



INDIA'S EXPORT CONTROL SYSTEM

LICENSING PROCEDURE AND INTER-AGENCY PROCESS

Government of India

21st Asian Export Control Seminar, Tokyo, Japan
(26-28 February, 2014)



Outline of Presentation

- Overview
- Policy Provisions
- Licensing
- Enforcement
- Inter Agency Process
- Outreach and capacity building

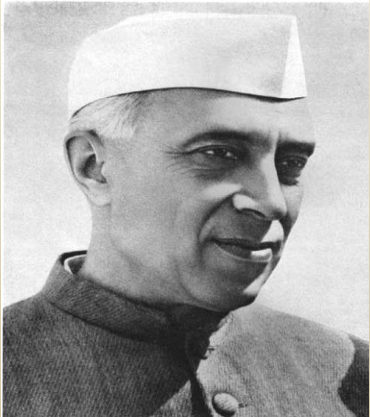


OVERVIEW



BRIEF HISTORY OF INDIA'S EXPORT CONTROL

“Export is not merely a financial matter. It has international implications.....It is desirable for the Government of India to prohibit the export of Monazite and Thorium Nitrate from India (and) this would mean that any export would be in accordance with the explicit permission of the Government of India and subject to the conditions laid down”.



Pt. Jawaharlal Nehru
(in 1947, while laying down the basis for future controls over strategic exports)



BRIEF HISTORY OF INDIA'S EXPORT CONTROL

- **1989**- Rules for manufacture, use, import, export and storage of hazardous micro-organisms/ genetically engineered organisms or cells notified .
- **1993**- List of dual use chemicals export of which was either prohibited or permitted under license issued.
- **1995**- First Control List described as “ Special Materials, Equipment and Technology (**SMET**) “, notified in EXIM Policy.
- **2001**- Special Chemicals, Organisms , Materials, Equipment and Technologies(**SCOMET**) list notified. Last updated in 2013.



DUAL-USE ITEMS -- SCOMET

S	SPECIAL
C	CHEMICALS
O	ORGANISMS
M	MATERIALS
E	EQUIPMENT
T	TECHNOLOGY



SCOMET List – Appendix 3 of Schedule 2 of
ITC(HS) Classification of Export & Import Items



POLICY PROVISIONS



Strategic Trade Control - Legal Framework

- FT(D&R) Act, 1992 as amended in 2010
- Customs Act , 1962
- Atomic Energy Act , 1962
- Chemicals Weapon Convention Act, 2000
- WMD Act, 2005



POLICY PROVISIONS – Foreign Trade Policy (FTP)

- Detailed Procedure in Para 2.49 A of HBP Vol. 1
- Restrictions under **SCOMET** List



SCOMET List – Export regulated

ITC(HS) Classification of Export & Import Items
Appendix 3 , Schedule 2

Notification No. 38 dated 31.03.2011 [Revised SCOMET list]

Notification No. 111 dated 18.04.2012 [ITC(HS) Classification]

Notification No. 37 dated 14.03.2013 [Amendment in list notified on 18.04.2012]

Notification No. 14 dated 31.05.2013 [DPRK related amendment]

Notification No. 26 dated 03.07.2013 [Cat. 3D001 substituted]



EXPORT POLICY – SCOMET Items

- Export of **SCOMET** items **prohibited/restricted/regulated**
- Export permitted against an **authorization** only
- Items in the SCOMET list classified in eight(8) categories
- List consistent with NSG & MTCR Control list
- Similar to EU Dual Use list



SCOMET List

Items classified in **Eight** categories

Category	Items
0	Nuclear materials, nuclear-related other materials, equipment and technology
1	Toxic chemical agents and other chemicals
2	Micro-organisms, Toxins
3	Materials, Materials Processing Equipment, and related Technologies
4	Nuclear-related other equipment and technology, not controlled under Category 0
5	Aerospace systems, equipment, including production and test equipment, and related technology
6	(Reserved)
7	Electronics, computers, and information technology including information security





LICENSING

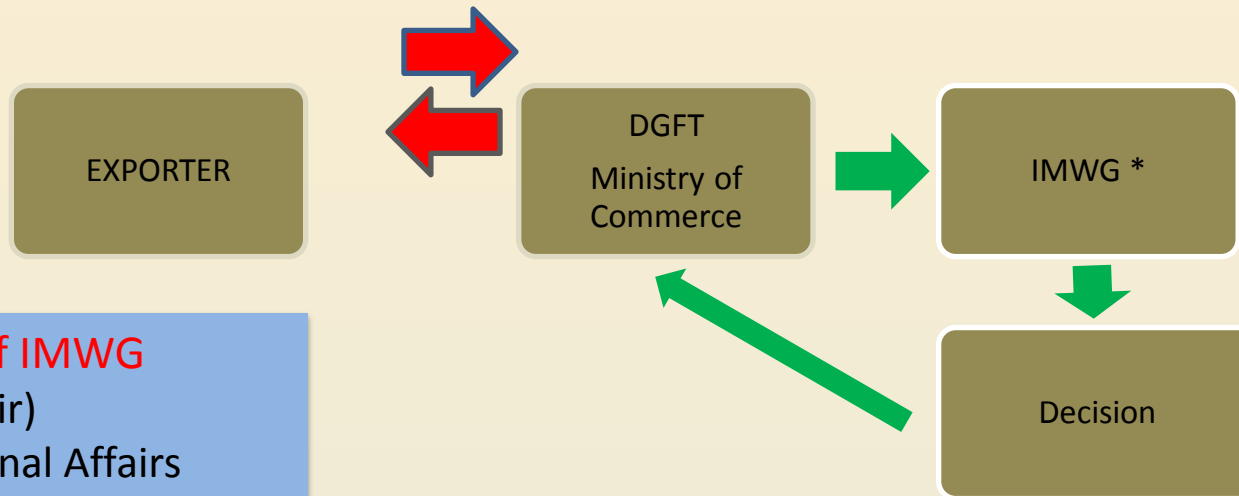


LICENSING – SCOMET Items

SCOMET Category	Licensing Authority	
0	D/o Atomic Energy	Regulated under Atomic Energy Act 1962 & rules/notifications
1, 2, 3, 4, 5, 7	DGFT	
6 (reserved)	Export permitted with NOC from M/O Defence	Reserved for munitions – to be notified



LICENSING



* Members of IMWG

- DGFT(Chair)
- M/o External Affairs
- DRDO/M/o Defence
- D/o Atomic Energy
- ISRO/D/o SPACE
- NA, CWC
- D/o Chemicals
- D/o Defence Production
- D/o Bio-Technology
- Intelligence Agencies

* IMWG-Inter Ministerial Working Group

- ✓ Standing body
- ✓ Meets every month
- ✓ Works by consensus
- ✓ NOCs required from all members

Licensing: IMWG

- Standing body
- Meets every month
- Works by consensus;
- Includes technical departments and experts
- Matter can be referred to High Powered Committee if consensus is not established



LICENSING - Procedure

➤ Prescribed Forms -

ANF 1 + ANF 2E (for license)

ANF 2 EE (for site visit, on site verification & access to records/documentation by foreign entity)

[Online filing introduced on 29th March, 2012]

➤ Comprehensive Guidelines provided

➤ Required documents

- List given at the end of ANF-2E
- End User Certificate - Appendix 36

➤ Application to be submitted to **DGFT(HQ), New Delhi**

SCOMET Guidelines on DGFT website

(www.dgft.gov.in)



LICENSING Procedure - Salient Features

Evaluation of Applications –Factors before IMWG

- Pre-License Screening
- Credentials of the **end user**
- Credibility of the **stated end-use**
 - Whether the items being exported in line with the business activity of the end user
 - **Risk Assessment**
 - ❖ Possibility of diversion for any mala fide use i.e. development/manufacture of WMD etc.
 - ❖ Possibility of the items ending up in wrong hands - non-State actors, terrorists etc.



General criteria - Handbook of Procedure (Vol. I)

(Para 2.49)



ENFORCEMENT



ENFORCEMENT - Agencies

Customs

- Automated Custom Risk Management System
- Advanced Automated Export Control System
- Assistance from Missions Abroad and Intelligence Agencies
- Prosecution for violation of export policy under Customs Act
- Violation, if any , reported to DGFT



ENFORCEMENT - Agencies

DGFT - FT(D&R) Act,1992 Amended in 2010

Penal provisions for violation of export policy

- Suspension/cancellation of 'IE Code'
- Penalty up to 5 times the value of the goods
- Criminal prosecution – imprisonment
- FT(D&R) amended – to align provisions with those of the WMD Act,2005

Inter Agency Process



Inter Agency Process

Meeting of various Government Agencies to

- Update/Revise SCOMET list [Inter Agency Exercise carried out in 1995, 2000, 2005, 2007 & 2013]
- **Review existing laws and procedure**
 - Inter Agency exercise led to WMD Act, 2005
 - Advisory Committees under WMD Act
 - Amendment in FT(D&R) Act in 2010



Inter Agency Process

- Share information about potential export control violation
- Discuss follow up actions in such cases
- Discuss emerging trends in proliferation issues
- Engage with major multilateral export control regimes



Inter Agency Process-*Outreach* & *Capacity Building*

Inter agency collaborative effort :

- Through outreach seminars/workshops for personnel from various agencies & for industry.
- Through 'Procedure Handbooks' & online assistance and information dissemination.
- Conduct regular awareness programmes for chemical industry (Jointly by Department of Chemicals & NACWC)
- Training of Custom officers and border control agencies.



DGFT website - www.dgft.gov.in

Government of India
Ministry of Commerce and Industry
Directorate General of Foreign Trade

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ECOM (Read me first)
eBRC Management System
Login for RCMC Upload RCMC(Help)
Online IEC Application Help Appl.Form
View and Print your e-BRCs
View your IEC
IEC Status at Custom
DEL Status DEL Circular
Print Application
Help

What's New ?
Tender No. 19/2013 dated:01.01.2014 Regarding :Comprehensive Annual Maintenance of Desktop Computers.
Tender No. 18/2013 dated:17.10.2013 Regarding :Detailed Information/Terms & Conditions in connection with the Tender for PA system.
Tender No. 17/2013 dated:25.09.2013 Regarding :Quotation for Annual Maintenance/srving for Pest Control work in the office of DGFT.
Tender No. 16/2013 dated:09.09.2013 Regarding :Comprehensive Annual Maintenance Contract of UPS and Inverters in the Directorate General Foreign Trade.

Important Statistics
Top Ten commodities of Exports 2012-14 (April to November) (Provisional) (in \$ million)

Commodity	Value (\$ million)
Iron ores and concentrates	10412.24
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Current Information
Highlights of FTP as announced on 18.04.2013
Vacancy Circular
Minister's Speech
DGFT and Enforcement Directorate Sign MoU on Foreign Exchange Data Sharing NEW
Inviting Suggestions for proposed IEC process NEW
Report of Inter-Ministerial Committee for Boosting Exports from MSME Sector
Second Task Force on Transaction Cost
A report of Task force on Transaction cost in Exports
Cotton yarn registration data
Task Group report on Diamond Sector
Employee corner
SCOMET Items
Exim Bulletin

Public Grievances
FTDR Act
FTDR Rules
Foreign Trade Policy
Foreign Trade Procedures
Notification
Public Notices
Circulars
Trade Notices
ITC(HS) Based Policy
Annual Report
Committee Cases
Adhoc Norms
Tenders
FTA Cell
RTI Act
Citizen Charter
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DAYA SHANKAR

Deputy Director General of Foreign Trade
Directorate General of Foreign Trade

VIKRAM VARDHAN

Under Secretary (T), D&ISA
Ministry of External Affairs

Government of India





Thank you