 4**Prohibited Items**

4.1.10 Prohibited items of imports mentioned in ITC (HS) shall not be imported under the license issued under the scheme.

CHAPTER - 9**DEFINITIONS**

9.1 For the purpose of this Policy, unless the context otherwise requires, the following words and expressions shall have the following meanings attached to them.

9.2 "Accessory" or "Attachement" means a part, sub-assembly or assembly that contributes to the efficiency or effectiveness of a piece of equipment without changing its basic functions.

9.3 "Act" means the Foreign Trade (Development and Regulation) Act, 1992 (No. 22 of 1992)

9.4 "Actual User" means and actual user who may be either industrial or non-industrial.

- 9.5 “*Actual User {Industrial}*” means a person who utilizes the imported goods for manufacturing in his own industrial unit or manufacturing for his own use in another unit including a jobbing unit.
- 9.6 “*Actual User {Non-Industrial}*” means a person who utilizes the imported goods for his own use in
- i. any commercial establishment carrying on any business, trade or profession; or
 - ii. any laboratory, Scientific or Research and Development (R&D) institution, university or other education institution or hospital; or
 - iii. any service industry.
- 9.26 “*Exporter*” means a person who exports or intends to export and holds an Importer-Exporter Code number unless otherwise specifically exempted.
- 9.27 “*Exporter Obligation*” means the obligation to export the product or products covered by the licence or permission in terms of quantity, value or both, as may be prescribed or specified by the licensing or competent authority.
- 9.29 “*Handbook (Vol. 1)*” means the Handbook of Procedures (Vol. 1) and “*Handbook (Vol. 2)*” means Handbook of Procedures (Vol. 2) published under the provision of the paragraph 2.4 of the Policy.
- 9.30 “*Importer*” means a person who imports or intends to import and holds an Importer-Exporter Code number unless otherwise specifically exempted.
- 9.32 “*ITC (HS)*” means ITC (HS) classification of Export and Import Items Book.
- 9.34 “*Licensing Authority*” means the authority competent to grant a licence under the Act/ Order.
- 9.35 “*Licensing Year*” means the period beginning on the 1st April of a year and ending on the 31st March of the following year.
- 9.37 “*Manufacture*” means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, re-packing, polishing, labeling, Reconditioning repair, remarking, refurbishing, testing calibration, re-engineering. Manufacture, for the purpose of this policy, shall also include agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining.
- 9.38 “*Manufacturer Exporter*” means a person who export goods manufactured by him or intends to export such goods.
- 9.40 “*Merchant Exporter*” means a person engaged in trading activity and exporting or intending to export goods.
- 9.42 “*Notification*” means a notification published in the Official Gazette.
- 9.43 “*Order*” means an order made by the Central Government under the Act.
- 9.46 “*Policy*” means the Export and Import Policy, 2002-07 as amended from time to time.

- 9.47 *“Prescribed”* means prescribed under the Foreign Trade (Development and Regulation) Act, 1992 (No. 22 of 1992) or the Rules or Orders made there under or under this Policy.
- 9.48 *“Public Notice”* means a notice published under the provisions of paragraph 2.4 of the policy.
- 9.51 *“Rules”* means Rules made by the Central Government under Section 19 of the Act
- 9.58 *“Specified”* means specified by or under the provisions of this Policy.
- 9.65 *“Wild Animal”* means any wild animal as defined in Section 2 (36) of the Wildlife (Protection) Act, 1972.