CHAPTER 10

SCOMET: Special Chemicals, Organisms, Materials, Equipment and Technologies

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10.00 Policy

Policy relating to general provisions governing the export of dual use items, munitions and nuclear related items, including software and technology, viz. SCOMET, is specified in Chapter 10 of FTP.

10.01 Coverage

This chapter covers the procedure for various applications relating to export of dual use items under SCOMET.

10.02 SCOMET categories and licensing jurisdiction

Export of dual use items, munitions and nuclear related items, including software and technology, covered under SCOMET list are permitted against an export authorisation, unless prohibited or specifically exempted. Licensing authorities for various categories of SCOMET items, as specified in Appendix 3 to Schedule 2 of ITC (HS) and tabulated under Para 10.03 of FTP are as under:

(a) The DGFT is the licensing authority for all SCOMET categories, including Sub-category 6A007, 6A008, except Categories 0, 6, Note 2 of Commodity Identification Note (CIN) of SCOMET list, and any other sub-category as may be specified.

(b) The Department of Atomic Energy (DAE) is the licensing authority for items in Category 0 and Note 2 of the 'CIN'. Applicable guidelines are notified by the DAE for Nuclear Transfers (Exports) and Notification of schedule of Prescribed Substances, Prescribed Equipment and Technology" issued under Atomic Energy Act 1962 and Atomic Energy (Working of Mines, Minerals and Handling of Prescribed Substance) Rules 1984. For certain items in Category 0, formal assurances from the recipient State will include non-use in any nuclear explosive device. Authorisations for export of certain items in Category 0 will not be granted unless transfer is under adequate physical protection and is covered by appropriate International Atomic Energy Agency (IAEA) safeguards, or any other mutually agreed controls on transferred items.

(c) The Department of Defence Production (DDP) in the Ministry of Defence is the licensing authority for items in Category 6 of SCOMET known as 'Munitions List' [except those covered under Note 2 of CIN to SCOMET and

Note 3 of Munitions List (i.e. items under Category 6A007, 6A008)] irrespective of end use of the items, whether military or civil. Export Authorisation under Category 6 of SCOMET is granted by the DDP as per their extant guidelines/Standard Operating Procedure (SOP), to be issued from time to time.

10.03 Supply of SCOMET Items from DTA to SEZ/EoU and outside the country

No export authorisation is required for supply of SCOMET items from DTA to SEZ/EOU. Export Authorisation is, however, required if the SCOMET items are to be physically exported outside the country from SEZ/EOU, i.e. to another country (Refer Rule 26 of the SEZ Rules, 2006). All supplies of SCOMET items from DTA to SEZ/EOU will be reported to the Development Commissioner (DC) of the respective SEZ/EoU by the supplier in the prescribed proforma [Annexure 1 to Appendix-3 to Schedule 2 of ITC (HS) Classifications of Export and Import Items] within one week of the supplies getting effected. An annual report of such supplies from DTA to SEZ/EOU shall be reported to DGFT (Hqrs), by the DC of SEZ/EOU in the prescribed proforma [Annexure 2 to Appendix-3] by 15thMay of every financial year, in respect of supplies from DTA to SEZ/EOU during the preceding financial year.

10.04 Application and Documentation for SCOMET Authorisation

(a) An application for grant of Export Authorisation in respect of SCOMET items, including software and technologies mentioned in Appendix 3 to Schedule 2 of ITC (HS) Classifications of Export and Import Items may be made in prescribed proforma [ANF 10A, ANF-10B, ANF-10C, ANF-10D, ANF-10E, ANF-10F] as may be applicable, to the DGFT (Hqrs) along with documents as prescribed in relevant Appendices.

(b) However, such applications are mandatorily to be filed through online system under the icon Services –> Export Management System –> SCOMET on the website of DGFT.

(c) While submitting the online application, all the required documents as applicable and specified in relevant Appendices are to be uploaded as PDF files. Manual submission of application with DGFT (HQ) is dispensed. However, original End User Certificate(s) as per the applicable format (specified in relevant Appendix) or Legal Undertaking for temporary exports is/are to be submitted in hard copy along with covering letter clearly indicating file number of application on subject line to SCOMET Cell of DGFT (HQ), Vanijya Bhawan, New Delhi, besides electronic submission.

(d) Application shall be accompanied by an EUC as per the applicable format (relevant Appendix), certifying that:

- The item will be used only for stated purpose and that such use will not be changed, nor items modified or replicated without consent of Government of India;
- Neither the items nor replicas nor derivatives thereof will be re-transferred without consent of Government of India;
- End-user shall facilitate such verifications as are required by Government of India.

(e) The end-user certificate will indicate the name of the item to be exported, the name of the importer and all the entities in the supply chain, the specific end-use of the subject goods, details of Purchase Order/Contract, etc.

(f) Government of India may also require additional formal assurances, as deemed appropriate, including those on end-use and non-transfer, from the State of the recipient.

Additional end-use conditions may be stipulated in Authorisations for export of items, including software and technology, based on an assessment of proliferation concerns and other factors.

10.05 Additional controls on Non-SCOMET items for dual use (Catch-all controls)

If the exporter has been notified in writing by DGFT or he knows or has reason to believe that an item not covered in the SCOMET list has a potential risk of use in or diversion to Weapons of Mass Destruction (WMD) or in missile system or military use (including by terrorists and non-state actors), he shall apply for a SCOMET authorisation. The export of such an item may be denied or permitted as per the procedure provided for SCOMET items in Paragraph 10.06 of HBP.

Note: "Military use" shall mean incorporation into items listed under SCOMET Category 6 or for the use, development, or production of military items listed in this category.

Exporter who is going to export/transfer such items regulated under Catch-all Controls is required to obtain a SCOMET license from DGFT. IMWG examines such applications filed in prescribed proforma [ANF 10A] alongwith relevant documents in terms of Para 10.06 of HBP.

10.06 Inter Ministerial Working Group (IMWG)

An Inter-Ministerial Working Group (IMWG) in DGFT (Hqrs.) comprising representatives of other Ministries / Departments / Organisations of the Government of India, as considered appropriate, shall consider applications for export of SCOMET items as specified in Appendix-3 to Schedule 2 of ITC (HS) Classifications of Export and Import Items based on the following guidelines / factors:

I. Applications for Authorisation to export items or technology or software on SCOMET List are considered on the basis of following general criteria:

   (a) Credential of end-user, credibility of declaration of end-use of the item or technology, integrity of chain of transmission of item from supplier to end-user, and on potential of the item or technology, including timing of its export, to contribute to end-uses that are not in conformity with India's national security or foreign policy goals and objectives, goals and objectives of global non-proliferation, or India's obligations under International Treaties/Agreements/Conventions to which it is a State party.
   (b) Assessed risk that exported items will fall into hands of terrorists, terrorist groups, and non-State actors;
   (c) Export control measures instituted by the recipient State;
   (d) Capabilities and objectives of programmes of the recipient State relating to weapons and their delivery;
   (e) Assessment of end-use(s) of item(s);
   (f) Applicability of provisions of relevant bilateral or multilateral Agreements and Arrangements, to which India is a party, or adherent. This is including but not limited to the control lists of the Nuclear Suppliers Group, Missile Technology Control Regime, Australia Group (and its Warning List or Awareness Raising Guidelines) and Wassenaar Arrangement (and its Sensitive List and Very Sensitive List) as amended from time to time;

II. Timeline for comments/NOC by IMWG members: The members of IMWG will endeavour to furnish their written comments/views/no objection to DGFT within 30 days from the date of forwarding of online application by DGFT (Hqrs.). If no comments/views/no objection is received within the stipulated period, the cases will be placed before IMWG for taking a decision as deemed appropriate.

III. The IMWG shall normally meet once every month. Where a case has been deferred in the IMWG meeting and subsequently comments/views/NOC(s) are received from all concerned agencies with no divergence in views, authorisation shall be issued with the approval of Chairman, IMWG or any officer nominated by Chairman/DGFT (not below the rank of Deputy Director General of Foreign Trade/Under Secretary) and such cases shall be brought before IMWG in its subsequent meeting for approval on ex-post facto basis.

IV. Case(s) where a decision could not be arrived at in IMWG shall be placed before Director General of Foreign Trade for appropriate decision on grant of authorisation.

After the approval of SCOMET application by the IMWG or Chairman, IMWG, as the case may be, export authorisation shall be issued by the SCOMET Cell in DGFT (Hqrs).

10.07 Applicability of Weapon of Mass Development Act (WMD Act)

Export of items not on SCOMET List may also be regulated under provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.

10.08 Procedure/ Guidelines for filing / Evaluation of Applications for Entering into an Arrangement or Understanding for Site Visits, On-site Verification and Access to Records /Documentation

An application for entering into an arrangement or understanding involving site visit, on-site verification or access to records/documentation by a foreign government or a foreign third party either acting directly or through an Indian party as mentioned in Appendix 3 of Schedule 2 of ITC (HS) Classifications of Export and Import Items shall be made to DGFT (Hqrs.), New Delhi, in proforma ANF 10E along with relevant documents as prescribed therein, including Appendix 10L. These applications shall be considered by IMWG in DGFT (Hqrs.) based on the guidelines/general criteria as specified in Appendix-10A and permission for arrangement or understanding involving site visit, on-site verification or access to records / documentation will be subject to the conditions specified in Appendix-10A.

10.09 Issue of authorisation for Repeat Orders of SCOMET item(s)

An application for grant of an Authorisation for repeat orders (excluding Category 3A401 and software and technology under any category) for export of same SCOMET items to the same country/entities shall be made in prescribed proforma [ANF 10A] through online SCOMET portal along with other supporting documents, as prescribed in Appendix 10B(i) and Appendix 10B(ii). The application shall be considered by Chairman IMWG, without consultation with IMWG members. However, in cases of repeat orders for export of same SCOMET item to different country/entities approval will be granted by Chairman IMWG after verification of credentials of foreign buyer/consignee/end-user only. Subsequent to issue of export authorisation, the IMWG through relevant agency(ies) may verify exports made under repeat orders, based on an assessment of various factors.

The approval will be subject to the fulfilment of the following criteria:

(i) Same SCOMET items would imply that the products, along with the technical specifications, are exactly the same for which export authorisation has been issued to the applicant exporter earlier after due consultation/verification;

(ii) Same country/entities would imply that (a) the foreign buyer (b) the consignee or the intermediaries, if any (c) the end user and (d) the end use are exactly the same for which export authorisation has been issued to the applicant exporter earlier after due consultation/verification;

(iii) Only the applications submitted within three years from the date of Issue of original SCOMET authorisation, after due verification/consultation process, will be eligible for repeat authorisation;

(iv) The cumulative quantity permitted against repeat export authorisations shall be commensurate with the operational capacity of the end user in respect of the relevant product, as certified by the end user. A certificate to this effect from the end user on prescribed proforma [Appendix 10B(i)]shall be submitted by the exporter along with the application for a repeat authorisation;

(v) A declaration by the authorized signatory of the exporter firm on the qualifying conditions as per (i) to (iv) above shall be submitted on prescribed proforma [Appendix 10B(ii)] along with the application for consideration under the repeat order route;

(vi) The authorisations(s) for repeat orders shall be liable for recall/termination by the DGFT on receipt of an adverse report in respect of any of the export consignments;

(vii) All authorisations for repeat orders shall be brought before IMWG in its subsequent meeting for confirmation of approval, on ex-post facto basis, and the IMWG would reserve its right to refuse further repeat authorisations based on its assessment of proliferation concerns;

10.10 Issue of export authorisation for "Stock and Sale" of SCOMET items

Application for grant of authorisation for bulk export of SCOMET items (excluding Category 0, Category 3A4001, Category 6 and transfer of technology under any category) from an Indian exporter to an entity abroad (hereinafter referred to as 'stockist') for subsequent transfer to the ultimate end users shall be considered by IMWG, on the following conditions:

Applicability and scope of policy

a. 'Stockist' refers to an entity abroad to whom the SCOMET items are originally exported by Indian Exporter. The stockist entity should be a subsidiary/principal (parent) company abroad of the Indian exporter. **The stockist entity could also be an affiliate of the Indian Exporter, Indian or Foreign Original Equipment**

manufacturer(OEM)/ Electronic Manufacturing Services (EMS)[1]/Contract Manufacturer(CM)[2].

[1] For the purpose of this policy, EMS is defined "as a business service provided by companies that specialize in the manufacturing, assembly, testing, return, repair and sometimes design of electronic products for OEMs. These providers are responsible for assembling electronic components and devices based on the customer's specifications, and the services are often provided at a cost-effective price compared to setting up internal manufacturing facilities."

[2] This could be considered based on additional documents submitted by the Indian company, such as AEO certification, contract/agreement between the Indian company and its Original Equipment Manufacturer, etc.

b. Export shall be permitted from the Indian company (applicant exporter) **to 'Stockist'** on the basis of an End Use declaration from the Stockist, through the specified End User Certificate (EUC) for 'Stock & Sale' purposes;

Note: IMWG may relax the provisions of a. and b. above in certain cases, considering the description/end use/end user of the item.

Application for export to stockists abroad and transfer to end users in specific countries

c. The exporter shall submit application in prescribed proforma (ANF-10B) along with the following documents from the stockist:

i. Documentary proof regarding the corporate relationship between the Indian exporter and stockist;

ii. End-use/End-user Certificate from stockist entity abroad in Appendix-10j (iii);

iii. List of countries (in the EUC) to which the items imported from India would be exported by the stockist;

iv. Purchase Order(s)/Invoice(s) or a document in lieu thereof;

v. Technical specifications of the product(s);

vi. Copy of Internal Compliance Program (if applicant exporter/ stockist entity has one)

vii. **Copy of AEO certificate (in case of OEM/CMS/CM).**

viii. **Undertaking on the letterhead of the firm duly signed and stamped by the authorized signatory stating that, *"The applicant exporter declares***

that subsequent to the issuance of export authorization, if the licensee has been notified in writing by DGFT or if they know or has reason to believe that an item may be intended for military end use or has a potential risk of use in or diversion to weapons of mass destruction (WMD) or in delivery of their missile system, the exporter would not be eligible for Stock & Sale policy for export of that/those item(s) and would apply separately to DGFT for a fresh authorization in terms of regular policy". **Action shall be taken against the exporter under the FT (D & R) Act, 1992, for any mis-declaration.**

ix. **Copy of corporate registration/business registration or certificate of incorporation of stockist entities in the destination countries.**

In-principle approval for export to the stockist, and, for sale by stockist within the country of the stockist, and, for re-export by stockist to end user in other countries

a. The application would be assessed for grant of authorisation for export to the stockist, and, for grant of in-principle approval for re-export to specified countries of ultimate end use approved by the IMWG;
b. No authorisation would be required for transfer from the stockist to the ultimate end user(s) within the country of the stockist and for re-export to end users in such approved countries;
c. Re-export to such approved countries would be subject to the export control regulations of the country of the stockist;
d. Country would denote an independent sovereign entity which is a distinct national entity in political geography. Hence, transfers within an economic union or a customs union would not qualify as "same country transfers";

Post-reporting for same country transfer and re-export to pre-approved countries by the stockist

e. In case of sale/transfer by the stockist within the same country and for re-export/re-transfer to the end users in countries, for which, in-principle approval has been granted, the Indian exporter/licensee shall submit details of all such transfers to SCOMET Division of DGFT (Hqrs) in ANF-10B, including EUCs[Appendix-10J(i), 10J(ii)as applicable] from all ultimate end users and Bill of Entry into the ultimate destination countries(for export outside the country of stockist), within 3 months of every such transfer;

Application for re-export to other countries (other than pre-approved)

f. In respect of re-export/re-transfer of items from the stockist entity to the end users outside the country of the stockist, for which, in-principle approval has not been granted at the initial stage, the Indian exporter (stock and sale authorisation holder) shall submit application for re-export/re-transfer to SCOMET Division in DGFT (Hqrs), in ANF 10B, through email (scomet-dgft@nic.in), after obtaining following documents from the stockist entity:
   (i) End-use/End-user Certificate from each link in the supply chain as per Appendix-10J(i), 10J(ii), as applicable;
   (ii) Purchase Order(s)/Invoice(s) or a document in lieu thereof ;
   (iii) Technical specifications of the product to be transferred (only if there is any value addition in the product by the stockist)

g. IMWG shall consider export authorisations for allowing such re-export/re-transfer based on end use/end user verification;

Repeat Order cases

h. Applications for export of same SCOMET items to same stockist entity, and re-export/re-transfer of same SCOMET items from the stockist entity to the end-users (within the country of stockist entity and only the countries of ultimate end use where in-principle approval has been granted), i.e. repeat orders, shall be considered by Chairman IMWG, without any consultation with IMWG members;

Annual reporting on inventory of the stockist and transfers/re-exports

i. The Indian exporter (Stock & Sale Authorisation holder) shall submit a statement of exports made from India to the stockist, transfers made by the stockist to the final end-users and inventory with the stockist, as on 31st December of each calendar year, by 31st January of the following year. A failure to do so may entail imposition of penalty and /or cancellation of authorisation under the stock and sale policy;
j. The items exported to the stockist entity under the stock and sale authorisation should be transferred to the final end-user(s) within the validity period of the authorisation as in paragraph 10.17 of HBP;

k. The authorisation may be revalidated as per the procedure mentioned in paragraph 10.20 of HBP;

10.11 Issue of export authorisation for spare parts of SCOMET items under Stock and Sale

An applicant may also apply for export of spare parts, under stock and sale arrangement in the application for export of main item/equipment along with justification of the same. The request for export of spare parts covered under SCOMET may be considered by IMWG along with the application for the main item/equipment, on the same conditions, as applicable for the main item/component. The applicant needs to indicate the requirement of spare parts after judicious and reasonable assessment with justification thereof.

10.12 Issue of authorisations for repair/replacement of defective SCOMET items

An application for grant of an Authorisation for export/re-export of SCOMET items, as the case may be for (i) repair/replacement of imported item(s) abroad and return (ii) repair/replacement of indigenous SCOMET items (iii) return of items imported for repair at a repair facility in India and (iv) Authorisation for export of SCOMET items after repair in india (GAER) shall be made in prescribed proforma [ANF 10A] through online SCOMET portal along with other supporting documents, as prescribed in Appendix 10D, 10E, 10F and 10F(i), as applicable. The application shall be considered by Chairman IMWG, on fulfilment of the following conditions:

A. Authorisation for export of imported SCOMET items for repair/replacement:

i. Conditions to be fulfilled:

(a) The SCOMET items were imported to India and are to be exported for the purpose of repair and replacement, on being defective;

(b) There has been no change to the original characteristics/specifications of the SCOMET item(s);

(c) The SCOMET items are to be exported to the same entity from which they have been imported or to the OEM (including, agency[1]authorized by OEM);

[1]Agency can include' Approved Repair Centre' (facility approved by the original equipment manufacturer to repair the goods being exported under license).

(d) That the replacement or repair of defective/damaged items (whichever is applicable) is allowed under the conditions of import or contractual agreement;

(e) No Export Authorisation would be granted if the initial export authorisation has been suspended, modified or revoked by the exporting country;

(f) No Export authorisation would be granted for UNSC sanctioned destinations or countries/entities of high risk, as assessed by the IMWG, from time to time; and

(g) No 'End Use' and 'End Use Certificate' would be required;

(h) The application is accompanied with relevant documents as prescribed in Appendix 10D;

(i) Legal Undertaking on the stamp paper of Rs. 200/-, in prescribed proforma (Appendix 10K).

ii. Applications for grant of authorisations for export to the entity from which it was imported or to the OEM (including agency authorized by OEM) shall be approved by Chairman IMWG, without any consultation with IMWG members. However, in cases of export to any other entity, approval will be granted by Chairman, IMWG after verification of the credentials of the foreign entity to which the item(s) are to be exported.

iii. Return of item(s) after repair/replacement and post-reporting compliance:

(a) Exported items shall be brought back to India within 90 days repair is completed or item is replaced or within the extended time, as allowed by the DGFT;

(b) In case the defective/damaged item(s) cannot be imported due to any reason (beyond repair, testing failure analysis etc.), evidence of destruction in the importing country shall be submitted to DGFT within 90 days of export.

(c) In case time beyond 90 days is required for repair of imported defective/damaged item(s) before re-import, permission from DGFT shall have to be obtained in advance indicating detailed justification for seeking extension of time.

(d) Bill of Entry confirming the return back of such SCOMET item(s) to India shall be intimated by the licensee to the DGFT(Hqrs) in the prescribed proforma (Annexure-I of Appendix 10K), duly signed in ink and stamped by the authorised signatory.

B. Authorisation for re-export of indigenous SCOMET items after repair/replacement:

i. Conditions to be fulfilled:

(a) The SCOMET items manufactured in India, were exported and brought back to India for repair or being replaced, on being found defective/damaged;
(b) The items are to be re-exported after repair/replacement to the same entity to which the item(s) were originally exported by the applicant exporter;
(c) There has been no change to the original characteristics/specifications of SCOMET item(s);
(d) That the defective/damaged item(s)has/have already been brought back or would be brought back to India within 90 days of its replacement(if applicable);
(e) That replacement/repair(whichever is applicable) is allowed under the conditions of export or purchase order or contractual agreement;
(f) No authorisation for re-export would be granted if the original licence has been suspended, modified or revoked.
(g) No Export authorisation would be granted for UNSC sanctioned destinations or countries/entities of high risk, as assessed by the IMWG, from time to time; and
(h) No 'End Use' and 'End Use Certificate' would be required;
(i) The application is accompanied with relevant documents as prescribed in Appendix 10E;

(j) Legal Undertaking on the stamp paper of Rs. 200/-, in prescribed proforma (Appendix 10K).

ii. Applications for grant of authorisations to export the replaced/repaired item(s) to/through the same entity(ies), as specified in the original SCOMET license, shall be approved by Chairman IMWG, without any consultation with IMWG members. However, in cases of export to/through a new entity (consignee), approval will be granted by Chairman, IMWG after verification of the credentials of the new foreign entity(ies) through which the item(s) are to be exported.

iii. Return of item(s)after repair/replacement and post-reporting compliance:

(a) That the defective/damaged item(s)has/have already been brought back or would be brought back to India within 90 days of its replacement (in case of replacement);;

(b) In case the defective/damaged item(s)cannot be imported due to any reason (beyond repair, testing failure analysis etc.), evidence of destruction in the importing country shall be submitted to DGFT within 90 days of export of replacement;

(c) Bill of Entry confirming the return back of such SCOMET item(s) to India shall be intimated by the licensee to the DGFT(Hqrs) in the prescribed proforma (Annexure-I of Appendix 10K), duly signed in ink and stamped by the authorised signatory.

C. Authorisation for export of imported SCOMET items to same entity abroad, or any authorised entity after repair in India:

i. Conditions to be fulfilled:

(a) The SCOMET items were imported to a designated/authorized repair facility in India for the purpose of repair under a contract agreement/Master Service agreement (MSA); ***or***

Imported under a contract agreement between Indian exporter, entities of repair facility (if different from exporter)and entity abroad defining 'Statement of Work (SOW)'/ 'Scope of Work' including conditions for undertaking repair in India;

(b) The items are to be exported to the same entity abroad from which the item(s) has/have been imported or to the OEM (including agency[2] authorised by OEM);

(c) The repair of defective/damaged items is allowed under the conditions of import or contractual agreement between Indian exporter, entities of repair facility (if different from exporter) and the entity abroad/OEM (including agency authorized by OEM)(name and address);

[2]Agency can include' Approved Repair Centre' (facility approved by the original equipment manufacturer to repair the goods being exported under license).

(d) There has been no change to the original characteristics/specifications of the SCOMET item(s) after repair;

(e) No Export Authorisation would be granted when the initial export authorisation has been suspended, modified or revoked by country of import;

(f) No Export authorisation would be granted for UNSC sanctioned destinations or countries/entities of high risk, as assessed by the IMWG, from time to time;

(g) No details of 'End Use' and 'End Use Certificate' would be required;

(h) The application is accompanied with relevant documents as prescribed in Appendix 10F;

ii. Applications for grant of authorisations for export to the entity from which it was imported or to the OEM (including agency authorized by OEM) shall be approved by Chairman IMWG, without any consultation with IMWG members. However, in cases of export to any other entity, approval will be granted by Chairman, IMWG after verification of the credentials of the foreign entity to which the item(s) are to be exported. All such authorisations shall be brought before IMWG in its subsequent meeting for confirmation of approval, on ex-post facto basis.

D. Authorization for export of same imported SCOMET items to Related entities[0] and Repair supply chain[1] in the foreign country under General Authorization for Export after Repair(GAER)

[0]Related entities mean Direct subsidiary / Foreign Parent of the Indian Company or another Subsidiary of the foreign parent of the Indian Company.

[1]Repair supply chain means (i) Authorized Vendor (ii) Original Equipment Manufacturer(OEM) with whom Indian company has a Master Service Agreement/Electronic Manufacturer Service agreement/Contract Agreement defining conditions of undertaking repair in India.

A. Export of imported SCOMET items to the related entities[0] and repair supply chain[1] in the foreign country after repair in India will be allowed on the basis of a one-time General authorization for Export after Repair in India (GAER) subject to post reporting on quarterly basis issued by DGFT, subject to the following conditions:

a. The SCOMET items were imported to a designated/authorized repair facility in India for the purpose of repair under a contract agreement/Master Service

agreement (MSA)/Electronic Manufacturer Agreement (EMS); *or* Imported under a contract agreement between Indian exporter, entities of repair facility (if different from exporter) and entity abroad defining 'Statement of Work (SOW)'/ 'Scope of Work' including conditions for undertaking repair in India;

b. The items are to be re-exported to only related entities[0] and repair supply chain[1] in the foreign country.
c. The exporter is required to register and obtain General authorization for export after repair only once during the validity period. Subsequent export/re-export is subject to post reporting;
d. The exporter is required to provide Bill of Entry for the imported item while applying for GAER for the first shipment.
e. General authorization for export after repair shall be valid for a period of one year from the date of issue of General authorization subject to subsequent post reporting(s) within 30 days from the date of such export;
f. Subsequent export would be allowed to the same entity and location to which the license has originally been issued. Note: Same entity would imply that (a) foreign buyer (b) consignee or intermediaries, if any (c) the end user are exactly the same for which authorisation has been issued to the applicant exporter.
g. There has been no change to the original characteristics/specifications of the SCOMET item(s) after repair and no value addition has been done during the repair work;
h. No Export Authorisation would be granted when the initial export authorisation has been suspended, modified or revoked by country of import;
i. No Export authorisation would be granted for UNSC sanctioned destinations or countries/entities of high risk, as assessed by the IMWG, from time to time;
j. No details of 'End Use' and 'End Use Certificate' would be required;
k. GAER issued for specific item and specific entity (buyer/end user) shall not be applicable in case the re-export is of a different imported item or to a different entity or Authorised OEM. In such cases, either a new GAER authorization may be applied or application may be filed under Para 10.12(D) of HBP.
l. Certified / approved Internal Compliance Programme or demonstrating compliance to the ICP of the foreign company or ICP certified by the compliance manager of that company shall be mandatory[only for intra-company transfers].
m. Authorized Economic Operator (AEO) Certification along with ICP compliance shall be mandatory. [for re-export to vendors/OEMs].

A. Documents Required for GAER

1. Proof of import of the item(s):

a. Export Authorisation (if applicable) issued by the foreign country for original import of the items to India;

b. Documentary proof and/or self-declaration that the item exempted from license requirement or place under no license requirement for India.

c. Bill of Entry (first time)

2. **Proof of obligation for repair of defective/damaged items**:

Contract agreement and/or 'Statement of Work (SOW)'/ Master Service agreement (MSA) between Indian exporter and with the entity abroad/**Direct subsidiary/Parent of the Indian Company or another subsidiary of the foreign parent of the Indian Company/Authorised Vendor/Original Equipment manufacturer having EMS agreement/Master service agreement/ contract with Indian Company** from (which the goods were imported initially) defining conditions for undertaking repair in India

3. **An Undertaking from the Indian exporter**;

An Undertaking from the applicant exporter (on the letter head of the firm duly signed and stamped by the authorized signatory) stating:

a. Details of imported items to be exported after repair along with their SCOMET Category /Sub-category number(s), quantity, item description and ECCN of foreign country (if available) ;

b. That item(s) are being exported to only **related entities[0] and repair supply chain[1] in the foreign country (Direct subsidiary/Parent of the Indian Company or another Subsidiary of the foreign parent of the Indian Company/Vendor/Original Equipment manufacturer having contract with Indian Company)** from which it was originally imported for repair and return purpose.

c. That there has been no change to the original characteristics/specifications of the item(s) after import and no value addition has been done during the repair work;

d. That the repair of defective/damaged items is allowed under the conditions of import or contractual agreement between Indian exporters and entities from which goods were imported.

e. That Shipping Bills and Bill of Entry into destination country of subsequent re-exports and any other information as sought by DGFT shall be submitted to DGFT on quarterly basis.

f. That items would not use for military applications or to develop, acquire, manufacture, possess, transport, transfer or use, chemical, biological, nuclear weapons or for missile capable of delivering such weapons.

4. Certified/approved Internal Compliance Programme or demonstrating compliance to the ICP of the foreign company or ICP

certified by the compliance manager of that company. [only for intra-company transfers]

5. Authorized Economic Operator (AEO) Certification along with ICP compliance. [for re-export to vendors/OEMs]

C. Post reporting for re-export of items/software/technology under GAER

i. The Indian exporter shall submit post-shipment details of each transfer/consignment of exports of SCOMET items/software/technology under GAER to the SCOMET Division of DGFT (HQ), New Delhi, via e-mail (scomet-dgft@nic.in) or a procedure as prescribed by DGFT, on quarterly basis (March/June/September/December), by the end of subsequent month of each quarter, in respect of the exports made in the previous quarter.
ii. The post-shipment details shall include submission of Bill of Entry (wherever available), shipping bill details, valid export license copy within the timelines mentioned above.
iii. Failure to do so may entail imposition of penalty and/or suspension/revocation of GAER and action as per FT(D&R) Act.

D. Suspension / Revocation

GAER issued shall be liable to be suspended / revoked by the DGFT on receipt of an adverse report on proliferation concern or for non-submission of mandatory reports /documents within the prescribed timelines, or for non-compliance with the conditions of this Public Notice.

E. General conditions

i. GAER would not be issued in case of items to be used to design, develop, acquire, manufacture, possess, transport, transfer and/or used for chemical, biological, nuclear weapons or for missiles capable of delivering weapons of mass destruction and their delivery system;
ii. GAER would not be issued for countries or entities covered under UNSC embargo/sanctions or on assessment of proliferation concerns, or national security and foreign policy considerations, etc.;
iii. DGFT shall reserve the right to deny issuance of GAER or recall GAER.

F. Applications for grant of General authorizations for export to the same entity from goods were imported shall be approved by Chairman IMWG, without any consultation with IMWG members after the first export/shipment. In exceptional cases, consultation with IMWG may be done prior to issuance of GAER, in case required.

G. All such authorizations shall be brought before IMWG in its subsequent meeting for confirmation of approval, on ex-post facto basis.

10.13 Issue of export authorisations for demo/display/exhibition/tenders/ RFP/RFQ/NIT of SCOMET items

An application for grant of an Authorisation for (i) export of indigenous/imported SCOMET item(s) for demo/display/exhibition/ tenders/RFP/RFQ/NIT purposes abroad; and (ii) export of SCOMET item(s) imported for participation in demo/display/exhibition /tenders/RFP/RFQ/NIT in India, shall be made in prescribed proforma [ANF 10A] through online SCOMET portal along with other supporting documents, as required in the prescribed proforma. The application shall be considered by Chairman IMWG, on fulfilment of the following conditions:

(A) Authorisation for export of indigenous/imported SCOMET item(s) for demo/display/exhibition /tender/RFP/RFQ/NIT abroad

i. Conditions to be fulfilled:

Authorisations for export of items in SCOMET List (other than those under Category 0, 1, 2 and 6 or 'Technology' or 'Software' in any category) solely for purposes of (a) Demo (b) Display (c) Exhibition (d) Tenders/RFP/RFQ/NIT shall be considered by Chairman IMWG, on the following conditions:

(a) Such cases would be considered purely on temporary export basis for a specified time period;

(b) No end user certificate would be insisted upon in such cases;

(c) There shall not be any commercial transaction in the form of selling/buying/renting/leasing;

(d) The number of item(s) should be commensurate with the nature of export items and the purpose for which the application is being made;

(e) There shall not be any exchange/disclosure of information which could lead to transfer of technology;

(f) No export authorisation would be granted for UNSC sanctioned destinations or countries/entities of high risk, as assessed by the IMWG, from time to time;

(g) The application is accompanied with relevant documents as prescribed in Appendix 10G;

(h) Legal Undertaking on the stamp paper of Rs. 200/-, in prescribed proforma (Appendix 10K);

(i) Applications for grant of authorisations shall be approved after verifying the credentials of the event/organizer;

ii. Return of item(s) and post-reporting compliance:

(a) Exported items shall be brought back to India within 90 days after the event gets over or within the extended time, as allowed by the DGFT;

(b) Bill of Entry confirming the return back of such SCOMET item(s) to India shall be intimated by the licensee to the DGFT(Hqrs) in the prescribed proforma (Annexure-I of Appendix 10K) duly signed in ink and stamped by the authorised signatory.

(B) Authorisation for export of imported SCOMET items after participation in demo/display/ exhibition/tenders/RFP/RFQ/NIT in India

Application for grant of authorisation for export of imported SCOMET items (other than those under Category 0, 1, 2 and 6 or 'Technology' or 'Software' in any category) to the entity from which it has been originally imported or to its OEM (including agency authorized by OEM), after Demo/Display/ Exhibition/tender/RFP/RFQ/NIT, shall be considered by Chairman IMWG, on the following conditions:

a) The SCOMET item(s) were imported in India for the purpose of demo/display/exhibition/tender/RFP/RFQ/NIT under a contract agreement between Indian exporter and supplier/OEM(including agency authorized by OEM);
b) The export should only be to the entity from which the item(s) has/have been imported or to the OEM (including agency authorized by OEM);
c) No details on 'End Use' and 'End Use Certificate' would be required;
d) No export authorisation would be granted for UNSC sanctioned destinations or countries/entities of high risk, as assessed by the IMWG, from time to time;
e) The application is accompanied with relevant documents as prescribed in Appendix 10H;
f) Applications for grant of authorisations for export to the entity from which it was originally imported or to the OEM (including agency authorized by OEM) shall be approved by Chairman IMWG, without any consultation with IMWG members.
g) However, in cases of export to an entity other than the original supplier or OEM (including agency authorized by OEM), approval will be granted by Chairman, IMWG after verification of the credentials of the foreign entity to which the item(s) are to be exported.
h) All such authorisations shall be brought before IMWG in its subsequent meeting for confirmation of approval, on ex-post facto basis.

Note :
RFP refers to Request for Proposal;
RFQ refers to Request for Quotation and
NIT refers to Notice Inviting Tender.

10.14 Issue of export authorisations for re-export/return of imported SCOMET items to the same foreign entity or to its OEM (including agencies authorized by OEM)

i. Conditions to be fulfilled:

An application for grant of an Authorisation for re-export/return of imported SCOMET items to the foreign entity from which it has been originally imported or to its OEM(including agency authorized by OEM),for reasons such as obsolescence of technology of imported items; cancellation of order by the Indian buyer /end user; dead on arrival etc., shall be considered by Chairman IMWG, on fulfilment of the following conditions :

(a) The export should only be to the entity from which the item(s) has/have been imported or to the OEM (including agency/ies authorized by OEM);

(b) No details on 'End Use' and 'End Use Certificate' would be required;

(c) No export authorisation would be granted for UNSC sanctioned destinations or countries/entities of high risk, as assessed by the IMWG, from time to time;

(d) The application is accompanied with relevant documents as prescribed in Appendix 10I, including proof of obsolescence/cancellation of order for intended items and undertaking from the applicant firm;

(e) Re-export/return of items due to reasons such as obsolescence of technology of imported items; cancellation of order by Indian buyer/end user; dead on arrival etc. (whichever is applicable) is allowed under the conditions of import or contractual agreement.

ii. Applications for grant of authorisations for export to the entity from which it was originally imported or to the OEM (including agency authorized by OEM) shall be approved by Chairman IMWG, without any consultation with IMWG members. However, in cases of re-export/return to an entity other than the OEM (including agencies authorized by OEM), approval will be granted by Chairman, IMWG after verification of the credentials of the foreign entity to which the item(s) are to be exported.

iii. All such authorisations shall be brought before IMWG in its subsequent meeting for confirmation of approval, on ex-post facto basis.

10.15 Global Authorisation for Intra-Company Transfers (GAICT) of SCOMET Items including /Software/Technology

A. Scope and Eligibility: Pre-export authorisation will not be required, for export and/or re-export of SCOMET items including software and technology under SCOMET Category 8 (except items listed in Appendix 10M), subject to the following conditions:

i. where the export is an Intra-company transfer from the Indian parent company (applicant exporter) to its foreign subsidiary company or from the Indian subsidiary of foreign company (applicant exporter) to its foreign parent/another subsidiary of foreign parent company and;

Note: *In case of third party involvement in the supply chain, the end user has to be a foreign parent / another subsidiary of foreign parent company or a subsidiary company of Indian company.*

ii. where the transfer fulfils the conditions mentioned at (a) to (h) below:

a. The items/software/technology to be exported/re-exported is based on a Master Service Agreement / Contract between the Indian parent company/Indian subsidiary of foreign company and foreign subsidiary of Indian company/foreign parent company of Indian subsidiary for carrying out certain services but not limited to design, encryption, research, development, delivery, validation, calibration, testing, related services, etc.;

Note 1: As a result of the service carried out by the Indian exporter in case of re-export, the items/software/technology should not undergo change in classification.

Note 2: The list of services mentioned above is illustrative, not exhaustive. However, the final decision to approve a GAICT authorisation lies with the relevant authority.

b. These items including software and technology are to be exported/re-exported to the countries listed in Table 1 below (entire supply chain including any third party should be in the countries listed in Table 1below);

Table 1

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France,

Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States.

Note: *However, IMWG on a case to case basis may allow countries other than those listed in Table 1 considering description/end use/end user of the item.*

c. The applicant exporter declares that the exported items would be used for the purposes for which it is intended by the foreign subsidiary of Indian company / foreign parent company / another subsidiary of foreign parent company, as the case may be;

d. The applicant exporter furnishes either a certified/approved Internal Compliance Programme (ICP) or demonstrates compliance to the ICP of the foreign parent company or ICP certified by the Compliance Manager of the company or certified by any Government agency such as Authorized Economic Operator (AEO) scheme etc.

e. The exporter agrees to allow on-site inspection, if required by the DGFT or authorized representatives of Government of India;

f. No export authorisation would be granted for UNSC sanctioned destinations or countries;

g. No export authorisation shall be granted to an exporter specified at (i) above if they have come to adverse notice previously;

h. The exporter is granted a Global Authorisation for Intra-Company Transfers (GAICT) as per procedure mentioned in para 10.15 B below.

B. **Procedure for grant of Global Authorisation for Intra-Company Transfers (GAICT)**

Filing and Assessment of Application

a. In respect of export/re-export of SCOMET items including software and technology ,the applicant exporter shall submit an application for GAICT

through online SCOMET portal and attach information in proforma – ANF10C ;

b. The application would be assessed for the issue of GAICT by Inter-Ministerial Working Group (IMWG) based on the submission of the application and other supporting documents by the applicant exporter in the prescribed proforma;

i. Documentary proof of the corporate relationship between the Indian parent company (applicant exporter) and its foreign subsidiary company or between the Indian subsidiary of foreign company (applicant exporter) and its foreign parent / another subsidiary of foreign parent company ;

ii. Classification of item including software and technology in SCOMET (indicating SCOMET category and sub-category);

iii. Documentary proof of License Exception /Temporary license from the country of the parent company abroad or from subsidiaries of the parent company abroad, if available (optional)

iv. Detailed description of the item intended to be exported with relevant technical details with specifications, such as model, part number, etc. and in case of software/technology, relevant details like encryption algorithm, key length, encryption functionality, eligibility under cryptography note etc. to be provided (if applicable);

v. In case of third party involvement in the supply chain, a clear contract /service agreement/ Purchase order has to be furnished specifying SCOMET item description.

vi. Certified/approved ICP of the Indian parent company or self-certified copy of the ICP of the foreign parent company being adopted by Indian subsidiary of foreign company along with an undertaking thereon;

vii. Undertaking on the letterhead of the firm duly signed and stamped by the authorised signatory:

a. To allow on-site inspection, if required by the DGFT or authorized representatives of Government of India;

b. The applicant exporter declares that the exported items would be used for the purposes for which it is intended by the foreign

subsidiary of Indian company / foreign parent company / another subsidiary of foreign parent company, as the case may be;

c. The applicant exporter declares that subsequent to issue of export authorisation, if the licensee has been notified in writing by DGFT or if they know or has reason to believe that an item may be intended for military end use, the exporter would not be eligible for GAICT for export of that/those item(s) and would apply separately to DGFT for a fresh authorisation in terms of regular policy. [Refer Para 10.05 of HBP].

viii. The Company must ensure that:

a. They shall submit original End User Certificate in the prescribed format within 30 days of filing application and in case of subsequent exports, within 30 days of delivery at destination point, after issue of export authorisation;

b. They have Agreement/purchase order, excerpt of contract from entity (consignee) receiving the items which states the export is for a permitted use;

c. The documents include the name & contact number and email id of the authority signing the EUC.

ix. A precise and clear contract /service agreement/ Purchase order has to be furnished indicating item description in case of third party involvement in the supply chain (if applicable)

x. Additional details, if any, sought by DGFT

C. Post reporting for re-export of items/software/technology under GAICT

a. The Indian exporter shall submit post-shipment details of each transfer/consignment of exports of SCOMET items/software/technology under GAICT to the SCOMET Division of DGFT (Hqrs), New Delhi, through online system on DGFT website, on quarterly basis (March / June / September / December), by the end of subsequent month of each quarter, in respect of the exports made in the previous quarter;

b. The post-shipment details shall be submitted in proforma ANF 10D along with a copy of EUC in Appendix 10J(iv) within the timelines mentioned

above, from the foreign subsidiary company or foreign parent company / another subsidiary of foreign parent company;

c. Failure to do so may entail imposition of penalty and / or suspension/revocation of GAICT.

Note: ANF (Aryat Niryat Form) –ANF 10C, ANF 10D and EUC Proforma Appendix 10J(iv) may be referred

D. Record Keeping

The exporter will be required to keep records of all the export documents, in manual or electronic form, in terms of Para 10.18 of HBP, for a period of 5 years from the date of GAICT issued by DGFT.

E. General conditions

a. GAICT would not be issued in case of items including software and technology to be used to design, develop, acquire, manufacture, possess, transport, transfer and / or used for chemical, biological, nuclear weapons or for missiles capable of delivering weapons of mass destruction and their delivery system;

b. GAICT would not be issued for countries or entities covered under UNSC embargo or sanctions list or to the countries or entities assessed for risk of proliferation concern, based on national security and foreign policy considerations;

c. In case of inclusion or amendment of items (including software and technology) or inclusion of new companies or amendment in existing companies in the supply chain, the applicant exporter will obtain prior permission of DGFT with relevant details;

d. IMWG shall reserve the right to deny issuance of authorisation GAICT for any reason and also relax any provision of the policy, if so required in exceptional cases.

F. Re-exports / re-transfer of the items including software and technology (processed or incorporated)

Further re-exports / re-transfers of the items including software and technology (processed or incorporated) from the foreign subsidiary company or foreign parent company / another subsidiary of foreign parent company to end users in other countries would be subject to the export control regulations of the country

of the foreign subsidiary of Indian company or foreign parent company / another subsidiary of foreign parent company.

G. Validity

a) GAICT issued for intra-company transfers of SCOMET items including software and technology shall be valid for a period of three years from the date of issue of GAICT;

b) GAICT cannot be revalidated in terms of Paragraph 10.20 of HBP of FTP.

H. Suspension / Revocation

GAICT issued shall be liable to be suspended by the DGFT on receipt of intimation about initiation of any inquiry from the country concerned or from any domestic agency. GAICT shall be revoked on receipt of an adverse report on proliferation concern or for non-submission of mandatory reports/documents within the prescribed timelines or for non-compliance of any of the condition of this policy.

Para 10.15(I): General Authorization for Export of Telecommunication-related items under SCOMET Category 8A5 Part 1 (GAET)

Export of indigenous/imported SCOMET items (Telecommunication items under SCOMET Category 8A5 Part 1) will be allowed based on a one-time General Authorization (GAET) subject to the following conditions:

1. **Policy & Eligibility:** SCOMET authorization will not be required, for the export and/or re-export of Telecommunication items (excluding technology and software) under SCOMET Category 8A5 Part 1(except items listed in Annexure-I) subject to the following conditions:

    a. The applicant exporter shall submit an application for getting a one-time license under GAET through the online SCOMET portal and attach the information in the prescribed proforma;

    b. The application would be reviewed/examined for the issuance of GAET by the Inter-Ministerial Working Group (IMWG) based on the submitted application and other supporting documents submitted by the applicant exporter in the prescribed proforma including:

        i. Detailed description of the items that are intended to be exported under this authorization with relevant technical details/specifications.

        ii. End-user certificate (EUC) from all the entities involved in the supply chain (buyer, consignee, end user, and any other

intermediary) on the letterhead (duly signed and stamped) is to be submitted before issuance of authorization. Subsequent EUC submissions for entities in the list of countries (as approved) will be subject to post-reporting requirements as mentioned at viii below.

iii. The list of countries where the export is expected to be done under GAET is to be provided by the applicant at the time of submission of the application.

iv. Undertaking on the letterhead of the firm duly signed and stamped by the authorized signatory stating the following:

1. Any on-site inspection will be allowed by the applicant exporter if required by the DGFT or authorized representatives of the Government of India;

2. The applicant exporter declares that the items that are intended to be exported shall not be used for any purpose other than the purpose(s) stated in the EUC and that such use shall not be changed nor the items modified or replicated without the prior consent of the Government of India.;

3. The applicant exporter declares that subsequent to the issuance of export authorization, if the licensee has been notified in writing by DGFT or if they know or has reason to believe that an item may be intended for military end use or has a potential risk of use in or diversion to weapons of mass destruction (WMD) or in delivery of their missile system, the exporter would not be eligible for GAET for export of that/those item(s) and would apply separately to DGFT for a fresh authorization in terms of regular policy.

4. Action will be taken against the exporter under FT (D & R) Act, 1992 for any mis-declaration.

v. Certified/Approved Internal Compliance Programme by the Compliance Manager of the Company.

vi. Authorized Economic Operator (AEO) T2 Certification of CBIC.

vii. In case of re-export of imported items, the following additional documents have to be submitted:

(i) Proof of import of the item(s):

- Documentary proof that the item(s) originally imported, match with intended item(s) of re-export;
- Bill of entry containing details of the items to be re-exported;
- Export License (if applicable) or any other documents showing that export regulation of the country of export does not have any restriction on re- export from India;
- In case of any such restriction, the exporter will provide a letter of explanation detailing the list of countries/entities, to which re-export/return is restricted / regulated;
- Purchase order

viii. After issuance of GAET authorization and before actual export, the applicant exporter must ensure the following:

1. They shall notify the relevant government authorities in the online portal of DGFT, on quarterly basis of such export in the prescribed format [Aayat Niryat Form (ANF)- 10H], along with the End-Use Certificate (EUC) for each export.

2. The EUCs in prescribed proforma [Appendix 10J(i)] are to be filled by all the entities involved in the chain of supply e.g. foreign buyer/consignee / end-user / intermediary (ies) on the letterhead of the respective entity, duly signed in ink and stamped by the authorized signatory of the company. In case of any additional sheet used along with the EUC, the same must be on the letterhead of the company and signed by the same person who signs the EUC.

3. They have an agreement or purchase order, an excerpt of a contract from the entity (buyer/consignee/end-user) receiving the items which state that the export is for a permitted use / an end-use as declared in the EUC before the actual export;

4. The documents submitted by the exporter must include the name, contact number and email ID of the authority signing the EUC before actual export.

5. Additional details, if any sought by DGFT

2. **<u>Post Reporting for export / re-export of items under GAET</u>**

a. The Indian exporter shall submit post-shipment details of each export/re-export of SCOMET items under the above Categories/sub-categories under GAET for 3 years on quarterly basis (March/June/September/December) by the end of subsequent month of each quarter, in respect of exports made in the previous quarter;

b. In case of re-export of imported items, the additional documents as mentioned in 1.b.vii.(i) have to be submitted at the time of post reporting.

c. Failure to do so may entail imposition of penalty and/or suspension/revocation of GAET.

3. **Record Keeping**

The exporter will be required to keep records of all the export documents, in manual or electronic form, in terms of Para 10.18 of HBP, for a period of 5 years from the date of GAET issued by DGFT.

4. **General Conditions & Exclusions**

GAET would not be issued in case of items to be used to design, develop, acquire, or manufacture, possess, transport, transfer and/or used for military applications, explosives, chemical, biological, nuclear weapons or for missiles capable of delivering weapons of mass destruction and their delivery system;

a. GAET would not be issued for countries or entities covered under UNSC embargo or sanctions list or on assessment of proliferation concerns, or national security and foreign policy considerations, etc.:

b. In case of inclusion of new countries or amendment to the existing list of countries where the export is expected to be done under GAET the applicant exporter will obtain prior permission of DGFT with relevant details;

c. IMWG shall reserve the right to deny the issue of GAET without assigning any reason(s)

5. Validity

a. GAET issued for export / re-export of SCOMET items under the above Categories / Sub Categories shall be valid for **Three years** from the date of issue of GAET subject to subsequent post reporting(s) on quarterly basis to be reported within 30 days from the last quarter;

b. GAET cannot be revalidated in terms of Paragraph 10.20 of HBP 2023.

6. Suspension/Revocation:

GAET issued shall be liable to be suspended/revoked by the DGFT on receipt of an adverse report on proliferation concern or for non-submission of mandatory post-shipment details/reports / documents within the prescribed timelines or non-compliance with the conditions of the proposed policy.

Para 10.15(II): General Authorization for Export of Information Security items under SCOMET Category 8A5 Part 2(GAEIS)

Export of indigenous SCOMET items (Information Security items under SCOMET Category 8A5 Part 2) will be allowed based on a one-time General Authorization (GAEIS) subject to the following conditions:

1. Policy & Eligibility: SCOMET authorization will not be required, for the export and/or re-export of Information Security items ***(excluding technology)*** under SCOMET Category 8A5 Part 2 subject to the following conditions:

a. The applicant exporter shall submit an application for getting a one-time license under GAEIS through the online SCOMET portal and attach the information in the prescribed performa.

b. The application would be reviewed/examined for the issuance of GAEIS by the Inter-Ministerial Working Group (IMWG) based on the submitted application and other supporting documents submitted by the applicant exporter in the prescribed proforma including**:**

i. Detailed description of the items that are intended to be exported under this authorization with relevant technical details/specifications;

ii. End-user certificate (EUC) from all the entities involved in the supply chain (buyer, consignee, end user and any other intermediary) on the letterhead (duly signed and stamped) is to be submitted before issuance of authorization. Subsequent EUC submissions for entities in the list of countries (as approved) will be subject to post-reporting requirements as mentioned at viii below.

iii. The list of countries where the export is expected to be done under GAEIS is to be provided by the applicant at the time of submission of the application.

iv. Undertaking on the letterhead of the firm duly signed and stamped by the authorized signatory stating the following:

1. Any on-site inspection will be allowed by the applicant exporter if required by the DGFT or authorized representatives of the Government of India;

2. The applicant exporter declares that the items that are intended to be exported shall not be used for any purpose other than the purpose(s) stated in the EUC and that such use shall not be changed nor the items modified or replicated without the prior consent of the Government of India.;

3. The applicant exporter declares that subsequent to the issuance of export authorization, if the licensee has been notified in writing by DGFT or if they know or has reason to believe that an item may be intended for military end use or has a potential risk of use in or diversion to weapons of mass destruction (WMD) or in delivery of their missile system, the exporter would

not be eligible for GAEIS for export of that/those item(s) and would apply separately to DGFT for a fresh authorization in terms of regular policy.

4. Action will be taken against the exporter under FT (D & R) Act, 1992 for any mis-declaration.

v. Certified/Approved Internal Compliance Programme by the Compliance Manager of the Company.

vi. Authorized Economic Operator (AEO) T2 Certification of CBIC.

vii. In case of re-export of imported items, the following additional documents have to be submitted:

(i) Proof of import of the item(s):

- Documentary proof that the item(s) originally imported, match with intended item(s) of re-export;
- Bill of entry containing details of the items to be re-exported;
- Export License (if applicable) or any other documents showing that export regulation of the country of export does not have any restriction on re- export from India;
- In case of any such restriction, the exporter will provide a letter of explanation detailing the list of countries/entities, to which re-export/return is restricted / regulated;
- Purchase order

viii. After issuance of GAEIS authorization and before actual export, the applicant exporter must ensure the following:

1. They shall notify the relevant government authorities in the online portal of DGFT, on a quarterly basis of such export in the prescribed format [**Aayat Niryat Form (ANF) 10I**], along with the End-Use Certificate (EUC) for each export.

2. The EUCs in prescribed proforma [Appendix 10j(i)] are to be filled by all the entities involved in the chain of supply e.g. foreign buyer/consignee / end-user/intermediary (ies) on the letterhead of the respective entity, duly signed in ink and stamped by the authorized signatory of the company. In case of any additional sheet used along with the EUC, the same must be on the letterhead of the company and signed by the same person who signs the EUC.

3. They have an agreement or purchase order, an excerpt of a contract from the entity (buyer/consignee / end-user) receiving the items which state that the export is for a permitted use / an end-use as declared in the EUC before the

actual export;

4. The documents submitted by the exporter must include the name, contact number and email ID of the authority signing the EUC before actual export.

5. Additional details, if any sought by DGFT.

2. Post reporting for export / re-export of items under GAEIS

a. The Indian exporter shall submit post-shipment details of each export/re-export of SCOMET items under the above Categories/sub-categories under GAEIS for 3 years on quarterly basis (March/June/September/December) by the end of subsequent month of each quarter, in respect of exports made in the previous quarter;

b. In case of re-export of imported items, the additional documents as mentioned in 1.b.vii.(i) have to be submitted at the time of post reporting.

c. Failure to do so may entail imposition of penalty and/or suspension/revocation of GAEIS.

3. Record Keeping

The exporter will be required to keep records of all the export documents, in manual or electronic form, in terms of Para 10.18 of HBP, for 5 years from the date of GAEIS issued by DGFT.

4. General Conditions & Exclusions

a. GAEIS would not be issued in case of items to be used to design, develop, acquire, or manufacture, possess, transport, transfer and/or used for military applications, explosives, chemical, biological, nuclear weapons or for missiles capable of delivering weapons of mass destruction and their delivery system;

b. GAEIS would not be issued for countries or entities covered under UNSC embargo or sanctions list or on assessment of proliferation concerns, or national security and foreign policy considerations, etc.:

c. In case of inclusion of new countries or amendment to the existing list of countries where the export is expected to be done under GAEIS the applicant exporter will obtain prior permission from DGFT with relevant details;

d. IMWG shall reserve the right to deny the issuance of GAEIS without assigning any reason(s).

5. Validity

1. GAEIS issued for export / re-export of SCOMET items under the above Categories / Sub Categories shall be valid for Three years from the date of issue

of GAEIS subject to subsequent post reporting(s) on a quarterly basis to be reported within 30 days from the last quarter;

2. GAEIS cannot be revalidated in terms of Paragraph 10.20 of HBP 2023.

6. Suspension / Revocation

GAEIS issued shall be liable to be suspended/revoked by the DGFT on receipt of an adverse report on proliferation concern or for non-submission of mandatory post-shipment details/reports/documents within the prescribed timelines or non-compliance with the conditions of the proposed policy.

10.16 General Authorisation for Export of Chemicals and related Equipment (GAEC) of SCOMET items

A. Procedure for grant of General Authorisation for Export of Chemicals and related equipment (GAEC)

I. In respect of export/re-export of SCOMET items under the Categories / Sub Categories of 1C, 1D,1E, 3D001 and 3D004 (excluding software and technology), and those chemicals specified in the Appendix 10(N), to the specified countries mentioned in the Appendix 10(N), the applicant exporter shall submit an application for GAEC through online SCOMET portal and attach information in proforma –ANF-10A;

II. The application would be reviewed/examined for the issuance of GAEC by Inter-Ministerial Working Group (IMWG) based on the submitted application and other supporting documents submitted by the applicant exporter in the prescribed proforma including;

a. Detailed description of the items that are intended to be exported under this authorisation with relevant technical details / specifications, such as model, part number, etc. to be provided (as applicable); In case of first intended export of items under the above Categories / Sub Categories, details of the entire supply chain (buyer, consignee, end user, etc.) of an intended export is to be provided. In case of previous exports of items under the above Categories / Sub Categories having been carried out, details of past exports including the EUC is to be provided.

b. Undertaking on the letterhead of the firm duly signed and stamped by the authorized signatory stating the following:

i. Any on-site inspection will be allowed by the applicant exporter, if required by the DGFT or authorized representatives of Government of India;

ii. The applicant exporter declares that the items that are intended to be exported shall not be used for any purpose other than the purpose(s) stated in the EUC and that such use shall not be changed nor the items modified or replicated without the prior consent of the Government of India. Further transfer/export/re-export under GAEC to the list of applicable countries specified in the Appendix 10(N) will be for civilian end use only;

iii. The applicant exporter declares that subsequent to issue of export authorisation, if the licensee has been notified in writing by DGFT or if they know or has reason to believe that an item may be intended for military end use or has a potential risk of use in or diversion to weapons of mass destruction (WMD) or in their missile system, the exporter would not be eligible for GAEC for export of that/those item(s) and would apply separately to DGFT for a fresh authorisation in terms of regular policy.

iv. Action will be taken against the exporter under FT (D & R) Act, 1992 for any mis-declaration.

c. After issuance of GAEC authorisation and before actual export, the applicant exporter must ensure the following:

i. They shall notify the relevant government authorities in the online portal of DGFT, within 30 days of such export in the prescribed format [Aayat Niryat Form ANF 10A along with the End-Use Certificate (EUC) in the prescribed proforma [Appendix 10J (i) or (ii), as per applicability] and a copy of the bill of entry into the destination country within 30 days of delivery at destination point.

ii. They have an agreement or a purchase order, excerpt of contract from entity (consignee / end user) receiving the items which states that the export is for a permitted use / an end use as declared in the EUC before actual export;

iii. They possess documents include the name, contact number and email id of the authority signing the EUC before actual export.

iv. Any subsequent transfer/export/re-export under GAEC to the list of applicable countries specified in the Appendix 10(N) is only for civilian end use

v. Additional details, if any sought by DGFT

d. A declaration is to be submitted by the exporter on Letter Head duly signed and stamped stating that export shall only be done for civilian end use.

e. A declaration from the Indian exporter stating that that the transfers/exports/re-exports in the entire supply chain would be only for eligible list of countries as provided in Appendix 10(N).

B. Post reporting for export / re-export of items under GAEC

a. The Indian exporter shall submit post-shipment details of each export/ re-export of SCOMET items under the above Categories/ sub-categories under GAEC, as mentioned above at II.c. (i) and within the timelines specified therein;

b. Failure to do so may entail imposition of penalty and / or suspension/revocation of GAEC.

C. General Conditions & Exclusions

a. GAEC would not be issued in case of items to be used to design, develop, acquire, manufacture, possess, transport, transfer and / or used for chemical, biological, nuclear weapons or for missiles capable of delivering weapons of mass destruction and their delivery system;

b. GAEC would not be issued for countries or entities covered under UNSC embargo or sanctions list or on assessment of proliferation concerns, or national security and foreign policy considerations, etc.;

c. IMWG shall reserve the right to deny issue of GAEC without assigning any reason(s).

D. Post reporting for export / re-export of items under GAEC

a. The Indian exporter shall submit post-shipment details of each export/ re-export of SCOMET items under the above Categories/ sub- categories under GAEC, as mentioned above at II.c. (i) and within the timelines specified therein;

b. Failure to do so may entail imposition of penalty and / or suspension/revocation of GAEC.

E. General Conditions & Exclusions

a. GAEC would not be issued in case of items to be used to design, develop, acquire, manufacture, possess, transport, transfer and / or used for chemical, biological, nuclear weapons or for missiles capable of delivering weapons of mass destruction and their delivery system;

b. GAEC would not be issued for countries or entities covered under UNSC embargo or sanctions list or on assessment of proliferation concerns, or national security and foreign policy considerations, etc.;

c. IMWG shall reserve the right to deny issue of GAEC without assigning

any reason(s).

F. Suspension / Revocation

GAEC issued shall be liable to be suspended / revoked by the DGFT on receipt of an adverse report on proliferation concern or for non-submission of mandatory post-shipment details / reports / documents within the prescribed timelines or for non-compliance with the conditions of the proposed policy.

10.16 (A) Procedure for grant of General Authorization for Export of Drones(GAED)

A. Policy & Eligibility: SCOMET authorization will not be required, for export and/or re-export of Unmanned Aerial Vehicles including drones, remotely piloted air vehicles and autonomous programmable vehicles specified at 5B(a)(ii), and not covered under SCOMET Categories/sub-categories 5B(a)(i) & 5B(b), 6A010, 8A912, and capable of range equal to or less than 25 km and delivering a payload of not more than 25 kgs (excluding the software and technology of these items), subject to the following conditions:

I. The applicant exporter shall submit an application for getting a onetime license under GAED through online SCOMET portal and attach information in proforma-ANF 10G;

II. The application would be reviewed/examined for the issuance of GAED by Inter-Ministerial Working Group (IMWG) based on the submitted application and other supporting documents submitted by the applicant exporter in the prescribed Performa including;

a. Detailed description of the items that are intended to be exported under this authorization with relevant technical details / specifications, including payloads such as model, part number, other parameters of the drones such as Payload capacity, Altitude, Range, Endurance, Speed, Communication type (Encrypted or Unencrypted, GPRS or satellite based), Accuracy, etc.to be provided (as applicable);

b. The list of countries where the export is expected to be done under GAED is to be provided by the applicant at the time of submission of application.

c. The EUCs in prescribed Performa [Appendix 10 J (i)] are to be filled by all the entities involved in the chain of supply e.g. foreign buyer / consignee / end user / intermediary (ies) on the letterhead of the respective entity, duly signed in ink and stamped by the authorised signatory of the company. In case of any additional sheet used along with the EUC, the same must be on the letterhead of the company and signed by the same person who signs the EUC.

d. Undertaking on the letterhead of the firm duly signed and stamped by the authorized signatory stating the following:

   i. Any on-site inspection will be allowed by the applicant exporter, if required by the DGFT or authorized representatives of Government of India;
   ii. The applicant exporter declares that the items that are intended to be exported shall not be used for any purpose other than the purpose(s) stated in the EUC and that such use shall not be changed nor the items modified or replicated without the prior consent of the Government of India.;
   iii. The applicant exporter declares that subsequent to issue of export authorisation, if the licensee has been notified in writing by DGFT or if they know or has reason to believe that an item may be intended for military end use or has a potential risk of use in or diversion to weapons of mass destruction (WMD) or in delivery of their missile system, the exporter would not be eligible for GAED for export of that/those item(s) and would apply separately to DGFT for a fresh authorization in terms of regular policy.
   iv. Action will be taken against the exporter under FT (D & R) Act, 1992 for any mis-declaration.

e. Certified / Approved Internal Compliance Programme (ICP) or demonstrating compliance to the ICP of the foreign parent company or ICP certified by the Compliance Manager of the company or certified by any Government agency such as Authorized Economic Operator (AEO) scheme etc.
f. After issuance of GAED authorization and before actual export, the applicant exporter must ensure the following:

   i. They shall notify the relevant government authorities in the online portal of DGFT, on quarterly basis of such export in the prescribed format [Aayat Niryat Form (ANF) – 10G], along with the End-Use Certificate (EUC) in the prescribed proforma [Appendix 10 J (i)] and a copy of the bill of entry into the destination country.
   ii. They have an agreement or a purchase order, excerpt of contract from entity (consignee / end user) receiving the items which states that the export is for a permitted use / an end use as declared in the EUC before actual export;
   iii. The submitting documents by exporter must include the name, contact number and email id of the authority signing the EUC before actual export.
   iv. Additional details, if any sought by DGFT

B. Post reporting for export / re-export of items under GAED

a. The Indian exporter shall submit post-shipment details of each export/ re-export of SCOMET items under the above Categories/ sub-categories under

GAED for 3 years, as mentioned above at II.c. (i) and within the timelines specified therein;

b. Failure to do so may entail imposition of penalty and / or suspension/revocation of GAED.

C. Record Keeping

The exporter will be required to keep records of all the export documents, in manual or electronic form, in terms of Para 10.18 of HBP, for a period of 5 years from the date of GAED issued by DGFT.

D. General Conditions & Exclusions

a. GAED would not be issued in case of items to be used to design, develop, acquire, manufacture, possess, transport, transfer and / or used for military applications, explosives, chemical, biological, nuclear weapons or for missiles capable of delivering weapons of mass destruction and their delivery system;
b. GAED would not be issued for countries or entities covered under UNSC embargo or sanctions list or on assessment of proliferation concerns, or national security and foreign policy considerations, etc.;
c. In case of inclusion of new countries or amendment to the existing list of countries where the export is expected to be done under GAED, the applicant exporter will obtain prior permission of DGFT with relevant details;
d. IMWG shall reserve the right to deny issue of GAED without assigning any reason(s).

E. Validity

a. GAED issued for export / re-export of SCOMET items under the above Categories / Sub Categories shall be valid for a period of Three years from the date of issue of GAED subject to subsequent post reporting(s) on quarterly basis to be reported within 30 days from the last quarter;
b. GAED cannot be revalidated in terms of Paragraph 10.20 of HBP 2023.

F. Suspension / Revocation

GAED issued shall be liable to be suspended / revoked by the DGFT on receipt of an adverse report on proliferation concern or for non-submission of mandatory post-shipment details / reports / documents within the prescribed timelines or for non-compliance with the conditions of the proposed policy.

10.17 Validity Period of SCOMET Authorisations

The validity period of SCOMET authorisations from the date of issue shall be as follows, unless specified otherwise

S.No.	Type of SCOMET Authorisation	Validity Period
1	SCOMET Authorisation	The validity period of the SCOMET authorisation shall be for a period of 24 months, unless otherwise specified.
2	SCOMET Authorisation Issued under GAICT Policy	GAICT authorisation issued for intra-company transfers of SCOMET items/software/technology shall be valid for a period of 3(three years) from the date of issue of authorisation and shall be further subject to the following validity timelines, whichever is earlier: i. Till the validity of license exception of foreign parent company ; or ii. Till the validity of license exception of foreign parent company for subsidiary(ies) of the parent company abroad; or iii. Till the validity of Master Service Agreement (MSA)/Contract with the foreign parent company and the Indian subsidiary.
3	SCOMET Authorisation issued under GAEC Policy	GAEC issued for export / re-export of SCOMET items under the above Categories / Sub Categories (excluding software and technology) shall be valid for a period of 5(five) years from the date of issue of GAEC subject to subsequent post reporting(s) on quarterly basis to be reported within 30 days from the last quarter;
4	SCOMET Authorisation Issued under GAER Policy	GAER issued for export of imported SCOMET items after repair shall be valid for a period of 1 year from the date of issue of GAER subject to subsequent post reporting(s) within 30 days from such export.
5.	SCOMET Authorisation Issued under GAED Policy	GAED issued for export / re-export of SCOMET items under the above Categories / Sub Categories shall be valid for a period of Three years from the date of issue of GAED subject to subsequent post reporting(s) on quarterly basis to be reported within 30 days from the last quarter;
6.	SCOMET Authorisation Issued under GAET Policy	GAET issued for export / re-export of SCOMET items under the above Categories / Sub Categories shall be valid for Three years from the date of issue of GAET subject to subsequent post reporting(s) on quarterly basis to be reported within 30 days from the last quarter

7.	SCOMET Authorisation Issued under GAEIS Policy	GAEIS issued for export / re-export of SCOMET items under the above Categories / Sub Categories shall be valid for Three years from the date of issue of GAEIS subject to subsequent post reporting(s) on quarterly basis to be reported within 30 days from the last quarter

10.18 Record Keeping

Every SCOMET export authorisation holder (including for GAICT and GAEC) shall maintain all the relevant records, including all the documents submitted while making an application for SCOMET Authorisation, in manual or electronic form, for a period of 5 years or till validity of export authorisation, whichever is higher, from the date of export or import, as applicable.

10.19 Voluntary Self Disclosure of export of dual use items

DGFT encourages voluntary self disclosures of failure to comply with the export control provisions, and supports raising awareness among exporters to avoid any incidents of non-compliance. In case, any exporter fails to comply with the export control provisions of the FTDR Act, WMD Act, Customs Act, or any regulation related to SCOMET, or SCOMET authorisation on export controls issued by DGFT, a voluntary self disclosure request along with the supporting documents shall be sent to the SCOMET Division of DGFT (Hqrs), New Delhi, through e-mail (scomet-dgft@nic.in) immediately after an export violation is discovered.

The IMWG may consider each case on merit in accordance with the provisions of the Export and Import Policy determined by the Central Government from time to time under the Foreign Trade (Development and Regulation) Act 1992 and the orders issued thereunder, and may make recommendations on further action to be taken by DGFT in the specific case(s).

Exporter is liable for strict action under the provisions of the FTDR Act for any violation of SCOMET policy brought to the notice of DGFT in cases other than voluntary self disclosure.

Standard Operating Procedure/ Guidelines for Voluntary Disclosure of Non-Compliance/ Violations related to Export of SCOMET Items and SCOMET Regulations

Scope:

The Directorate General of Foreign Trade (DGFT) recognizes that there may be occasions where responsible exporters, did not comply with the export control provisions of the Foreign Trade (Development and Regulation) Act, the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, the Customs Act, or any other relevant law, regulation, order, etc. or license/authorization on export controls issued by DGFT. The DGFT encourages voluntary disclosures of failure to comply with the export control

provisions and supports raising awareness among the exporters to avoid any non-compliance incidents. Voluntary disclosures do not involve cases where the exporter applies for regularization of authorization / post-facto export authorization, on the basis of communication from the relevant Government of India agencies such as DGFT, and Customs.

The Inter-Ministerial Working Group (IMWG) in DGFT constituted for considering the applications for export of SCOMET items may consider a voluntary disclosure as a mitigating factor in determining the administrative penalties, if any, that should be imposed.

The IMWG would consider each case on its merit in accordance with the provisions of the Export and Import Policy determined by the Central Government from time to time, under the Foreign Trade (Development and Regulation) Act, and the Orders issued there under.

Voluntary Disclosure for non-compliance shall not cover the cases for non-compliance or violations for items falling under SCOMET Category 0 and under CWC Schedules (SCOMET Categories 1A, 1B, & 1C).

Types of Violations:

i. Export of goods/software/technology listed under SCOMET and undertaken without prior authorization

ii. Export to UNSC-sanctioned entities and individuals without knowledge

iii. Export of items not controlled under SCOMET and used/diverted for or manufacture of weapons of mass destruction or their delivery systems

iv. Use of an Export authorization issued in the name of an entity, by a new entity(s) after name change, merger, de-merger etc. without prior approval/amendment from the licensing authority

v. Failure to obtain permission from the licensing authority by the company/entity registered or operating in India, which is involved in the manufacture, processing and use of SCOMET items, for facilitating or undertaking site visits, on-site verification or access to records/documentation by foreign organizations either directly or through an Indian party

vi. Failure to comply with reporting, record-keeping requirements, etc.

vii. Unauthorized access to technical data

viii. Unauthorized provision of technical assistance

ix. Any other violation relating to SCOMET items not listed above in terms of FTDR/FTP/HBP

The violation(s)in question, despite the voluntary nature of the disclosure, may merit penalties, administrative actions, and sanctions to consider criminal prosecution. The IMWG will consider whether 'voluntary disclosure,' in the context of other relevant information in a particular case, should be a mitigating factor in determining, if any, administrative action will be imposed. Some of the other factors the IMWG may consider in case of voluntary disclosure include:

i. Whether the export would have been authorized in the normal course, and under what conditions (voluntary / forced disclosure) the request for export authorization has been made by the exporter before DGFT;

ii. Whether the violation was intentional or inadvertent, systematic or not;

iii. Why the violation occurred;

iv. The degree of cooperation with the ensuing verification/investigation;

v. Whether the firm has instituted or improved an internal trade compliance mechanism/process/program, including training of employees to reduce the likelihood of future export violation(s);

vi. Whether the export violation was in the knowledge of senior management of the organization;

vii. The degree to which the firm / authorized person responsible for the violation was familiar with the export control laws and regulations;

viii. Whether the firm has violated export control laws and regulations in the past;

B. Procedure for Voluntary Disclosure:

i. Any individual/firm should initially notify the Directorate General of Foreign Trade (DGFT) immediately after an export violation is discovered and confirmed internally, and then conduct a thorough review of all such trade activities where a violation is suspected. The Indian exporter must submit all the relevant details of such violation (in Appendix 10O) to SCOMET Division, DGFT (Hqrs), Vanjiya Bhawan, New Delhi, via E-mail at scomet-dgft@nic.in

ii. If there is confirmation from the relevant enforcement agencies such as Customs or through other sources regarding such violation by the exporting entity or individual, a show cause notice shall be issued by SCOMET Cell, DGFT to the applicant firm. A full disclosure along with all the necessary documents must be submitted within 30 days or the extended time as may be specified.

iii. Failure to provide a full disclosure within a reasonable time may result in a recommendation by the IMWG, not to consider the Voluntary Disclosure as a mitigating factor in determining the appropriate disposition of the violation. In addition, DGFT may direct the firm to furnish all the relevant information surrounding the violation in terms of the relevant Indian laws and regulations.

iv. The IMWG would consider each such application on merit within the scope of applicable laws and regulations.

C. Documents required while filing for Voluntary Disclosure:

The IMWG may consider the following documents for the regularization of exports made under Voluntary Disclosure. The written disclosure by the firm should be accompanied by a covering letter (on the letterhead) signed by a senior officer(not below the rank of export compliance manager or equivalent designation) with the following documents:

a. Disclosure Proforma (Appendix attached)

b. Application in ANF 10A proforma

c. Licensing documents (e.g., license applications, export licenses, end-user certificates/statements, Purchase Order, Contract Agreement, etc.)

d. Shipping documents (e.g., Shipping Bills, Commercial Invoices, Airway Bills and Bills of Lading and any other related Trade documents)

e. Any other relevant documents as may be required

D. Action by the DGFT:

All voluntary disclosure cases shall be placed by DGFT before the IMWG, in its subsequent meeting for discussion after submission of all complete and supporting documentation by the exporter. The IMWG would consider each case on merit in accordance with the provisions of the Export and Import Policy determined by the Central Government from time to time, and the relevant Indian laws and regulations. The IMWG would consider and make recommendations to DGFT on the following:

i. To inform the exporter that no further action is warranted, based on the facts disclosed, supporting documentation and upon satisfactory review;

ii. To issue a Show Cause Notice;

iii. To issue an Adjudication Order on submission of an adverse report on proliferation concerns/information, violation of relevant export control laws and regulations, etc. or for non-submission of mandatory documents within the prescribed timelines or for non-compliance with the conditions of SCOMET policy. The firm shall be liable for action in accordance with the FT(D&R) Act, the Rules and Orders made there under, the Foreign Trade Policy (FTP), and any other applicable laws and regulations.

iv. DGFT would subsequently apprise the IMWG of the action taken by them in these cases (Regularizing the previous export or suitable action taken pursuant to (i)/(ii)/(iii) above, as the case may be).

10.20 Revalidation of SCOMET Authorisation

Export Authorisation for SCOMET items may be revalidated, on merits for a period of six months at a time and maximum upto 12 months by the DGFT (Hqrs). An application for grant of revalidation may be made in prescribed proforma [ANF 10F] 30 days prior to the expiry of authorisation. The period of renewal of authorisation shall be counted from the date of actual expiry of authorisation. The total period of extension will not exceed 12 months. Revalidation to export authorisations issued for Technology/Software transfer under any category is not permitted. SCOMET Authorisations issued under GAEC, GAICT, GAER, GAEIS, GAET, GAED policy cannot be revalidated