FOREIGN TRADE POLICY

Foreign Trade Policy 2023

Introduction

- Foreign trade policy is set of guidelines or instructions issued by the Central Government which specifies policy for exports and imports viz., foreign trade. Its primary purpose is not merely to earn foreign exchange, but also to stimulate greater economic activity.
- It is governed by Ministry of Commerce and Industry.
- FTP 2023 (as updated) is notified by the Central Government in exercise of powers conferred u/s 5 of the Foreign Trade (Development & Regulation) Act, 1992 [FT(D&R) Act], as amended.
- It was announced and came into force w.e.f. 01.04.2023 and shall continue to be in operation unless otherwise specified or amended.

Objectives of FTP

- Aims at developing export potential
- Improving export performance
- Encouraging foreign trade
- Creating favorable balance of payment position

Role of DGFT (Director General of Foreign Trade)

- Issues Authorization for import/export.
- Grants Importer Exporter Code (IEC) Number
- Decision of DGFT is final & binding in respect of interpretation of FTP.
- Grant exemption or relief from policy/procedures by imposing certain conditions.

Importer Exporter Code (IEC)

- It is a 10-character alphanumeric number issued by DGFT.
- IEC is mandatory to export any goods out of India or to import any goods into India.
- DGFT has decided to use Income Tax PAN as IEC.
- IEC details have to be electronically updated every year, even if there are no changes; failing which it will be de-activated till updation.

Status Holders

Status Category	Export Performance (Threshold in US $ million)
One Star Export House	3
Two Star Export House	15
Three Star Export House	50
Four Star Export House	200
Five Star Export House	800

- An applicant shall be categorized as status holder upon achieving the threshold export performance in the current and preceding 3 FYs.

Points to be considered while computing export performance for grant of status

- The export performance shall be counted on basis of FOB of export earnings in freely convertible foreign currencies or in Indian Rupees.
- For deemed export, FOR value of exports in Indian Rupees shall be converted in US$ at exchange rate notified by CBIC, as applicable on 1st April of each financial year.
- For granting status, an export performance would be necessary in all 3 preceding FYs.
- Export performance is not transferable among IEC holders.
- Exports made on re-export basis shall not be counted for recognition.
- Export of items under authorization, including SCOMET items, would be included for calculation of export performance.
- For calculating export performance for grant of One Star Export House Status category, exports by IEC Holders under Micro & Small Enterprises, manufacturing units having ISO/BIS certification, units located in Northeastern States including Sikkim & UTs of J&K and Ladakh and export of fruits & vegetables shall be granted double weightage once in any of these categories.

Privileges of Status Holders

a) Authorization and custom clearances for both imports and exports on self-declaration basis.
b) Fixation of Input Output Norms on priority i.e., within 60 days by Norms Committee.
c) Exemption from compulsory negotiation of documents through banks. Exception are remittance / receipts.

d) Exemption from furnishing of Bank Guarantee in Schemes under FTP unless otherwise specified.

e) Two Star Export Houses and above are permitted to establish export warehouses.

f) Manufacturers who are also status holders (Three Star/Four Star/Five Star) will be enabled to self-certify their manufactured goods [as per their Industrial Entrepreneurs Memorandum (IEM) / Industrial License (IL) / Letter of Intent (LOI)] as originating from India with a view to qualify for preferential treatment under specified agreements.

g) Status holders shall be entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to a specified annual limit.

h) The status holders would be entitled to preferential treatment and priority in handling of their consignments by the concerned agencies.

Developing Districts as Export Hubs

A District Export Action Plan (DEAP) may be prepared for each district. 2-3 high potential products/services from the districts may be prioritised and comprehensive plan for their export growth may be prepared and implemented. DGFT Regional Authorities will be engaging with all the relevant State and Central agencies to take forward this initiative in each district.

General Provisions Applicable to Import & Export of Goods

a) **Samples:** Import of samples of even 'restricted' items, is allowed without import authorisation except defence / security items, seeds, bees, and new drugs. Duty free import of samples upto ₹ 3,00,000 for all exporters shall be allowed subject to terms & conditions. Exports of trade & technical samples of goods of freely importable items are allowed without any limit.

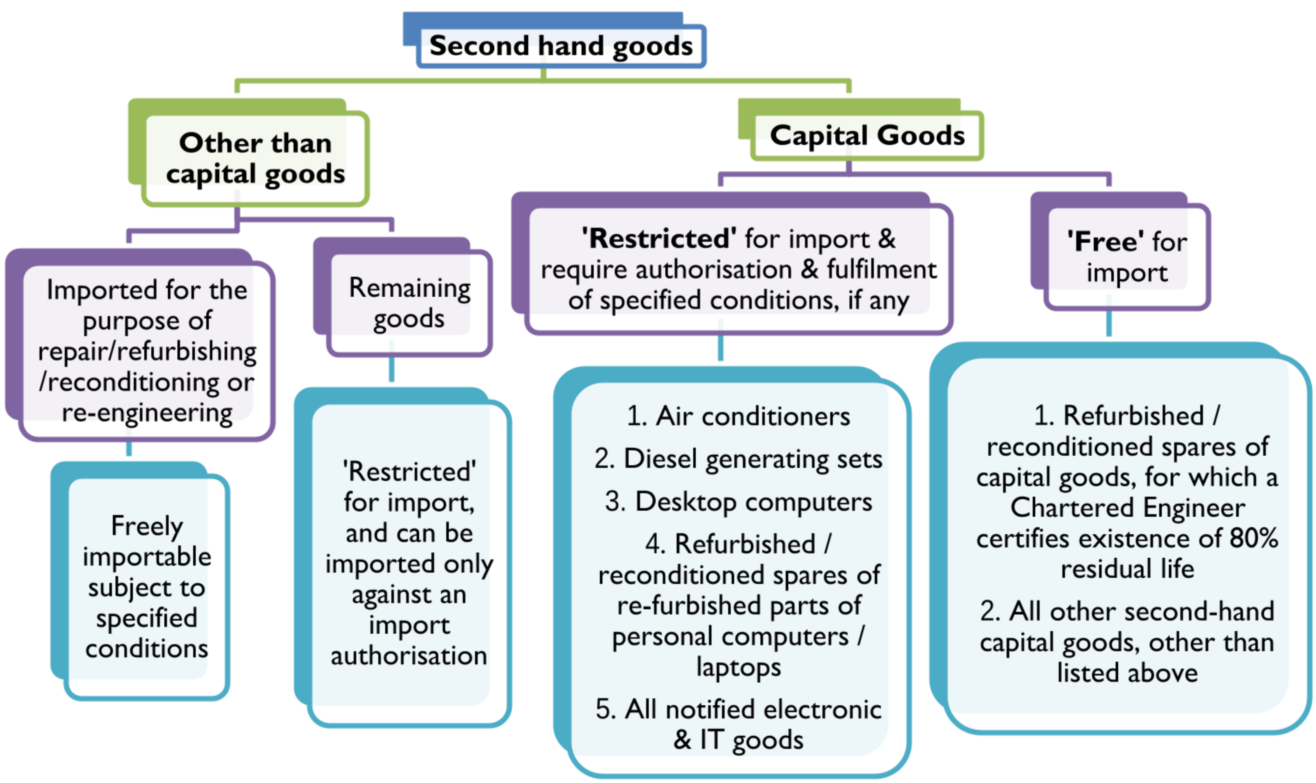
b) **Gifts:** Import of gifts (including those purchased from e-commerce portals) through post / courier, where customs clearance is sought as gifts, is prohibited except 'rakhi' & life-saving medicines. Gifts can be imported upon payment of applicable customs duties. If duty leviable on rakhi is upto ₹ 100, no duty will be collected on the same. Goods including edible items of value not exceeding ₹ 5,00,000 in a licensing year (1^{st} April-31^{st} March) may be exported as gift. However, items mentioned as restricted for exports in ITC (HS) shall not be exported as a gift, without an authorisation.

c) **Re-import of repaired goods:** Capital goods, equipment, components, parts & 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.

d) **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.

e) **Metallic waste & scrap:** Import of any form of metallic waste, scrap will be subject to condition that it will not contain hazardous, toxic waste, radioactive contaminated waste / scrap containing radioactive material, any types of arms, ammunition, mines, shells, live or used cartridge or any other explosive material in any form either used or otherwise.

f) **Second hand goods:**



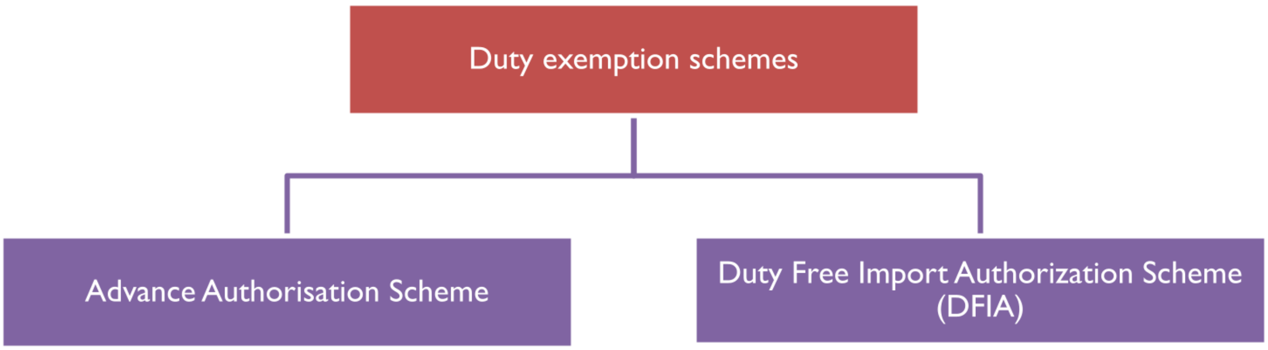
g) **Third Party Exports:** Third party exports are allowed under FTP. It means exports made by an exporter/manufacturer on behalf of another exporter(s). In such cases, export documents such as shipping bills shall indicate names of both manufacturer exporter/manufacturer and third-party exporter(s). Bank Realisation Certificate (BRC), Self-Declaration Form (SDF), export order & invoice should be in name of third-party exporter.

Duty Exemption and Remission Schemes

- Duty Exemption Schemes - Duty Exemption Schemes enable duty free import of inputs required for export production.

- Duty Remission Schemes - Duty Remission Scheme enables post export replenishment / remission of duty on inputs used in export product. Duty Drawback (DBK) Scheme, administered by Department of Revenue is designed for this purpose.
- Scheme for Remission of duties and taxes on exported products (RoDTEP) has been notified by Department of Commerce and administered by Department of Revenue.

Duty Exemption Schemes



1. Advance Authorisation Scheme

Items can be imported duty free against advance authorization:

- Input that is physically incorporated in export product (making normal allowance for wastage).
- Fuel, oil, catalyst which is consumed / utilized in process of production of export product.

Eligible Applicant / Export:

- Advance Authorisation can be issued either to a manufacturer exporter or merchant exporter tied to supporting manufacturer.
- Advance Authorisation for pharmaceutical products manufactured through Non-Infringing (NI) process shall be issued to manufacturer exporter only.

Eligible Supply:

Advance Authorisation is issued for procurement of inputs for the following kinds of supply: -

- Physical export (including export to SEZ)
- Intermediate supply; and/or
- Deemed exports
- Supply of 'stores' on board of foreign going vessel / aircraft, subject to condition that there is specific SION in respect of item supplied.

Basis of issuance of Advance Authorisation:

Advance Authorisation is issued for inputs in relation to resultant product, on the following basis:

- As per Standard Input Output Norms (SION) notified; or
- On the basis of self-declaration; or
- Applicant-specific prior fixation of norm by the Norms Committee; or
- On the basis of Self Ratification Scheme.

Pre-import Condition:

Imported inputs are subject to pre import condition & they should be physically incorporated in the export product. In case of local procurement under invalidation/ARO, the inputs shall be procured prior to manufacture of export item and shall be physically incorporated in the export product.

Validity Period for Import:

- Validity period of Advance Authorisation shall be **12 months** from the date of issue of Authorisation. This means that import under the authorisation must be made within this period. Re-validation for another 12 months allowed once & can be applied online.
- Validity of Advance Authorisation for supplies under deemed exports shall be co-terminus with contracted duration of project execution or 12 months from the date of issue of Authorisation, whichever is **later**.

Advance Authorisation (AA) for Annual Requirement & Eligibility Condition:

- AA for Annual Requirement shall only be issued for items notified in SION and not available in case of adhoc norms under Self-Declared Authorisations where SION does not exist.
- AA for Annual Requirement shall also not be available in respect of SION where input is notified.
- Exporters having past export performance (in at least preceding 2 FYs) shall be entitled.
- Entitlement in terms of CIF value of imports shall be upto 300% of FOB value of physical export and / or FOR value of deemed export in preceding FY or ₹ 1 Crore, whichever is higher.

Value Addition:

Value addition is calculated as follows:

VA = (A-B) / B x 100, where

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

B = CIF value of inputs covered by Authorisation, plus value of any other input used on which benefit of duty drawback is claimed or intended to be claimed.

- **Minimum value addition** required to be achieved is **15%.** However, in case of specified products (petroleum products etc.), value addition could be less than 15%.

- Spares that are required to be supplied with the export product can be imported duty-free up to a value of **10% of CIF value** of the authorisation.

- Actual User condition is applicable, so **shall not be transferable** even after completion of export obligation.

Details of Duties exempted:

Imports under Advance Authorisation are exempted from payment of -

- Basic Customs Duty,
- Additional Customs Duty,
- Education Cess,
- Anti-Dumping Duty,
- Countervailing Duty,
- Safeguard Duty,
- Transition Product Specific Safeguard Duty, wherever applicable.

Export Obligation Period (EOP):

"Export Obligation" means obligation to export product or products covered by Authorisation or permission in terms of quantity, value or both, as may be prescribed or specified by Regional or competent authority.
EOP of Advance Authorisations issued for such items shall be **90 days** from the date of clearance of import consignment and **no extension** in EOP shall be **allowed**.

2. Duty Free Import Authorisation Scheme (DFIA)

Provisions applicable to Advanced Authorisation are broadly applicable in case of DFIA. However, these Authorisations shall be issued **only for products for which SION have been notified.**

- DFIA is issued to allow duty free import of inputs as well as of oil and catalyst which is consumed / utilised in process of production of export product.
- Import of Tyre under DFIA scheme is not allowed.

Duties Exempted:

- DFIA shall be exempted only from payment of Basic Customs Duty (BCD).
- Drawback as per rate determined & fixed by Customs authority shall be available for duty paid inputs, whether imported or indigenous, used in export product.

Eligibility:

- DFIA shall be issued on **post export basis** for products for which SION have been notified.
- Application is to be filed with concerned Regional Authority **before starting export** under DFIA.
- Merchant Exporter shall be required to mention name & address of supporting manufacturer of the export product on export document.

No DFIA for inputs with 'Actual User' condition:

No DFIA issued for an input which is subject to pre-import condition or where SION prescribes 'Actual User' condition or certain other specified inputs with pre import condition.

Minimum Value Addition:

Minimum value addition of **20%** shall be required to be achieved.

Transferability of DFIA:

Regional Authority shall issue **transferable DFIA.**

Validity of DFIA:

- Export shall be completed within **12 months** from the date of online filing of application & generation of file number.
- DFIA is **valid for 12 months** from the date of issue.
- **No further revalidation** shall be granted by Regional Authority.
- **Separate DFIA** shall be issued **for each SION.**

Scheme for Remission of Duties and Taxes on Exported products (RoDTEP)

- RoDTEP scheme is based on the globally accepted principle that taxes and duties should not be exported, and taxes and levies borne on the exported products should be either exempted or remitted to exporters.

- The scheme aims to refund such duties and taxes on exported products, as are otherwise not being refunded under other provisions of law.

Salient Features of RoDTEP:

- Rebate amount is issued in the form of a **transferable duty credit / electronic scrip** (e-scrip), which will be maintained in an electronic ledger by the CBIC.

- Such duty credit shall be **used only to pay basic customs duty** on imported goods.

- The duty credit scrips are **freely transferable**, i.e., credits can be transferred to other importers.
- The rebate under scheme **shall not be available** in respect of **duties and taxes already exempted or remitted or credited.**

Reward under the scheme:

Rebate to eligible exporters at a notified rate as **a % of FOB value with a value cap per unit** of the eligible exported product, wherever required, on export of items. However, for certain items, **a fixed quantum of rebate amount** per unit may also be notified.

Ineligible supplies / items / categories under RoDTEP:

Ineligible supplies under RoDTEP:

- ✓ Export of imported goods in same or substantially the same form
- ✓ Exports through trans-shipment, i.e., exports originating in third country but trans-shipped through India
- ✓ Export products which are subject to minimum export price or export duty
- ✓ Products which are restricted / prohibited for export under FTP
- ✓ Deemed Exports
- ✓ Supply of products manufactured by DTA units to SEZ units
- ✓ Products manufactured in EHTP and BTP
- ✓ Goods which have been taken into use after manufacture

Export Promotion Capital Goods Scheme (EPCG)

- ✓ EPCG Scheme permits exporters to import capital goods for pre-production, production, and post production at **zero customs duty** or procure them indigenously without paying duty. In return, exporter is under an obligation to fulfill the export obligation.
- ✓ Capital goods imported under EPCG are **exempt from IGST & GST Compensation cess**.
- ✓ Authorisation shall be valid for **24 months** from the date of issue of Authorisation. **Revalidation** of EPCG Authorisation shall **not be permitted**.
- ✓ Imported Capital goods shall be subject to Actual User condition till export obligation is completed & Export Obligation Discharge Certificate (EODC) is granted.
- ✓ Import under EPCG scheme shall be subject to an export obligation equivalent to **6 times of duties, taxes and cess saved on capital goods to be fulfilled in 6 years reckoned from the date of issue of authorization.**

- ✓ Import/procurement under scheme shall also be subjected to Average Export Obligation (AEO).
- ✓ Export obligation consists of average export obligation & specific export obligation.

  Specific export obligation (SEO) under EPCG scheme is equivalent to 6 times of duty saved on capital goods imported under EPCG scheme, to be fulfilled in 6 years reckoned from Authorization issue-date. Specific EO is over and above the Average EO.

  Average export obligation (AEO) under EPCG scheme is the average level of exports made by the applicant in the **preceding 3 licensing years** for the same and similar products. It has to be achieved within the overall EO period (including extended period unless otherwise specified).

  AEO shall be fulfilled every financial year, till export obligation is completed. Exports/supplies made over and above AEO shall only be considered for fulfillment of Export Obligation.
- ✓ In case of **indigenous sourcing of capital goods**, SEO shall be **25% less than the EO** mentioned above, i.e., EO will be is 4.5 times (75% of 6 times) of duty saved on such goods procured.
  There shall be **no change in average EO** imposed, if any.
- ✓ Both physical exports as well as specified deemed exports are also counted towards export obligation.

Eligible exporters:

- Manufacturer exports with or without supporting manufacturer(s),
- Merchant exporters tied to supporting manufacturer(s), and
- Service providers including service providers designated as Common Service Provider (CSP) subject to prescribed conditions.

Eligible capital goods:

- Capital goods including capital goods in CKD/SKD condition
- Computer systems and software which are a part of the Capital Goods being imported
- Spares, moulds, dies, jigs, fixtures, tools & refractories
- Catalysts for initial charge plus one subsequent charge

EOU/EHTP/STP/BTP Schemes

- ✓ EOU - Export Oriented Unit Scheme
- ✓ EHTP - Electronics Hardware Technology Park Scheme
- ✓ STP - Software Technology Park Scheme
- ✓ BTP - Bio Technology Park

- ➢ Units may export all kinds of goods and services except items that are prohibited in ITC (HS).
- ➢ Units may import or procure all types of goods without payment of BCD, additional duty, IGST & compensation cess or procure from DTA on payment of GST & cess.
- ➢ Trading units are not covered under these schemes.

- Units shall be a positive net foreign exchange earner that are calculated cumulatively in blocks of 5 years.
- For establishment as EOUs, projects having a minimum investment of ₹ 1 Crore in plant & machinery shall be considered. However, it is not applicable to existing units, units in EHTP/STP/BTP & EOUs in handicrafts/agriculture/floriculture/aquaculture/animal husbandry/IT, services, brass hardware & handmade jewellery sectors.
- Transfer of manufactured goods/capital goods from one EOU/EHTP/STP/BTP unit to another EOU/EHTP/STP/BTP unit is allowed on payment of applicable GST & cess.
- Units may opt out of scheme with approval of DC/Designated officer subject to payment of applicable excise & customs duties, GST, cess. Also liable to penalty, if obligations have not been achieved by the unit.
- Existing DTA units may also apply for conversion into an EOU/EHTP/STP/BTP unit. Existing EHTP/STP units may also apply for conversion / merger to EOU unit and vice-versa. In such cases, units will avail exemptions in duties and taxes as applicable.

Deemed Exports

Goods supplied do not leave country, and payment is received either in INR / free foreign exchange & provided goods are manufactured in India are regarded as "Deemed Exports".

Deemed exports broadly covers three areas:

a) Supplies to domestic entities who can import their requirements duty free or at reduced rates of duty.
b) Supplies to projects / purposes that involve international competitive bidding.
c) Supplies to infrastructure projects of national importance.

(I) Categories of Supplies Considered as 'Deemed Export'

- Supply of goods against Advance Authorisation / Advance Authorisation for annual requirement / DFIA
- Supply of goods to projects or turnkey contracts financed by multilateral or bilateral agencies
- Supply of goods to units located in EOU / STP / EHTP / BTP
- Supply of goods to any project or for any purpose where import is permitted at zero BCD
- Supply of capital goods against EPCG authorisation
- Supply of goods to mega power projects
- Supply of goods to UN or international organisations for their official use
- Supply of goods to nuclear projects

(II) Benefits for Deemed Exports

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

a. Advance Authorisation/ Advance Authorisation for Annual requirement/ DFIA

b. Deemed Export Drawback

Refund of drawback on the inputs used in manufacture and supply under the deemed exports category can be claimed on '***All Industry Rate***' of Duty Drawback Schedule provided no CENVAT credit has been availed by supplier of goods on excisable inputs or on '***Brand rate basis'*** upon submission of documents evidencing actual payment of basic custom duties.

c. Refund of terminal excise duty for specified excisable goods

Supply of goods will be eligible for refund of terminal excise duty provided recipient of goods does not avail CENVAT credit/rebate onsuch goods and supply is eligible under that category of deemed exports.

(III) Common Conditions for Deemed Export Benefits

(i) Supplies shall be made directly to entities listed in the point (I) above. Third party supply shall not be eligible for benefits/exemption.

(ii) In all cases, supplies shall be made directly to the designated Projects/Agencies/Units/ Advance Authorisation/ EPCG Authorisation holder. Sub-contractors may, however, make supplies to main contractor instead of supplying directly to designated Projects/ Agencies. Payments in such cases shall be made to sub-contractor by main-contractor and not by project Authority.

(iii) Supply of domestically manufactured goods by an Indian Sub- contractor to any Indian or foreign main contractor, directly at the designated project's/ Agency's site, shall also be eligible for deemed export benefit.

Chapter 9 Foreign Trade Policy 2023

Introduction to FTP

Q1. What do you understand by the term 'Foreign Trade Policy' (FTP)? Which is the governing legislation for FTP? Which Government authorities administer FTP in India? (MTP-I Jul'21)

Answer:

Foreign Trade Policy is a set of guidelines or instructions issued by the Central Government which specifies policy for exports and imports viz., **foreign trade**. The FTP, in general, aims at developing export potential, improving export performance, encouraging foreign trade and creating favorable balance of payments position.

In India, Ministry of Commerce and Industry governs the affairs relating to the promotion and regulation of foreign trade.

The **Foreign Trade Policy, 2023,** (as updated) is notified by the Central Government, in exercise of powers conferred under **Section 5 of the Foreign Trade (Development and Regulation) Act, 1992** [FT(D&R) Act], as amended.

The main legislation concerning foreign trade is the **Foreign Trade (Development and Regulation) Act, 1992 [FT(D&R)] Act.**

In exercise of the powers conferred by the FT(D&R) Act, the Union Ministry of Commerce and Industry, Government of India announces the integrated Foreign Trade Policy (FTP) with certain underlined objectives. This policy is updated every year, in addition to changes that are made throughout the year.

The FTP is formulated, controlled and supervised by the office of the **Director General of Foreign Trade (DGFT)**, an attached office of the Ministry of Commerce & Industry, Government of India. DGFT has several offices in various parts of the country which work on the basis of the policy formed by the **headquarters at Delhi**.

Though the FTP is formulated by DGFT, it is administered in close coordination with other agencies. Other important authorities dealing with FTP are:

(i) Central Board of Indirect Taxes and Customs (CBIC)
(ii) Reserve Bank of India (RBI)
(iii) State GST Departments

Q2. Briefly explain as to how FTP is linked with customs laws?

Answer:

The Foreign Trade Policy is **closely knit** with the Customs, GST Laws & Excise/state laws of India. However, the **policy provisions per-se do not override tax laws**. The **exemptions extended** by FTP are given effect to by **issuing notifications** under respective tax laws (e.g., Customs Tariff Act). Thus, **actual benefit of the exemption depends on the language of exemption notifications** issued by the CBIC. In most of the cases the exemption notifications refer to policy provisions for detailed conditions. Ministry of Finance / Tax Authorities cannot question the decision of authorities under the Ministry of Commerce (so far as the issue of authorization etc. is concerned).

Decision of Director General of Foreign Trade (DGFT) is final and binding in respect of interpretation of Policy or provision in Handbook of Procedures, Appendices and Aayat Niryat Forms or classification of any item for import / export in ITC (HS). A **Policy Interpretation Committee** (PIC) may be **constituted to aid and advice** DGFT.

Q3. Enumerate the various matters in respect of which policies and regulations are framed under FTP? (MTP-II Jul'21, MTP May'20)

Answer:

Following issues are covered under FTP 2023 -

- **General Provisions Regarding Imports and Exports** – Chapter 2 of FTP 2023
- **Developing Districts as Export Hubs** – Chapter 3 of FTP 2023
- **Duty Exemption and Remission Schemes** – Chapter 4 of FTP 2023
- **Export Promotion Capital Goods (EPCG)** Scheme – Chapter 5 of FTP 2023
- **EOU / EHTP / STP & BTP** Schemes – Chapter 6 of FTP 2023
- **Deemed Exports** – Chapter 7 of FTP 2023
- **Quality Complaints and Trade Disputes** – Chapter 8 of FTP 2023
- **Promoting Cross Border Trade in Digital Economy** – Chapter 9 of FTP 2023
- **SCOMET:** Special Chemicals, Organisms, Materials, Equipment & Technologies – Chapter 10 of FTP 2023

Provisions relating to Special Economic Zone (SEZ) are contained in a separate Act and are not part of FTP. However, provisions of SEZ are closely related to Foreign Trade Policy.

Q4. With reference to the provisions of FTP 2023, discuss giving reasons whether the following statements are true or false:

(i) If any doubt arises in respect of interpretation of any provision of FTP, the said doubt should be forwarded to CBIC, whose decision thereon would be final and binding.

(ii) Authorization once claimed by an importer cannot be refused by DGFT.

(iii) IEC is a unique 12-digit PAN based alphanumeric code allotted to a person for undertaking any export/ import activities.

(iv) Waste generated during manufacture in an SEZ Unit can be freely disposed in DTA on payment of applicable customs duty, without any authorization.

Answer:

(i) **False.** If any question or doubt arises in respect of interpretation of any provision of the FTP, said question or doubt ought to be **referred to DGFT whose decision thereon would be final and binding.**

(ii) **False. No person may claim an Authorization as a right and DGFT shall have power to refuse** to grant or renew the same in accordance with provisions of FT (D&R) Act, rules made thereunder and FTP.

(iii) **False.** IEC is a **unique 10-digit code** allotted to a person for undertaking export/ import activities.

(iv) **True. Any waste or scrap** or remnant including any form of **metallic waste & scrap** generated during manufacturing or processing activities of an SEZ Unit / Developer / Co-developer are **allowed to be disposed in DTA freely**, **without any authorization**, subject to **payment of applicable customs duty.**

Status Holders

Q5. Indicate the privileges/benefits available to "Status Holders" under FTP 2023. (May'18)

Answer:

Status holders are eligible for privileges as under:

(i) **Authorisation and custom clearances** for both imports and exports **on self-declaration basis.**

(ii) **Fixation of Input Output Norms on priority i.e., within 60 days** by Norms Committee.

(iii) **Exemption from compulsory negotiation** of documents through banks. **Exception are remittance/ receipts.**

(iv) **Exemption from furnishing of Bank Guarantee** in Schemes under FTP unless otherwise specified.

(v) **Two Star Export Houses and above are permitted to establish export warehouses.**

(vi) Manufacturers who are also status holders **(Three Star/Four Star/Five Star)** will be enabled to **self-certify their manufactured goods** [as per their Industrial Entrepreneurs Memorandum (IEM) / Industrial License (IL) / Letter of Intent (LOI)] as originating from India with a view **to qualify for preferential treatment under specified agreements.**

(vii) Status holders shall be **entitled to export freely exportable items** (excluding Gems and Jewellery, Articles of Gold and precious metals) **on free of cost basis** for export promotion **subject to a specified annual limit.**

(viii) The status holders would be **entitled to preferential treatment and priority in handling of their consignments** by the concerned agencies.

Q6. Two exporters namely, Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. have achieved the status of Status Holders (One Star Export House) in the current financial year. Both the exporters have been regularly exporting goods (other than Gems and Jewellery) every year. What would have been the minimum export performance of the two exporters to achieve such status?

Both the exporters want to establish export warehouses in accordance with the applicable guidelines. What should be their export turnover to enable them to establish export warehouses?

Answer:

Status Holders are **export firms recognised as business leaders** who have excelled in international trade and have successfully contributed to country's foreign trade. They are expected to not only contribute towards India's exports but also provide guidance and handholding to new entrepreneurs. **All exporters of goods, services and technology having an import-export code (IEC) number shall be eligible for recognition as a status holder. Status recognition depends upon export performance.**

In order to be categorized as **One Star Export House**, an exporter needs to achieve the export performance of **3 million US $ million [FOB/ FOR (as converted)] during current and previous three financial years.** Thus, export performance of Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. would have been at least 3 million US $ million [FOB/ FOR (as converted)] during current and previous three financial years. **For granting status, an export performance would be necessary in all 3 preceding financial years.**

Further, Two Star Export Houses and above are permitted to establish export warehouses. Therefore, Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. **can establish export warehouses in India only if they**

achieve the status of Two Star Export House and above. In order to achieve said status, export performance of the exporters during current and previous three financial years should be as indicated below:

Status Category	Export Performance [Threshold in US$ million)]
Two Star Export House	15
Three Star Export House	50
Four Star Export House	200
Five Star Export House	800

Provisions Regarding Imports & Exports

Q7. State in brief policy for import of samples?

Answer:

Import of samples of even '**restricted**' items, **is allowed without import authorisation**. **Exceptions are defence / security items, seeds, bees, and new drugs; these need authorisation.**

Duty free import of samples upto ₹ 3,00,000 for all exporters shall be **allowed subject to terms and conditions** of customs notification as amended.

Q8. Mr. A has brought a laptop from USA with him. Such laptop has been used by Mr. B - the seller for few months there. Mr. A contends that he can freely import such laptop as baggage without any restriction / authorization. Examine the correctness of Mr. A's claim in the light of the provisions of FTP 2023?

Answer:

Import of **one laptop** computer (notebook computer) **as baggage is exempt** from whole of the customs duty. Further, Foreign Trade Policy 2023 provides that **import of second-hand laptop requires authorization.**

In view of above, Mr. A's claim is **not correct** as second-hand laptops can be **imported only against an authorization.**

Q9. CD Corporation, a merchant exporter, procured order of goods from a customer in USA. It approached AB Corporation, a manufacturer, for execution of the said order. The shipping bills relating to the consignment bear the name of CD Corporation. Bank Realization Certificate, export order and invoice are also in the name of CD Corporation. Comment whether AB Corporation would be deemed as the exporter under FTP.

Answer:

The given scenario is a case of **third party exports**.

Third party exports are **allowed** under FTP. Third-party exports mean **exports made by an exporter/ manufacturer on behalf of another exporter(s).** The conditions for being allowed as third-party exports under FTP are:

(i) Export documents such as **shipping bills shall indicate** names of both **manufacturer exporter/manufacturer and third party exporter(s).**

(ii) **BRC, Self-Declaration Form (SDF), export order and invoice** should be in the **name of third party exporter.**

In the above case, though BRC, export order and invoice are in the name of CD Corporation (third party exporter), the shipping bill **does not have the name of AB Corporation (manufacturer).** Therefore, **AB Corporation will not be treated as the exporter** in this case.

Advance Authorisation Scheme

Q10. What are the key features of Advance Authorisation Scheme? Enlist the items which can be and which cannot be imported against Advance Authorisation.

Answer:

Under advance authorisation scheme, **input that is physically incorporated in export product can be imported without payment of customs duty.**
Imports under Advance Authorisation for **physical as well as deemed exports** are **exempt from whole of Integrated Tax and Compensation Cess.**

Imports are **exempted from payment of basic customs duty, additional customs duty, education cess, anti-dumping duty, countervailing duty, safeguard duty, transition product specific safeguard duty, wherever applicable.** However, specified deemed exports are not exempted from payment of applicable anti-dumping duty, countervailing duty, safeguard duty and transition product specific safeguard duty, if any.

Validity period of Advance Authorisation shall be **12 months from the date of issue of Authorisation.** This means that import under the authorisation must be made within this period. Re-validation for another period of 12 months can be allowed once only. Application for re-validation can be made online.

Validity of Advance Authorisation for supplies under **deemed exports** shall be co-terminus with **contracted duration of project execution or 12 months from the date of issue of Authorisation**, **whichever is later.**

Export proceeds shall be realized in freely convertible currency or in Indian Rupees, except otherwise specified. However, in specified cases, export proceeds may be realized in rupees subject to fulfilment of specified conditions.

Items **which can be imported** duty free against advance authorization:

- **Input that is physically incorporated** in export product (making normal allowance for wastage).
- **Fuel, oil, catalyst** which is consumed / utilised in the process of production of export product.
- **Spares** that are required to be supplied with the export product can be imported duty-free **up to a value of 10% of the CIF value** of the authorisation.
- **Specified spices** only when used for activities like crushing / grinding / sterilization / manufacture of oils or oleoresins and not for simply cleaning, grading, re-packing etc.

Items **which cannot be imported** against advance authorization:

- No import of an item shall be allowed if the **item is prohibited**.
- **Items reserved for imports by STEs.**
- **Import of restricted items** shall be allowed **unless specifically disallowed**.

Q11. State salient aspects of Advance authorisation for annual requirements to exporters?

Answer:

Advance Authorisation for Annual Requirement shall **only be issued for items notified in SION.** And it **shall not be available in case of adhoc norms under Self-Declaration Authorisations where SION does not exist.**

Advance Authorisation for Annual Requirement shall also **not be available in respect of SION where input is notified.**

Exporters having past export performance (in at least preceding two financial years) shall be entitled for Advance Authorisation for Annual Requirement.

Entitlement in terms of **CIF value of imports shall be upto 300% of FOB value of physical export and/or FOR value of deemed export in preceding year or ₹ 1 crore, whichever is higher.**

Q12. Jigsaw Puzzle has imported inputs, having CIF value of ₹ 25,00,000 without payment of duty under Advance Authorisation. Inputs are supplied free of cost valued at ₹ 5,00,000 to meet eventualities of quality issues arising during manufacture. On manufacturing, the products are supplied to SEZ units and realisation is in Indian currency through regular current account.

Jigsaw Puzzle wants to know whether it is entitled to Advance Authorisation scheme and what should be the minimum value addition. And you are required to compute FOR value of supplies to SEZ.

Jigsaw Puzzle has manufactured and supplied goods against EPCG authorisation to their customer. Jigsaw Corporation who are setting up a new unit for exports. The payment for such supply is received in Indian currency. Can Advance Authorization be denied as payment has not been received in free foreign exchange?

Answer:

Advance authorisation (AA) **can be issued for supplies made to SEZ units (as supplies made to SEZ units are considered as equivalent to physical exports)**. The **minimum value addition** required to be achieved under AA is **15%.** The FOR value of supplies made to SEZ units is computed as under:

Value addition = (FOR value of supply received – CIF value of inputs/CIF value of inputs) x 100

Notional value of free of cost inputs supplied by foreign buyer needs to be **added to the CIF value of imported inputs** to compute FOR value of the supplies made to SEZ units.

FOR value of supplies made to SEZ units (after adding minimum 15% value addition) = ₹ 30,00,000 x 115% = ₹ 34,50,000

Jigsaw Puzzles will, however, **be not eligible for AA as the payment from SEZ unit is not realised from its Foreign Currency Account.**

Supply of goods to **against EPCG Authorisation is a deemed export eligible for grant of AA**. However, in this case, **AA can also be issued when the payment for such deemed exports is realised in free foreign exchange.**

Duty Free Import Authorisation Scheme (DFIA)

Q13. What are the salient features of Duty-Free Import Authorization Scheme (DFIA)? Which duties are exempted under this scheme? (MTP Nov'20)

Answer:

DFIA is issued to allow duty free **import of inputs as well as of oil and catalyst which is consumed / utilised** in the process of production of **export product**. **Import of Tyre** under DFIA scheme is **not allowed**.

The goods imported shall be **exempted only from payment of Basic Customs Duty (BCD).**

DFIA shall be issued on **post export basis** for products for which SION have been notified. **Separate DFIA shall be issued for each SION.**

No DFIA shall be issued for an input which is subject to **pre-import condition** or where **SION prescribes 'Actual User' condition** or certain other specified inputs with pre import condition.

Holder of DFIA can procure inputs from indigenous supplier / State Trading Enterprise /EOU/EHTP /BTP/STP in lieu of direct import against Advance Release Order (ARO) or Invalidation Letter.

Validity of ARO / Invalidation Letter shall be co-terminus with validity of Authorisation.

Drawback as per rate **determined and fixed by Customs authority** shall **be available for duty paid inputs**, whether imported or indigenous, used in the export product.

DFIA is transferable after export obligation is fulfilled. Minimum value addition of 20% shall be required to be achieved for issuance of DFIA.

Export Promotion Capital Goods Scheme (EPCG)

Q14. Explain the significant features of EPCG Scheme. Which type of capital goods cannot be imported under such scheme?

Answer:

EPCG scheme permits exporters to import capital goods (except specified goods) for pre-production, production and post-production at **zero customs duty** or procure them indigenously without paying duty in the prescribed manner. In return, exporter is under an obligation to **fulfill the export obligation.**

Capital goods imported under EPCG Authorisation **for physical exports** are also **exempt from IGST and Compensation Cess.**

In case integrated tax and compensation cess are **paid in cash** on imports under EPCG, **incidence of the said integrated tax and compensation cess** would **not be taken for computation of net duty** saved provided, input tax credit is not availed.

Import of items which are **restricted** for import **shall be permitted** under EPCG Scheme **only after requisite approval**. Similarly, if the goods proposed to be exported under EPCG Authorisation are restricted for export, the EPCG Authorisation shall be issued only after requisite approval for issuance of Export Authorisation.

Imported capital goods shall be **subject to Actual User condition till export obligation is completed** and Export Obligation Discharge Certificate **(EODC) is granted**.

Authorisation shall be **valid** for import for **24 months from the date of issue of Authorisation**. **Revalidation** of EPCG Authorisation **shall not be permitted**.

Import under EPCG scheme shall be subject to an **export obligation equivalent to 6 times of duties, taxes and cess** saved on capital goods to be **fulfilled in 6 years** reckoned from the date of issue of authorization.

Eligible capital goods under EPCG Scheme are as under:

- **Capital Goods** including capital goods in **CKD/SKD condition**
- **Computer systems and software** which are a part of the **Capital Goods being imported**
- **Spares, moulds, dies, jigs, fixtures**, **tools & refractories**
- **Catalysts for initial charge** plus one subsequent charge

Q15. Which exporters are eligible for Export Promotion Capital Goods Scheme as per Foreign Trade Policy 2023? Also describe which capital goods are eligible for import under this scheme? (Nov'18 Old)

Answer:

Following **exporters are eligible** for EPCG scheme:

- **Manufacturer exporters** with or without supporting manufacturer(s),
- **Merchant exporters** tied to supporting manufacturer(s), and
- **Service providers** including service providers designated as Common Service Provider (CSP) subject to prescribed conditions.

Following **capital goods are eligible** for import under EPCG scheme:

- **Capital goods** including capital goods in **CKD/SKD condition**
- **Computer systems and software** which are a part of **Capital Goods being imported**
- **Spares, moulds, dies, jigs, fixtures**, **tools & refractories**
- **Catalysts for initial charge** plus one subsequent charge

EOU, EHTP, STP & BTP Schemes

Q16. With reference to the provisions relating to EOU, EHTP, STP, BTP & SEZ Schemes as contained in FTP, answer the following questions:

(i) A unit intending to trade in handicrafts wants to set up an EOU. Is it allowed?

(ii) An EOU has started production after 4 years 10 months from the date of grant of Letter of Permission (LoP)/ Letter of Intent (LoI). Is it correct?

(iii) A EOU wants to import a second hand capital goods which is prohibited under ITC (HS). Can it do so?

Answer:

(i) **No. Units undertaking to export their entire production** of goods and services (**except permissible sales in DTA**), may be set up under the Export Oriented Unit (EOU) Scheme, Electronics Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-Technology Park (BTP) Scheme for manufacture of goods, including repair, re-making, reconditioning, re-engineering, rendering of services, etc. **Trading units** are **not covered** under these schemes.

(ii) **No.** EOU/ BTP/ EHTP/ STPs should **start production within 2 years** from the date of grant of Letter of Permission (LoP)/ Letter of Intent (LoI). In other words, LoP/ LoI have an **initial validity of 2 years**, by which time **unit should have commenced production**. Its validity may be **extended further up to 2 years** by competent authority. However, proposals for **extension beyond four years shall be considered in exceptional circumstances**, on a case to case basis by BoA.

(iii) **No.** Though an EOU is permitted to import duty free second hand capital goods, without any age limit, it **cannot import capital goods that are prohibited items of import in the ITC(HS).**

Q17. Write short notes on the following with reference to the provisions relating to EOU/EHTP/STP/BTP as contained in the FTP:
(i) Entitlement for supplies from DTA
(ii) Inter Unit Transfer
(iii) Exit from the Scheme

Answer:

(i) Entitlement for supplies from DTA

- Supplies **from DTA to EOU/EHTP/STP/BTP units** for use in their manufacture for exports will be eligible for "**benefits under deemed exports**". DTA supplier shall be eligible for relevant entitlements under deemed exports provisions of FTP, besides discharge of export obligation, if any, on the supplier. The **refund of GST paid** on such supply from DTA to EOU would be **available to the supplier** subject to **specified conditions and documentations.**
- In addition, **EOU/EHTP/STP/BTP units shall be entitled to following**: -
  - **Reimbursement of Central Sales Tax (CST)** on goods manufactured in India, wherever applicable. **Simple interest @ 6% per annum will be payable on delay** in refund of CST, **if the case is not settled within 30 days** of receipt of complete application.
  - **Exemption from payment of central excise duty** on goods, falling in Fourth Schedule of Central Excise Act, procured from DTA on such goods manufactured in India.

(ii) Inter Unit Transfer

- Transfer of manufactured goods/capital goods from one EOU/ EHTP/STP/BTP unit to another EOU / EHTP/ STP/ BTP unit is **allowed on payment of applicable GST and compensation cess** with prior intimation to concerned Development Commissioners of the transferor and transferee units as well as concerned Customs authorities as per the specified procedure.
- Goods supplied by one unit to another unit shall be treated as **imported goods for second unit for payment of duty, on DTA sale by second unit**.

(iii) Exit from the Scheme

- **With approval of DC/Designated officer** of EHTP/STP/BTP, an EOU/EHTP/STP/BTP unit **may opt out of scheme.** Such exit shall be **subject to payment of applicable excise** and **customs duties** and on payment of **applicable IGST/CGST/SGST/UTGST** and **compensation cess,** if any, and industrial policy in force.
- If unit has **not achieved obligations**, it shall also be **liable to penalty at the time of exit.**

Deemed Exports

Q18. List some supplies which are 'deemed exports' for purpose of benefits under FTP 2023?
Answer:
As per FTP 2023, following are treated as deemed exports:

- Supplies against **Advance Authorisation / DFIA**
- Supplies to **EOU/STP/EHTP/BTP**
- Supplies against **EPCG authorisation**
- Supply to **projects or turnkey contracts** financed by multilateral / bilateral agencies
- Supplies to **projects against International Competitive Bidding**
- Supplies to **projects where import is permitted at zero basic customs duty**
- Supply to **mega power projects**
- Supplies to **UN or international organisations for their official use**
- Supplies to **nuclear projects**