

Foreign Trade Policy, 2023

The Foreign Trade Policy 2023 has superseded Foreign Trade Policy 2015 20, which was extended till 31st March 2023 due to COVID pandemic and volatile geo political scenario.

The FTP 2023 is not a five year policy. It is a policy with no end date and any subsequent amendments will be done as and when required and will not be linked to any date.



HELPING CLIENTS
KEEP MORE OF
WHAT THEY EARN

ABOUT THIS ARTICLE

In this Article, we have enclosed the amendments and expressed our comments on a chapter wise basis for ease of reference and perusal of users.

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Amnesty Scheme

Introduced vide Public Notice No. 02/2023 dated 01 April, 2023 to provide One-time settlement of default in Export Obligation (EO) by Advance Authorisation and EPCG Authorisation holders.

Applicability:

- ✓ Licenses issued under FTP 2009-14 till 31.03.2015, and
- ✓ Licenses issued under FTP 2004-09 and before, and whose EOP (original or extended) was valid beyond 12.08.2013.

Details of the scheme:

- Any default in fulfilling EO can be regularized on payment of **ALL Customs duties** saved in proportion to unfulfilled EO & Interest thereon. The interest shall be capped @**100% of such duty**.
- **No interest is payable** on any Additional or Special Additional Customs Duty.
- If the entire authorization is under default, the license holder can pay the duty plus interest as per the provisions applicable.
- In case of partial default, the RA shall intimate the license holder, on the basis of EODC application filed by the applicant, the amount of duty and interest payable.
- Even cases which are adjudicated either originally or in appeal can also be regularized. The procedure would be as under:

- i. **In case appeal is not filed-** Submit a copy of closure letter to the concerned RA.
- ii. **In case appeal is filed-** Submit a copy of closure letter to the Appellate Authority.

Procedure:

- To avail this scheme the license holder shall register on DGFT portal website before **30.06.2023** in a separate form provided for this purpose, and payment of Customs duty plus interest shall be completed by **30.09.2023**.
- Application can be filed online by navigating to Closure application tab and select the checkbox of ***“Amnesty Scheme for one-time settlement of default in export obligation”***.
- The applicant as per their calculations shall indicate the duty plus interest in **Redemption Matrix** tab. Thereby, the RA shall examine the application and communicate the shortfall through an online letter and subsequently grant EODC

CHAPTER 1

Legal Framework & Trade Facilitation

Free passage of Export Consignment:

- **Para 1.08** has been newly inserted under FTP 2023 for Free passage of Export Consignment. Export Consignments shall not be withheld/ delayed for any reason by any agency of Central/State Government and in case of any doubt, authorities concerned may ask for an undertaking from exporter and release such consignment.

No seizure of export related Stock:

- **Para 1.09** has been added to protect seizure of export related Stock. No seizure shall be made by any agency to disrupt manufacturing activity and delivery schedule of exports. In exceptional cases, concerned agency may seize the stock on the basis of prima facie evidence of serious irregularity. However, such seizure should be lifted within 7 days unless the irregularities are substantiated.

Online facility for e-RCMC /RC Related Processes:

- DGFT has created a common digital platform (DGFT e-RCMC module) for application of issuance, renewal, amendment and related processes pertaining to (RCMC)/ Registration Certificate (RC). Earlier, exporters desiring to obtain RCMC had to file an

application with the concerned Export Promotional Council (EPC), now the same can be applied through DGFT portal by navigating to E-RCMC under Services Tab.

Online facility for e-Certificate of Origin (e-CoO):

- **Para 1.15** has provided online facility for issuance of Preferential and Non-Preferential Certificate of Origin via DGFT common digital platform www.coo-dgft@gov.in. However, registration for Non-Preferential Certificate of Origin (CoO) through the Common Digital Platform shall be optional till 31.12.2023. If the applicant wants, they can also apply for e-CoO vide Manual or Paper Mode till 31.12.2023.

Electronic record of export proceeds through eBRC & EDPMS:

- **Para 1.17(b)** has been inserted wherein RBI has developed a comprehensive IT-based system called Export Data Processing and Monitoring System (EDPMS) for monitoring of export of goods and software and facilitating AD banks to report various returns through a single platform. RBI EDPMS data available in DGFT IT System can also be used by exporters on DGFT portal.

STATUS HOLDER CERTIFICATION

The objective behind certifying certain exporter firm as “**Status Holder**” is to recognize such exporter firms as business leaders who have excelled in international trade and have successfully contributed to country’s foreign trade. Status Holders are expected to not only contribute towards India’s exports but also provide guidance and handholding to new entrepreneurs.



Privileges Of Status Holders

- ▣ Authorisation and Customs Clearances for both imports and exports may be granted on self-declaration basis;
- ▣ Input-Output norms may be fixed on priority within 60 days.
- ▣ Exemption from furnishing of Bank Guarantee for Schemes under FTP
- ▣ Priority in handling of their consignments by the concerned agencies.
- ▣ Manufacturers who are also status holders (Three Star or above) will be enabled to self-certify their manufactured goods as originating from India with a view to qualify for preferential treatment under different agreements.
- ▣ Status holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to an annual limit

- **Para 3.24 (f)** has been deleted wherein Three Star and above Export House was entitled to get benefit of Accredited Clients Programme (ACP).
- **Under para 1.26**, the export performance limit has been reduced for status holders –

Status Category	Earlier threshold for Export Performance in USD million	Export Performance in USD million
One Star Export House	3	3
Two Star Export House	25	15
Three Star Export House	100	50
Four Star Export House	500	200
Five Star Export House	2000	800

CHAPTER 2

General Provisions Regarding Imports and Exports

Application for IEC/ Authorisation/ License/ Scrips/ Registration:

- **Para 2.11 (b)** has been inserted to clarify that Application fee is nothing but the fee for processing of the application. Therefore, the fee once received will not be refunded except in the circumstances and in a manner laid down in Appendix 2K.

Merchanting Trade:

- **Under para 2.39**, Merchanting trade involving shipment of goods from one foreign country to another foreign country without touching Indian ports, involving an Indian intermediary is allowed subject to compliance with RBI guidelines, except for goods/items in the CITES and SCOMET list. In the earlier FTP there was no such provision regarding merchanting trade, the same has been clarified under the new FTP.

Export of Samples:

- **Para 2.43(a)** allowed Exports of bona fide trade and technical samples of freely exportable item without any limit.

Import of Gifts:

- Import of gifts, including those purchased from e-commerce portals, through post or courier, is prohibited except for life saving drugs/ medicines and Rakhi (but not gifts related to Rakhi). Earlier imports of gift was permitted only against an authorization.

Export through Courier Service/Post:

- Provisions related to Export through Courier Service/Post has been removed from **Para 2.47** and added in chapter – 9 under e-commerce exports since the same is supporting the e-commerce export.

CHAPTER 3

Developing Districts as Export Hubs

□ **Objectives and Features:**

- To increase production, grow exports, generate economic activity and achieve the goal of *AtmaNirbhar Bharat, Vocal for local and Make in India*
- To bring greater level of awareness and commitment regarding exports at district level and to create new exporters and identify new markets and to empower MSMEs, farmers and small-scale industries to get benefit of export opportunities in the overseas markets.
- Growth for self-sufficiency and self- reliance by providing global platform to products and services from the districts
- Development of an Institutional mechanism in the form of District Export Promotion Committees (DEPCs), to prepare and implement district specific Export Action Plans (DEAPs) at the Central, State and the District level along with clear identification of products interventions required across the entire chain, identifying bottlenecks.
- The DEAPs has to be prepared for each district. The role of DEAPs includes clear identification of products with export potential in the District A comprehensive plan for 2-3 products/ services on priority basis shall be prepared and will include export targets to be achieved in short and long term. The plan may also include the support required by the local industry in boosting their manufacturing and exports with impetus on supporting the industry from the production stage to the exporting stage.
- To synergise the efforts each State shall constitute a State Export Promotion Committee (SEPC).
- DGFT would develop an online monitoring system to enable the concerned authorities to upload all the information related to products/ services with export potential of every district.

CHAPTER 4

Duty Exemption /Remission Schemes

❑ Self-Ratification Scheme

- Under **Para 4.06(i)**, if there are no SION/ valid norms for an export product or where SION has been notified but exporter wants to use additional inputs in the manufacturing process, the exporter can apply for AA license under self-declaration or self-ratification basis.
- The word “**Additional inputs**” have been clarified under the new FTP. It refers to additionality not only in terms of quantity/value of an input specified in a norm but also another additional input.
- For Example, if the inputs specified in a norm are A1 & A2 only, then input B would represent an additional input.
- **Para 4.06(v)** have been newly inserted wherein Status holder certificate holding 2 star or above status, who has already submitted its for grant of EO certificate (Authorised Economic Operator) on CBIC’s AEO portal is also eligible to apply for self-ratification scheme subject to following conditions:
- Status holder submits copy of numbered and dated acknowledgement of its application for grant of AEO.

- Submits an undertaking that their application for AEO certificate has not been rejected, no infringement of laws and SCN has been issued to them in CY and last 3 FYs, that it has positive noncurrent assets & no insolvency or bankruptcy proceedings taken against them in the current and preceding 3 FYs.
- If they are unable to obtain AEO certificate within 120 days from date of application then they have to abide by the decision of the concerned Norms Committee, and in such situation no further authorization shall be granted under this scheme.
- DGFT may deny to grant authorization under this scheme to two star and above status holder based on its risk management principle

❑ Deletion of Pre-import condition in certain cases:

- **Para 4.13 (iii)** has been deleted which allowed to Import drugs from unregistered sources with pre-import condition.

□ **Advance Authorisation for Annual Requirement and Eligibility Condition**

- Additions in **Para 4.07 (iii)** that Exporters having past export performance (in at least preceding two financial years) shall

□ **Value Addition:**

- **Para 4.08(c)** has been added to allow Authorisation by Regional Authority only on submission of a “No Objection Certificate” from Department of Biotechnology, where export and/or import of biotechnology items and related products are involved.

be entitled for AA for Annual requirement.

- **Para 4.07 (iv)** provides Entitlement in terms of CIF value of imports which shall be upto 300% of the FOB value of physical export and / or FOR value of deemed export in preceding FY or Rs 1 Crore, whichever is higher

□ **Ineligible categories of import on Self Declaration basis**

- Addition to **Para 4.11 (x)** that Import of all items with a basic custom duty of more than 30% shall not be permissible on self-declaration basis.

AMENDMENT IN VALIDITY OF NORMS RATIFIED W.R.T. TO SELF-DECLARED ADVANCE AUTHORISATIONS

Public Notice No. 09/2023, dated 25th April 2023

Norms ratified by any NC on or after 01.04.2023 in respect of any self-declared AA will be valid for 3 years from the date of ratification. Further, in this amendment even those AA whose norms have been ratified on or after 01.04.2015 shall be valid upto 31.03.2026.

CHAPTER 5

Export Promotion Capital Goods (EPCG) Scheme

□ Denial of EPCG Scheme under Project Import:

- **Para 5.01(b)** has been DELETED where Import of capital goods for Project Imports was permitted under EPCG Scheme.

□ Amendments under EPCG Scheme:

- Further, EPCG authorization shall be **valid upto 18 months** from the date of issue as per Para 5.01(c). As per Earlier FTP, EPCG authorization was valid upto 24 months from the date of issue.
- As per **Para 5.02(b)** EPCG Scheme shall not cover a service provider who is designated / certified as a Common Service Provider (CSP) by the DGFT for providing Electricity, Water, Gas, Sanitation, Sewerage, Telecommunication, Transportation etc.
- **Para 5.01(c)** has been newly inserted wherein, Import/procurement under EPCG scheme shall also be subjected to Average Export Obligation (AEO). The AEO shall be fulfilled **every FY**, till the EO is completed. Exports/supplies made over and above AEO shall only be considered for fulfillment of Export Obligation
- **Para 5.01(e)**, wherein exports under Advance Authorisation, DFIA, Duty

Drawback, **RoSCTL** and **RoDTEP** Schemes would also be eligible for fulfilment of EO under EPCG Scheme. Earlier exports under **RoSCTL** and **RoDTEP** was not eligible for fulfilment of EO under EPCG Scheme.

- Only one benefit as specified under below paras 5.04(d), 5.09,5.10 and 5.11 shall be admissible as per **Para 5.04(i)**:
- **Indigenous sourcing of Capital Goods** – specific EO shall be 25% less than the EO stipulated in Para 5.01.
- **Incentive for early EO fulfillment** – Where Authorisation holder has fulfilled 75% or more of specific export obligation and 100% of Average Export Obligation till date, if any, in half or less than half the original export obligation period specified, remaining export obligation shall be condoned and the Authorisation redeemed by RA concerned.
- **Additional para for Export Obligation fulfillment:**
- Under **Para 5.04(b)** For export of goods, EPCG Authorisation holder may export either directly or through third party(ies).
- **Export Obligation:**
- As per **Para 5.04(f)**, Export obligation may be fulfilled both by physical exports as well as deemed exports. Earlier, as per

[FTP 2015-20](#), Export Obligation was considered only through physical export.

- **Para 5.04(g)** provides that Exports made from DTA units shall only be counted for calculation and/or fulfillment of AEO and/or EO.

▪**Para 5.04(k)** provides that Export proceeds realized in Indian Rupees as per para 2.52(d)(ii) are also counted towards fulfillment of EO.

▪**Reduced EO for Green Technology Products** – For exporters of Green Technology Products, Specific EO shall be 75% of EO.

▪**Reduced EO for North East Region and UTs of Jammu & Kashmir and Ladakh** – For manufacturing units located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Jammu & Kashmir and Ladakh, specific EO shall be 25% of the EO.

Issuance of EODC for AA and EPCG process from DGFT portal

Trade Notice 01/2023-24 dated 06.04.2023

AA/ EPCG closure application may be submitted online through two routes:

- With Validation Route** - Entire dataset like SB, E-BRC, BOE must be available in online system.
- Without Validation Route** - If entire dataset like SB, E-BRC, BOE is not available in online system.

If physical files are submitted to RA, and EODC is issued manually, the RA may update the license status over the portal. Authorisation holder can also submit the EODC status update on the portal.

It is directed that no EODC shall be issued manually.

CHAPTER 9

Promoting Cross Border Trade In Digital Economy

□ Overview:

- New Chapter has been included under new FTP to provide a framework for cross-border trade of goods and services from India in the digital economy and the promotion of e-Commerce and other emerging channels of exports from India.

□ Objectives and Features:

- The main objective of this chapter is **promotion of e-Commerce** and other emerging channels of exports from India.
- The payment shall be done through international credit or debit cards, or other authorised electronic payment channels and as specified by the RBI from time to time.
- Imports/ Exports through a registered courier service/Foreign Post Office is permitted as per Notification(s) issued under Customs Act, 1962
- The maximum value for exports through courier service shall be Rs. 10,00,000 per

consignment. (Earlier the limit was Rs.5,00,000 only)

- Another main objective under this chapter is to establish designated areas as **E-Commerce Export Hubs (ECEH)**.
- The salient features of ECEH will be as follows:
 - To provide storage and other common facilities for the purpose of exports;
 - provide for dedicated logistics infrastructure for connecting to and leveraging the services of the nearest Logistics hub;
 - All goods, including SCOMET and Restricted goods and except goods which are prohibited or otherwise disallowed, may be handled at ECEH;
 - Capital goods brought to a ECEH shall be utilized only for storage activities on payment of the duties and taxes, as applicable;

CHAPTER 10

Special Chemicals, Organisms, Materials, Equipment, and Technologies (SCOMET)

SCOMET item is an acronym for Special Chemicals, Organisms, Materials, Equipment, and Technologies, and these are dual-use items that can be used for both civilian and military applications. India's Foreign Trade Policy regulates export and import of goods and services on the SCOMET List. The exporter must obtain a license from the Directorate General of Foreign Trade, Ministry

of Commerce, to export SCOMET. Any export that inadvertently lands up in the wrong hands may have implications for our national security and affect the name of the country in the international market. SCOMET is an important step to address such concerns.



□ Different types of export authorizations for SCOMET items

- Direct export to ultimate end user after due verification process.
- Export of repeat orders of **same** SCOMET items which have earlier been allowed for export to the same countries after verification process.
- Export of items initially to the stockist abroad and then from the stockist to the ultimate end users in the same country or approved countries;
- Export of spare parts along with main item/equipment under stock and sale
- Re-export of imported items for repair/replacement if found defective and re-exporting the same items after repairing
- Export of sample items to abroad and importing back the same items.
- Only one-time authorization is required for export and/or re-export of SCOMET items, where the export is from Indian Parent company to its foreign subsidiary or vice versa, based on a Master Contract between them, in specified countries.