

## **GUIDELINES FOR EXPORT OF SCOMET ITEMS**

Export of dual-use items and technologies under India's Foreign Trade Policy is regulated. Export of dual-use items and technologies is either prohibited or is permitted under a license. In Foreign Trade Policy, dual-use items have been given the nomenclature of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET). Export Policy relating to SCOMET items is given in Appendix 3 of Schedule 2 of ITC (HS) Classification and Paragraph 2.49 of Hand Book of Procedures Vol. –I, 2009-14. Appendix 3 of Schedule 2 of ITC (HS) Classification contains a list of all dual-use items and technologies export of which is regulated. ([Appendix 3](#)) (Please also refer to Notification No. 27 (RE 2007)/(2004-2009) dated 7<sup>th</sup> September, 2007 and Notification No. 122 (RE-2008)/(2004-2009) dated 19<sup>th</sup> August, 2009).

### **2. List of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) items**

In the list as appearing in Appendix 3 of Schedule 2 of ITC (HS) Classification, SCOMET items are listed under eight (8) categories as follows:

- Category 0 Nuclear material, nuclear-related other materials, equipment and technology. (The licensing authority for this category is the Department of Atomic Energy)
- Category 1 Toxic chemical agents and other chemicals
- Category 2 Micro-organisms, toxins
- Category 3 Material, Materials Processing Equipment, and related technologies
- Category 4 Nuclear-related other equipment, assemblies and components; test and production equipment; and related technology, not controlled under Category 0
- Category 5 Aerospace systems, equipment including production and test equipment, related technology and specially designed components and accessories thereof.
- Category 6 (Reserved)
- Category 7 Electronics, computers, and information technology including information security.

Each category contains exhaustive listing of items covered under that category. Special conditions applicable to items under different categories are mentioned under each category.

### **3. Procedure for Filing application for Export Licence for SCOMET items**

To obtain a license for export of SCOMET items, an exporter must apply in the prescribed Aayat Niryat Form ([ANF 2E](#) and ANF 1) along with the prescribed documents to DGFT (Headquarters), Udyog Bhawan, New Delhi. These forms can be downloaded from the DGFT website [www.dgft.gov.in](http://www.dgft.gov.in). Detailed guidelines for filing the application have been given at the end of ANF 2E.

### **4. Procedure for Processing of Application for licence for export of SCOMET items**

All applications for licence for export of SCOMET items are considered on merits by an Inter-Ministerial Working Group (IMWG) in the DGFT under the Chairmanship of Additional Director General of Foreign Trade as per guidelines and criteria laid down in Para 2.49 of the Handbook of Procedure Vol. 1. Once the case is approved by the IMWG, permission letter is issued to the exporter for obtaining export authorization from the concerned Zonal/Regional office of the DGFT. Relevant extract of Para 2.49 of HBP Vol. 1 is reproduced here:

#### **Paragraph 2.49 of HBP Vol. 1**

Application for licences to export items or technology on SCOMET List are considered case-by-case, based inter alia on the following general criteria:-

I Following factors, among others, are taken into account in the evaluation of application for export of items on SCOMET List:

- a. Credentials of end-user, credibility of declarations of end-use of the item or technology, integrity of chain of transmission of item from supplier to end-user, and the potential of 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, objectives of global non-proliferation, or its obligations under treaties 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 recipient State;
- d. The capabilities and objectives of programmes of recipient State relating to weapons and their delivery;
- e. Assessment of end-uses of item(s);
- f. Applicability to an export licence application of relevant bilateral or multilateral agreements to which India is a party.

- II A condition for consideration of an application for an export licence is submission of stipulated certifications to the effect, inter alia, that:
- a. The item will be used only for the stated purpose and that such use will not be changed, nor items modified or replicated without consent of Government of India;
  - b. Neither the items nor replicas nor derivatives thereof will be re-transferred without consent of Government of India;
  - c. End-user shall facilitate such verifications as are required by Government of India. Government of India may also require additional formal assurances, as appropriate, including on end-use and non-retransfer, from State of recipient.
- III Licensing authority for items in Category 0 in Appendix 3 to Schedule 2 of ITC (HS) is Department of Atomic Energy. Applicable guidelines are notified by that Department under Atomic Energy Act, 1962. For certain items in Category 0, formal assurances from recipient State will include non- use in any nuclear explosive device. Licences for export of certain items in Category 0 will not be granted unless transfer is additionally under adequate physical protection and is covered by appropriate International Atomic Energy Agency (IAEA) safeguards, or any other mutually agreed controls on transferred items.
- IV Additional end-use conditions may be stipulated in licences for export of items or technology that bear possibility of diversion to or use in development or manufacture of, or use as, systems capable of delivery of weapons of mass destruction.
- V Applications for transfer of “Technology” for any item on the List will be considered as an application for export of the item itself.
- VI Licences for export of items in SCOMET List (other than those under Category 0,1 and 2) solely for purpose of display or exhibition shall not require any end-use or end-user certifications. No export licence for display or exhibition shall be issued for ‘Technology’ in any category or for items under Categories 0,1, and 2.
- VII Export of items not on SCOMET List may also be regulated under provision of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.
- Note 1:** Export or attempt to export in violation of any conditions of licence shall invite civil and/or criminal prosecution.

**Note 2:** Licences for export of items in this List for display or exhibition abroad are subject to a condition of re-import within a period not exceeding six months. Exporters are entitled to apply for an export licence for such items exhibited abroad if exhibitor intends to offer that item for sale during exhibition abroad. Such sale shall not take place without a valid licence.

**Note 3:** Export of items in Category 2 of this list may also be controlled by other applicable guidelines issued from time-to-time

**Note 4:** Exporters are entitled to apply for a 'destination licence' for countries and/or groupings of countries for export to which only re-transfer conditions need be imposed.

**Note 5.** Exporters are entitled to request that only such conditions need be imposed as are subject of government-to-government instruments of accord over export of items on SCOMET List.

**Note 6.** 'Technology' (see also entry 'Technology' in glossary in Appendix 3 to Schedule 2 of ITC (HS): Approval of export of an item on the SCOMET List also authorizes the export to same end-user of minimum 'technology' required for installation, operation, maintenance and repair of the item.

DGFT in association with Administrative Ministries/Departments and Trade Associations will organize Industry Outreach Programme on regular basis for an effective awareness among the exporters/importers dealing with trade, in particular, in SCOMET items.

## **5. Advice to Exporters**

Attention of exporters is drawn to the following important provisions of Policy/Procedures:-

(i) Export of SCOMET items is permitted only against a licence, in accordance with the policy contained in Appendix 3 to Schedule 2 of ITC (HS). It is not permitted under an Advance Authorization or any other licence issued (under a duty exemption or remission scheme) by the DGFT.

In this connection, attention is drawn to para 4.1.13 of the Foreign Trade Policy, 2009-14:

“...prohibited items of exports mentioned in ITC (HS) shall not be exported under Advance Authorization/DFIA scheme. Export of restricted items shall be subject to all conditionalities or requirements of Export Authorization or permission, as may be required, under Schedule II of ITC (HS).”

It has been clarified vide Policy **Circular No. 99(RE-08)/2004-2009 dated 11<sup>th</sup>**

**August, 2009** that in case of applications for Advance Authorization where export item is a SCOMET item, and where the applicant so requests, Advance Authorization may be issued prior to issue of SCOMET licence, subject to the following condition:-

“ In case SCOMET licence is not granted within four (4) months of the issue of the Advance Authorization, then the exporter would pay customs duty and applicable interest on the imported goods and thereafter close the Advance Authorization. This condition would be incorporated in the Advance Authorization. The applicant would also give an LUT in this regard.”

**(ii)** Exporters are required to submit to the DGFT (SCOMET Division), Udyog Bhawan, New Delhi, copies of Bills of entry into the importing country within 30 days of the shipment of SCOMET items as given in Appendix 3 of Schedule 2 of ITC (HS).

**(iii)** Category 1 (of SCOMET List) Chemicals : Exporters must go through the provisions very carefully before undertaking to export chemicals under Category 1. Export of Category 1A chemical is prohibited. The list of State Parties to the Chemicals Weapons Convention (CWC) and countries which are not State Parties is available on the OPCW website <http://www.opcw.org>.

### **GUIDELINES FOR ONLINE FILING OF APPLICATION (ANF 2E) FOR EXPORT OF SCOMET ITEMS**

1. A detailed step by step guide for filling the online SCOMET application is available on the DGFT website ([dgft.gov.in](http://dgft.gov.in)) under the ‘**Help**’ option which can be accessed as follows:-

Go to DGFT website.  
Click on ‘Help’.  
Click on option ‘SCOMET Help’.  
Screen by screen help will open.  
Go through this entire guide before proceeding to fill in the application.

(A link to the ‘Help’ guide has also been provided at the end of these guidelines).

2. On the DGFT website, application form ANF 2E is available under the icon ‘**ECOM Application**’ and can be accessed as follows:

Click on ‘ECOM Application’.  
Sign in with IEC and Digital Signature.  
Click on ‘SCOMET Online’.  
Main screen ‘SCOMET’ will open.

Click on option 'File'.  
Click on option 'Create'.

ANF 2E will open. Fill in the information as directed.

3. While filling the online application, following need to be kept in mind:-
- (i) All columns must be filled correctly and completely. No column is to be left blank. If information is not applicable, 'Not Applicable' may be filled in the space provided.
  - (ii) Where FOB value has to be filled, if the export does not have a commercial value, '00.00' may be filled.
  - (iii) Drop down lists have been provided wherever possible. Where no drop down list has been provided, requisite details must be filled in correctly in the space provided.
  - (iv) Documents as per list in Para 4 below need to be uploaded. A check list for 'Uploaded documents' has been provided at the end of the application. Please tick whichever document has been uploaded.  
  
**'Master' screen:**
  - (v) Port of Loading/Shipment must be selected from the drop-down list provided. Correct port must be selected. No change of route/mode of transport will be allowed after export licence has been issued. Port of discharge must be filled in the space provided (No drop-down menu provided for this).
  - (vi) FOB in Rupees and in relevant currency need not be filled in the 'Master' screen. This detail in 'Master' screen will get automatically populated once the same is filled in the 'Item of Export' screen.
  - (vii) Fill in details in all columns on this screen. Then click on buttons/options given on the right side of this screen. Relevant screens will open. Proceed to fill each one.  
  
**'Item of Export' screen:**
  - (viii) SCOMET Categories have been provided as a drop-down list. Correct category must be selected. SCOMET item number must be filled in correctly in the space provided.
  - (ix) Space has been provided to fill in the details of maximum of six (6) items of export. If items are more than six (6), details must be

uploaded as extra sheet in the same format as on this screen.

**‘Previous Export’ screen:**

- (x) For Previous Exports, drop-down menu for year has been provided. Select the respective year and fill in details.

**‘Foreign Buyer/Consignee/End-User’ screen:**

- (xi) A drop down list has been provided for Foreign Buyer/Consignee/End-User. Choose each one from the drop-down list and fill details of each separately.
- (xii) Complete address should be given in respect of the Foreign Buyer, the Consignee and the End User. Only P.O. Box No. will not be accepted.

**‘Bank Details’ screen:**

- (xiii) Filling ‘Bank details’ is mandatory. For applications where the consignment has no commercial value (e.g. blood samples etc.) ‘Not Applicable’ must be filled in all columns under ‘Bank Details’.
- (xiv) Giving details of IBAN, SWIFT Code and IFSC Code is mandatory. If IBAN is not used in the country to which item is to be exported i.e. IBAN is not available, this may be mentioned. For example, if items are to be exported to South Korea and IBAN is not used in that country ‘IBAN not used in South Korea’ must be filled.

**4. Following documents are to be uploaded with the online application :**

- (i) **Purchase Order(s)** from the Foreign Buyer, the Consignee, and the End-User and in respect of all items to be exported as mentioned in the application.
- (ii) **End User Certificate(s)** from all end-users. (Also see Paras 5&6 below).
- (iii) **Technical Specifications** (not exceeding one page for each item) for the items to be exported.

- (iv) **Copy of contract or agreement** if a third party or contractor is involved (provision has been made to allow uploading of multi-page document).
- (v) **List of exports** made during the last three (3) licensing years in the same format as in 'Previous Export' screen, if number of export items are more than six(6). (See note at the bottom of the screen).
- (vi) **Details of Bills of Entry** for the preceding one (1) year (to be uploaded only with the 1<sup>st</sup> application in a financial year).
- (vii) **Copy of 1<sup>st</sup> page of 1<sup>st</sup> application** filed in the financial year vide which BEs for SCOMET items exported during the last one year were physically forwarded to DGFT.

5. After submitting the application online, hard copies of following documents must be sent to the DGFT(HQRS), Udyog Bhawan, New Delhi by post:

- (i) **Original End User Certificate(s)** (see para 6 below).
- (ii) **Copies of Bills of Entry (BEs)** into the destination country for SCOMET items exported during the preceding one(1) year. This is to be filed only with the 1<sup>st</sup> application filed in a financial year. Copy of the forwarding letter of 1<sup>st</sup> application to be uploaded with every subsequent online application.

ECOM No. & date of application submitted online must be mentioned in the forwarding letter.

6. **End User Certificate :**

- (i) In addition to uploading scanned copies, **original End User Certificate(s)** (in the format as in Appendix 36 on the Letter Head of the End User) indicating complete details of the export product, end product, end purpose for which the item of export will be used by end user must be furnished, by post to DGFT. Letter Head of the end-user must carry complete address and telephone number of end user.
- (ii) End User Certificates from the following must also be submitted.

- (a) From the Foreign Buyer if it is different than the End User.
  - (b) From the Consignee, if it is different than the Foreign Buyer & End User.
  - (c) From any other intermediary, if there is any.
- (iii) End User Certificates from Foreign Buyer, Consignee and End User must reflect the logical flow of items.
- (iv) Each EUC must mention all the items given in the Purchase Order(s) and in the list of items to be exported as given in the application. Each EUC must mention the Purchase Order No. and date.
- (v) EUCs submitted in parts and pieces will not be accepted. 1(one) original End Use-cum-End User Certificate only from each of the customers i.e., Foreign Buyer, Consignee and End User is to be filed.

7. Details of export items given in the online application (ANF 2E), End User Certificates and Purchase Orders must match completely.

[Step by step guide for filling online ANF 2E application](#)

**Contact Information:**

Exporters wishing to apply for licence for export of SCOMET items are advised to go through the provisions of Foreign Trade Policy as detailed above for removal of any doubts. However, in case of any further information/clarification please contact:

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