

## CHAPTER 9

### DEFINITIONS

For purpose of FTP, unless context otherwise requires, the following words and expressions shall have the following meanings attached to them:-

**9.01** "Accessory" or "Attachment" means apart, sub-assembly or assembly that contributes to efficiency or effectiveness of a piece of equipment without changing its basic functions.

**9.02** "Act" means Foreign Trade (Development and Regulation) Act, 1992 (No.22 of 1992) [FT (D&R) Act] as amended from time to time.

**9.03** "Actual User" is a person (either natural & legal) who is authorized to use imported goods in his/its own premise which has a definitive postal address.

(a) "Actual User (Industrial)" is a person (either natural & legal) who utilizes imported goods for manufacturing in his own industrial unit or manufacturing for his own use in another unit including a jobbing unit which has a definitive postal address.

(b) "Actual User (Non-Industrial)" is a person (either natural & legal) who utilizes the imported goods for his own use in.

(i) any commercial establishment, carrying on any business, trade or profession, which has a definitive postal address; or

(ii) any laboratory, Scientific or Research and Development(R&D) institution, university or other educational institution or hospital which has a definitive postal address; or

(iii) Any service industry which has a definitive postal address.

**9.04** "AEZ" means Agricultural Export Zones notified by DGFT in Appendix 2V of Appendices and Aayat Niryat Forms.

**9.05** "Appeal" is an application filed under section 15 of the Act and includes such applications preferred by DGFT officials in government interest against decision by designated adjudicating/ appellate authorities.

**9.06** "Applicant" means person on whose behalf an application is made and shall, wherever context so requires, includes person signing the application.

**9.07** "Authorisation" means permission as included in Section 2(g) of the Act to import or export as per provisions of FTP.

**9.08** "Capital Goods" means any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, of goods or for rendering services, including those required for replacement, modernisation, technological up-gradation or expansion. It includes packaging machinery and equipment, refrigeration equipment, power generating sets, machine tools, equipment and instruments for testing, research and development, quality and pollution control.

Capital goods may be for use in manufacturing, mining, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture and viticulture as well as for use in services sector.

**9.09** "Competent Authority" means an authority competent to exercise any power or to discharge any duty or function under the Act or the Rules and Orders made there under or under FTP.

**9.10** "Component" means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved. A component includes an accessory or attachment to another component.

**9.11** "Consumables" means any item, which participates in or is required for a manufacturing process, but does not necessarily form part of end-product. Items, which are substantially or totally consumed during a manufacturing process, will be deemed to be consumables.

**9.12** "Consumer Goods" means any consumption goods, which can directly satisfy human needs without further processing and includes consumer durables and accessories thereof.

**9.13** "Counter Trade" means any arrangement under which exports/imports from /to India are balanced either by direct imports/exports from importing/exporting country or through a third country under a Trade Agreement or otherwise.

Exports/Imports under Counter Trade may be carried out through Escrow Account, Buy Back arrangements, Barter trade or any similar arrangement. Balancing of exports and imports could wholly or partly be in cash, goods and/or services.

**9.14** "Developer" means a person or body of persons, company, firm and such other private or government undertaking, who develops, builds, designs, organises, promotes, finances, operates, maintains or manages a part or whole of infrastructure and other facilities in SEZ as approved by Central Government and also includes a co-developer.

**9.15** "Development Commissioner" means Development Commissioner of SEZ.

**9.16** "Domestic Tariff Area (DTA)" means area within India which is outside SEZs and EOU/ EHTP/STP/BTP.

**9.17** Deleted

**9.17A** "e- commerce means buying and selling of goods and services, including digital products, conducted over digital and electronic network. For the purposes of Merchandise Exports from India Scheme (MEIS) e – commerce shall mean the export of goods hosted on a website accessible through the internet to a purchaser. While the dispatch of goods shall be made through courier or postal mode, as specified under the MEIS, the payment for goods purchased on e- commerce platform shall be done through international credit/debit cards and as per the Reserve Bank of India Circular (RBI/2015-16/185) [A.P. (DIR) Series) Circular No. 16 dated September 24, 2015] as amended from time to time."

**9.18** "EOU" means Export Oriented Unit for which a letter of permit has been issued by Development Commissioner.

**9.19** "Excisable goods" means any goods produced or manufactured in India and subject to duty of excise under Central Excise and Salt Act 1944(1of 1944).

**9.20** "Export" is as defined in FT (D&R) Act, 1992, as amended from time to time.

**9.21** "Exporter" means a person who exports or intends to export and hold an IEC number, unless otherwise specifically exempted.

**9.22** "Export Obligation" means obligation to export product or products covered by Authorisation or permission in terms of quantity, value or both, as may be prescribed or specified by Regional or competent authority.

**9.23** "Free" as appearing in context of import/export policy for items means goods which do not need any 'Authorisation'/ License or permission for being imported into the country or exported out.

**9.24** "FTP" means the Foreign Trade Policy which specifies policy for exports and imports under Section 5 of the Act.

**9.25** "Import" is as defined in FT (D&R) Act, 1992 as amended from time to time.

**9.26** "Importer" means a person who imports or intends to import and holds an IEC number, unless otherwise specifically exempted.

**9.27** ITC (HS) refers to Indian Trade Classification (Harmonized System) at 8 digits.

**9.28** "Jobbing" means processing or working upon of raw materials or semi-finished goods supplied to job worker, so as to complete a part of process resulting in manufacture or finishing of an article or any operation which is essential for aforesaid process.

**9.29** "Licensing Year" means period beginning on the 1<sup>st</sup> April of a year and ending on the 31<sup>st</sup> March of the following year.

**9.30** "Managed Hotel" means hotels managed by a three star or above hotel/ hotel chain under an operating management contract for duration of at least three years between operating hotel/ hotel chain and hotel being managed. Management contract must necessarily cover the entire gamut of operations/management of managed hotel.

**9.31** "Manufacture" means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, re-packing, polishing, labeling, Re-conditioning repair, remaking, refurbishing, testing, calibration, re-engineering.

Manufacture, for the purpose of FTP, shall also include agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining.

**9.32** "Manufacturer Exporter" means a person who exports goods manufactured by him or intends to export such goods.

**9.33** "Merchant Exporter" means a person engaged in trading activity and exporting or intending to export goods.

**9.34** "NC" means the Norms Committee in the Directorate General of Foreign Trade for approval of adhoc input-output norms in cases where SION does not exist and recommend SION to be notified in DGFT.

**9.35** "Notification" means a notification published in Official Gazette.

**9.36** "Order" means an Order made by Central Government under the Act.

**9.37** "Part" means an element of a sub-assembly or assembly not normally useful by itself, and not amenable to further disassembly for maintenance purposes. Part may be a component, spare or an accessory.

**9.38** "Person" means both natural and legal and includes an individual, firm, society,

company, corporation or any other legal person including the DGFT officials.

**9.39** "Policy" means Foreign Trade Policy (2015-2020) as amended from time to time.

**9.40** "Prescribed" means prescribed under the Act or the Rules or Orders made there under or under FTP.

**9.41** "Prohibited" indicates the import/export policy of an item, as appearing in ITC (HS) or elsewhere, whose import or export is not permitted.

**9.42** "Public Notice" means a notice published under provisions of paragraph 2.55 of FTP.

**9.42A** "Project Exports" refers to export of engineering goods on deferred payment terms and execution of turnkey projects and civil construction contracts abroad collectively.

Project Exports would encompass

- (i) Civil construction contracts;
- (ii) Turnkey Engineering contracts including supply of Capital Goods on deferred payment terms;
- (iii) Process and Engineering Consultancy Services; and
- (iv) Project Construction items (excluding Steel and Cement).

**9.43** "Quota" means the quantity of goods of a specific kind that is permitted to be imported without restriction or imposition of additional Duties

**9.44** "Raw material" means input(s) needed for manufacturing of goods. These inputs may either be in a raw/natural/unrefined/unmanufactured or manufactured state.

**9.45** "Regional Authority" means authority competent to grant an Authorisation under the Act/Order.

**9.46** "Registration-Cum-Membership Certificate"(RCMC) means certificate of registration and membership granted by an Export Promotion Council/Commodity Board/Development Authority or other competent authority as prescribed in FTP or Handbook of Procedure.

**9.47** "Restricted" is a term indicating the import or export policy of an item, which can be imported into the country or exported outside, only after obtaining an Authorisation from the offices of DGFT.

**9.48** "Rules" means Rules made by Central Government under Section 19 of the FT (D&R) Act.

**9.49** "SCOMET" is the nomenclature for dual use items of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET). Export of dual-use items and technologies under India's Foreign Trade Policy is regulated. It is either prohibited or is permitted under an Authorisation.

**9.50** "Services" include all tradable services covered under General Agreement on Trade in Services (GATS) and earning free foreign exchange.

**9.51** "Service Provider" means a person providing:

- (i) Supply of a 'service' from India to any other country; (Mode 1- Cross border trade)
- (ii) Supply of a 'service' from India to service consumer(s) of any other country in India; (Mode 2-Consumption abroad)
- (iii) Supply of a 'service' from India through commercial presence in any other country. (Mode 3 – Commercial Presence)
- (iv) Supply of a 'service' from India through the presence of natural persons in any other country (Mode 4- Presence of natural persons.)

**9.52** "Ships" mean all types of vessels used for seaborne trade or coastal trade, and shall include second hand vessels.

**9.53** "SION" means Standard Input Output Norms notified by DGFT.

**9.54** "Spares" means a part or a sub-assembly or assembly for substitution that is ready to replace an identical or similar part or sub- assembly or assembly. Spares include a component or an accessory.

**9.55** "Specified" means specified by or under the provisions of this Policy through Notification/Public Notice.

**9.56** "Status holder" means an exporter recognized as One Star Trading House/ Two Star Trading House / Three Star Trading House/ Four Star Trading House/ Five Star Trading House by DGFT/Development Commissioner.

**9.57** "Stores" means goods for use in a vessel or aircraft and includes fuel and spares and other articles of equipment, whether or not for immediate fitting.

**9.58**

(a) "Supporting Manufacturer" is one who manufactures goods/products or any

part/accessories/components of a good/product for a merchant exporter or a manufacturer exporter under a specific Authorisation.

(b) "Supporting Manufacturer" for the EPCG Scheme shall be one in whose premises/factory Capital Goods imported/ procured under EPCG Authorisation is installed.

**9.59** State Trading Enterprises (STEs), for the purpose of this FTP, are those entities which are granted exclusive right/privileges export and /or import as per Para 2.20 (a) of FTP.

**9.60** "Third-party exports" means exports made by an exporter or manufacturer on behalf of another exporter(s). In such cases, export documents such as shipping bills shall indicate names of both manufacturer exporter/manufacturer and third party exporter(s). Bank Realisation Certificate (BRC), Self Declaration Form (SDF), export order and invoice should be in the name of third party exporter.

**9.61** "Transaction Value" is as defined in Customs Valuation Rules of Department of Revenue.

**9.62** "Wild Animal" means any wild animal as defined in Section 2 (36) of Wildlife (Protection) Act, 1972.

This document is only for ease of reference. The Foreign Trade Policy shall have only legal authority. All relevant notifications will have to be read with the relevant modifications.