

Chapter 8

Quality Complaints and Trade Disputes



Quality Complaints and Trade Disputes

8.00 Objective

Exporters need to project a good image of the country abroad to promote exports. Maintaining an enduring relationship with foreign buyers is of utmost importance, and complaints or trade disputes, whenever they arise, need to be settled amicably as soon as possible. Importers too may have grievances as well.

In an endeavour to resolve such complaints or trade disputes and to create confidence in the business environment of the country, a mechanism is being laid down to address such complaints and disputes in an amicable way.

Complaints/Disputes between two or more Indian entities are not covered under this mechanism. Similarly, complaints/disputes between two or more foreign entities are also not covered.

8.01 Quality Complaints/ Trade disputes

The following type of complaints may be considered:

- (a) Complaints received from foreign buyers in respect of quality of goods or services or technology supplied by exporters from India;
- (b) Complaints of importers against foreign suppliers in

respect of quality of the goods or services or technology supplied; and

- (c) Complaints of unethical commercial dealings categorized mainly as non-supply/ partial supply of goods or services or technology after confirmation of order; supplying goods or services or technology other than the ones as agreed upon; non- payment; non-adherence to delivery schedules, etc.

8.02 Obligation on the part of importer/ exporter

- (a) Rule 11 of the Foreign Trade (Regulation) Rules, 1993, requires that on the importation into, or exportation out of, any customs ports of any goods or services or technology, whether liable to duty or not, the owner of such goods or services or technology shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods or services or technology to the best of his knowledge and belief and in case of exportation of goods or services or technology, certify that the quality and specification of the goods or services or technology as stated in those documents, are in accordance with

the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods or services or technology are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents. Violation of this provision renders the exporter liable for penal action;

- (b) Certain export commodities have been notified for Compulsory Quality Control & Pre-shipment Inspection prior to their export. Penal action can be taken under the Export (Quality Control & Inspection) Act, 1963 as amended in 1984, against exporters who do not conform to these standards and/ or provisions of the Act as laid down for such products.

8.03 Provisions in FT (D&R) Act, 1992, as amended & FT (Regulation) Rules, 1993, as amended for necessary action against erring exporters/ importers

Action against erring exporters/importers can be taken under the Foreign Trade (Development and Regulation) Act, 1992, as amended and under Foreign Trade (Regulation) Rules, 1993, as amended, as follows:-

- a) Section 8 of the Act empowers the Director General of Foreign Trade or any other officer authorized by him to suspend or cancel the Importer Exporter Code Number for the reasons as given therein;
- b) Section 9 (2) of the Act empowers the Director General of Foreign Trade or an officer authorised by him to refuse to grant or renew a license, certificate, scrip or any other instrument bestowing financial or fiscal benefit granted under the Act;
- c) Section 9(4) of the Act empowers the Director General of Foreign Trade or the officer authorized by him to suspend or cancel any License, certificate, scrip or any instrument bestowing financial or fiscal benefit granted under the Act;
- d) Section 11(2) of the Act provides for imposition of fiscal penalty in cases where a person makes or abets or attempts to make any import or export in contravention of any provision of the Act, any Rules or Orders made there under or the Foreign Trade Policy.

8.04 Mechanism for handling of Complaints/ Disputes

- (a) Committee on Quality complaints and Trade Disputes (CQCTD)

To deal effectively with the increasing number of complaints and disputes, a 'Committee on Quality Complaints and Trade Disputes' (CQCTD) will be constituted in the Regional Authorities (RAs) of DGFT. Names of RAs, where CQCTD has been constituted and jurisdiction of CQCTD is given in Chapter 8 of the Handbook of Procedures .

- (b) Composition of the CQCTD

The CQCTD would be constituted under the Chairpersonship of the Head of Office. The constitution of CQCTD is given in Chapter 8 of the Hand Book of Procedures.

- (c) Functions of CQCTD

The Committee (CQCTD) will be responsible for enquiring and investigating into all Quality related complaints and other trade related complaints falling under the jurisdiction of the respective RAs. It will take prompt and effective steps to redress and resolve the grievances of the importers/ exporters and overseas buyers/ sellers preferably within three months of receipt of the complaint. Wherever required, the Committee (CQCTD) may take the assistance of the Export Promotion Councils/FIEO/Commodity Boards or any other agency as considered appropriate for settlement of these disputes.

CQCTD will hold its meetings at regular intervals and at least four in a year given the pendency of complaints/disputes.

8.05 Proceedings under CQCTD

CQCTD proceedings are conciliatory in nature and the aggrieved party, whether the foreign entity or the Indian entity, is free to pursue any legal recourse against the other erring party.

8.06 Procedures to deal with complaints and trade disputes

The procedure for making an application for such complaints or trade disputes and the procedure to deal with such quality complaints and disputes is given in the Handbook of Procedures.

8.07 Corrective Measures

- a) The Committee at RA level can authorize the Export Inspection Agency or any technical authority to assess

whether there has been any technical failure of not meeting the standards, manufacturing/ design defects, etc. for which complaints have been received;

- b) Initially, efforts will be made to settle the complaint/ dispute amicably. In case the matter is not settled amicably, action may be taken against the erring Indian entity in terms of the Foreign Trade (Development & Regulation) Act, 1992, as amended, and the Foreign Trade (Regulation) Rules, 1993, as amended;
- c) Complaints against foreign entities would be taken up for settlement by the respective 'Foreign Trade Division' in the Department of Commerce, Vanijya Bhavan, New Delhi through Indian Missions abroad. Indian Missions Abroad will take up the complaints against the foreign entities with authorities concerned;
- d) In case, the Indian Missions abroad are satisfied about the malafide of any foreign entity, they shall send such information to DGFT for circulation amongst the

EPCs/Commodity Boards, ECGC and other regulatory authorities.

8.08 Case Officer

A Case Officer will be assigned for monitoring purposes in the designated Regional Authorities for resolving complaints and trade disputes in a time bound manner.

8.09 Nodal Officer

Director General of Foreign Trade would appoint an officer, not below the rank of Joint Director General, in the Headquarters, to function as the 'Nodal Officer' for monitoring the trade disputes and coordinating with Regional Authorities of DGFT, Foreign Trade Divisions of Department of Commerce, Indian Missions and other agencies.