



RECENT DEVELOPMENTS in INDIA'S EXPORT CONTROLS

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Tokyo, Japan

India's Commitment to Non-Proliferation



“ This 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.....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.”

First Prime Minister Jawaharlal Nehru in 1947



Non-Proliferation Commitments

Biological Weapons Convention

State Party since 1974;

Chemical Weapons Convention

State Party since 1996; Member of Executive Council since its inception;

IAEA

Founding member; active participant in nuclear safety and security; safeguards since 1971; Safeguards Agreement with IAEA (INFCIRC/754); Additional Protocol in force since July 2014

UN Security Council Resolutions 1540

Export controls in terms of UNSC Resolutions

The Hague Code of Conduct:

Subscribed in June 2016; filed Pre-launch notifications and Annual Declaration for 2016

Multilateral export control regimes

- Export control list aligned with MTCR, NSG, WA and AG
- Effective export control system

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Export Control Enforcement-Legal Framework



FTDR Act

- Penal provisions -Fiscal penalty/Criminal prosecution, imprisonment ;
- Suspension/cancellation of 'IE Code';
- Section 14 of FTDR(Amendment) Act 2010 provides for overarching applicability of WMD provisions

WMD Act

- Multi-agency approach to enforcement;
- Fiscal penalties and even life imprisonment for grave violations;

Customs Act

- Power to search, seize, interrogate, arrest, impose fiscal penalties, initiate prosecution

Atomic Energy Act, 1962

Environment Protection Act,1986

Chemical Weapons Convention Act, 2000

Rules and Regulations under these Acts issued from time to time

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Milestones in Export Control



1995

First dual use Control list SMET notified

2000

SCOMET List notified with CWC chemicals, biological agents; separate categories for space/missile items

2005

- India enacted the WMD Act 2005
- Announced adherence to NSG and MTCR

2011

SCOMET list updated to include technology transfers, brokering, catch-all provisions in line with FTDR (Amendment) Act, 2010

2013-16

SCOMET List harmonized with NSG and MTCR control lists;

Comprehensive update of SCOMET list harmonizing all four multilateral export control regimes;

2017

- Included Munitions List of WA in Category 6
- Category 8 added to include WA sensitive dual use items. 5

National Export Control List -SCOMET



SCOMET
List

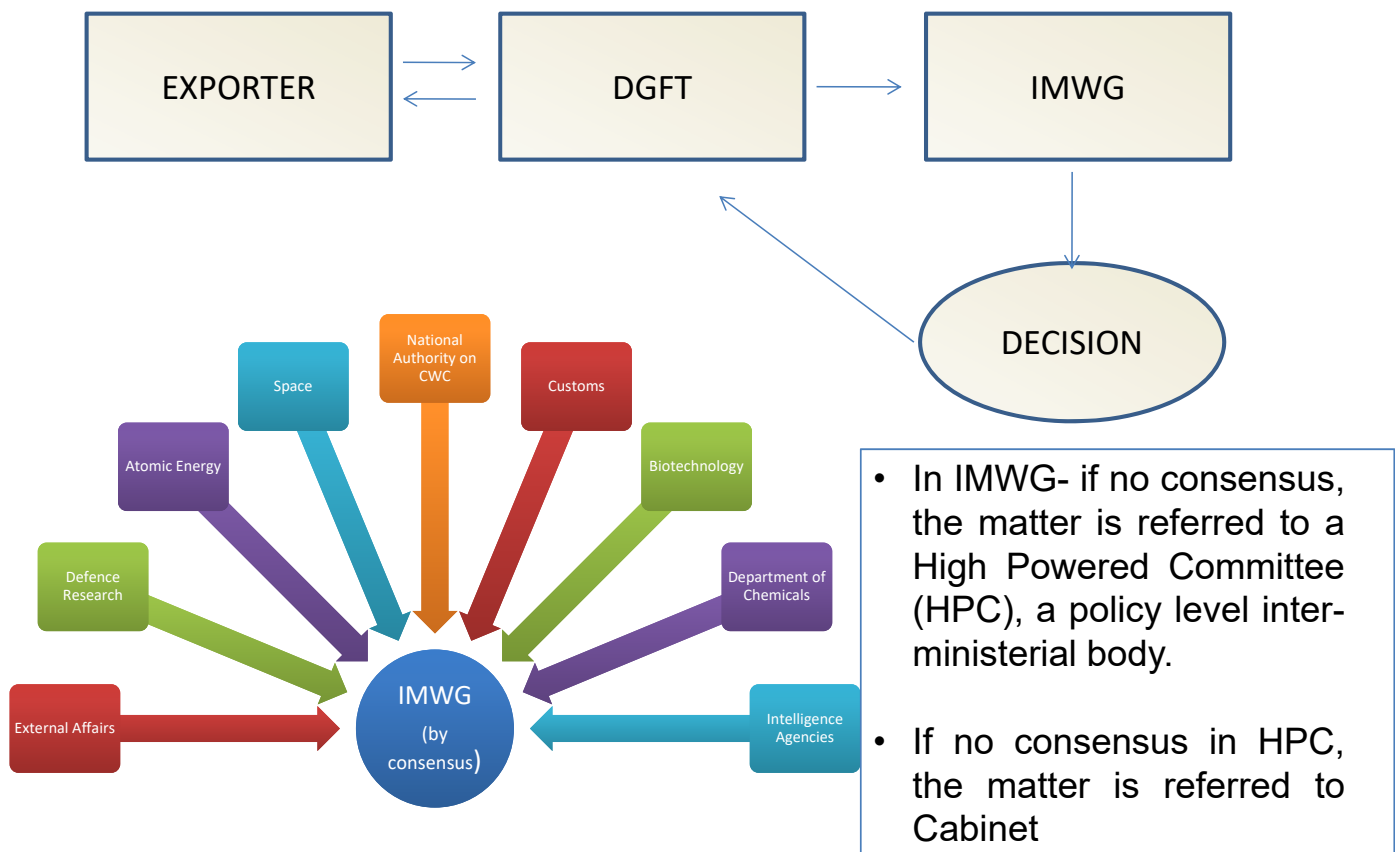
- Special
- Chemicals
- Organisms
- Materials
- Equipment
- Technologies

Licensing Authorities



Category	SCOMET Items	Licensing Jurisdiction
0	Nuclear materials, nuclear-related other materials, equipment and technology	Department of Atomic Energy(DAE)
1	Toxic chemical agents and other chemicals	Directorate General Foreign Trade (DGFT)
2	Micro-organisms, Toxins	DGFT
3	Materials, Materials Processing Equipment and related Technologies	DGFT
4	Nuclear-related other equipment and technology, not controlled under Category 0	DGFT
5	Aerospace systems, equipment, including production and test equipment, and related technology	DGFT
6 (NEW)	Munitions List	Department of Defence Production (DDP)
7	Reserved	DGFT
8 (NEW)	Special Materials And Related Equipment, Material Processing, Electronics, Computers, Telecommunications, Information Security, Sensors And Lasers, Navigation And Avionics, Marine, Aerospace And Propulsion.	DGFT

Export Control: Licensing Process



Export Control- Licensing Process



- No SCOMET license exception to any agency
- Online filing application system introduced in March, 2012
- Application in prescribed Forms
- Comprehensive Guidelines provided
- Evaluation of Applications – Factors before IMWG
 - Pre-License Screening
 - Case by case evaluation on merit.
 - Credentials of the end user
 - Credibility of the stated end-use
- Risk Assessment analysis through expert agencies
- The EUC declarations prohibit re-exports without prior authorization from Government of India

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Best Practices under India's Export Control



Catch-all control

Section 11 of the WMD Act “ No person shall export any material, equipment or technology knowing that such material, equipment or technology is intended to be used in the design or manufacture of a biological weapon , chemical weapon, nuclear weapon or other nuclear explosive device, or in their missile delivery system”.

Brokering control

Section 12 of the WMD Act provides a brokering control. No person resident in India shall knowingly facilitate a transaction that is prohibited under the Act.

Maintenance of Records:

To maintain records in **manual or electronic form** for a period of 5 years from the date of export or import, as applicable.



Export Control-Facilitation Measures

- **Repeat Order**
- **Stock & Sale authorization:** Not permitted for Category 0, 1C and 6 or for 'Technology' in any category
- **Application Processing time** reduced to **30 days**.
- **Online filing** of application and **e-licensing** has been introduced. The entire processing, consultation and approval takes place on a dedicated secure online portal. For Category IC and 1D chemicals, prior authorisation for export to 41 notified Australia Group members **NOT REQUIRED**
- **Outreach**

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Emerging Trends

- Foreign Trade constitutes 45% of India's economy
- India's GDP is expected to grow to 5 trillion USD in the next 20 years
- Make in India aims to increase the share of to 25 % from current levels of 15%
- Chemicals, biotech, electronics, defence are among 25 key sectors identified under 'Make In India'
- Revision of Defence Procurement Procedures, Defence offsets, level playing field for private sector and FDI in defence is likely to catapult co-production and co-development of defence equipment with foreign entities and greater defense exports

non-proliferation through responsible export control remains high priority for India.



Thank You

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