

(To be published in the Gazette of India Extraordinary Part-I Section-I)

Government of India
Ministry of Commerce & Industry
Department of Commerce
Udyog Bhawan

Public Notice No. 4 /2015-20
New Delhi, the 24 April, 2017

Subject:- Amendments in Paras 2.72, 2.73, 2.74, 2.81 & 2.82 and Appendix 2S of the Handbook of Procedures, 2015-2020

In exercise of the powers conferred under Paragraph 1.03 of the Foreign Trade Policy, 2015-20, the Director General of Foreign Trade, hereby makes the following amendments in Paras 2.72, 2.73, 2.74, 2.81 & 2.82 and Appendix 2S of the Handbook of Procedures, 2015-2020 with immediate effect (**changes made are in bold letters**).

2. New sub para 2.72(b) is being added and the revised Para 2.72 would read as under:

“2.72 Application for Grant of Export Authorisation/Certificate/ Permission for non-SCOMET Items

(a) An application for grant of Export Authorisation in respect of restricted items [other than Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET)] mentioned in Schedule 2 of ITC (HS) Classifications of Export and Import Items may be made in ANF 2N to DGFT (Headquarters) along with documents prescribed therein. EFC shall consider applications on merits for issue of export Authorisation.

(b) 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 their missile system or military end use (including by terrorists and non-state actors), the export of such an item may be denied or permitted subject to the grant of a license, as per the procedure provided for SCOMET items in para 2.73.”

3. New sub para 2.73(c) is being added after sub Para 2.73(b) as under:

“**Para 2.73(c) Maintenance of Records:**

Every SCOMET authorisation holder shall maintain the following records in manual or electronic form for a period of 5 years from the date of export or import, as applicable:

- a) All documents submitted while making an application for SCOMET Authorization.**
- b) Correspondence with buyer/consignee/end-user or DGFT or relevant Government agency;**

- c) **Relevant Contracts;**
- d) **Relevant Books of account;**
- e) **Relevant Financial records;**
- f) **Any communication from any government agency related to an application for authorization for any item on the SCOMET list or a commodity classification request;**
- g) **Shipping documents including shipping bill, bill of entry and bill of lading”**

4. The amended sub Para 2.74(I)(f) shall read as under:

“Para 2.74(I)(f): Applicability of provisions of relevant bilateral or multilateral Agreements and Arrangements, to which India is a party, or adherent, including but not limited to the guidelines and control lists of the Nuclear Suppliers Group, Missile Technology Control Regime, Australia Group and Wassenaar Arrangement (and its Sensitive List and Very Sensitive List) as updated from time to time.”

5. The amended sub Para 2.74(V) shall read as under:

“2.74 V. (a) Licensing authority for items in Category 0 and Note 2 of the ‘Commodity Identification Note’ in Appendix 3 to Schedule 2 of ITC (HS) is Department of Atomic Energy. Applicable guidelines are notified by the Department of Atomic Energy under Atomic Energy Act, 1962. 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 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.

(b) Licensing authority for items in Category 6 in Appendix 3 to Schedule 2 of ITC (HS) is Department of Defence Production. Export of items in Category 6 is governed by the extant Standard Operating Procedure issued by the Department of Defence Production in the Ministry of Defence. Export of items covered in Note 3 of the ‘Commodity Identification Note’ in Appendix 3 to Schedule 2 of ITC (HS) is prohibited.”

6. The amended Para 2.81 shall read as under:

“2.81 Export of SCOMET Category 6 items

Notwithstanding anything contained in paras 2.73 to 2.80, Export of SCOMET Category 6 items will be permitted against an authorisation issued by Department of Defence Production. The grant of authorisation will be governed by the Standard Operating Procedure (SOP) issued for the purpose by Department of Defence Production.”

7. The amended Para 2.82 shall read as under:

“2.82 Time-line for comments/NOC

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 applications 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.”

8. The format for the End use cum End User Certificate (EUC) is being annexed with this Public Notice.

- a) Appendix- 2S (i) is required for export of SCOMET items in Categories 2,3,4,5,7 & 8.
- b) Appendix- 2S (ii) is required for export of SCOMET items in Category 1.

9. This Public Notice shall come into force on the 1st of May, 2017.

Effect of this Public Notice: The provision for regulating export of non-SCOMET items having potential risk of use in or diversion to WMD/missile/military end use has been prescribed. Provision for Maintenance of Records has been prescribed. Amendments have been made in para 2.74 and para 2.81 for adherence to various Multilateral Export Control Regimes and to clarify the licensing jurisdiction of various SCOMET categories. The time period to furnish written comments/views/No Objection by members of IMWG to DGFT has been reduced to 30 days. Revised formats for End use cum End User Certificate have been prescribed.



(A.K. Bhalla)

Director General of Foreign Trade
E-mail: dgft@nic.in

[Issued from F.No.01/91/171/73/AM10/EC]

APPENDIX- 2 S (i)

END USE CUM END USER CERTIFICATE IN CASE OF EXPORT OF SCOMET ITEMS

PART 1: PARTIES CONCERNED

- (a) Name of Exporter _____
- (b) Name of Buyer _____
- (c) Buyer's Address _____
- (d) Name of Consignee _____
- (e) Consignee's Address _____
- (f) Name of End-User _____
- (g) End-User's Address _____
- (h) Specific Location where the items will be used (if different from (g)) _____

PART 2: ITEMS (goods, software, technology)

(a) Description of the item(s) (e.g. Name of Model, Class, Type, Serial Number)	(b) Quantity/Weight /Value ¹

- (c) Purchase order Number & Date of signature of contract _____

PART 3: DECLARATION

- a) The item(s) indicated in PART 2 will be used as capital equipment/ component / raw material / other use for _____
- b) The item(s) indicated in PART 2 are being processed or incorporated into another product² (as detailed in 3a above), for sale to ultimate end users located in _____
- c) I/we certify that the above-mentioned items (as detailed in the referenced purchase order) shall not be used for any purpose other than the purpose(s) stated above and that such use shall not be changed nor the items modified or replicated without the prior consent of the Government of India. Post shipment verification shall be allowed if required by the Government of India, as may be applicable. In case the above-mentioned item(s) include(s) technology, we certify that it will be treated as strictly confidential.
- d) The end-user shall not himself, or through another, cause the items, or replicas, or derivatives thereof to be re-transferred / sold without the consent of the Government of India, to any party within (country of final destination) _____ or outside it unless specifically exempted in the export authorization.
- e) I/We also certify that the above items imported by us shall not be used to develop, acquire, manufacture, possess, transport, transfer or use, chemical, biological, nuclear weapons or for missiles capable of delivering such weapons.
- f) I/we also certify that all the facts contained in this certificate are true and correct to the best of my knowledge and belief and that I/we do not know of any additional facts that are inconsistent with this certificate.

Signature: _____
(Signature of authorised signatory)

Date: _____

Name: _____

Designation: _____

Address: _____

Email: _____

Telephone number: _____

[To be submitted by all entities in the chain of supply on the letterhead of the respective entity. Any additional pages must be signed by the same person who signs this form. For Category 1 items, use Appendix 2S(ii)]

1: For Technology exports, value should be mentioned in Part 2(b)

2: Cross this line if it is not applicable]

APPENDIX- 2 S (ii)

END USE CUM END USER CERTIFICATE IN CASE OF EXPORT OF CHEMICALS

PART 1: PARTIES CONCERNED

- (a) Name of Exporter _____
(b) Name of Buyer _____
(c) Buyer's Address _____
(d) Name of Consignee _____
(e) Consignee's Address _____
(f) Name of End-User _____
(g) End-User's Address _____
(h) Specific Location where the items will be used (if different from (g)) _____

PART 2: ITEMS

(a) Description of the item(s) (e.g. Purity/Concentration, IUPAC Name & CAS number)	(b) Quantity/Weight

- (c) Purchase order Number & Date of signature of contract _____

PART 3: DECLARATION

- a) The item(s) indicated in PART 2 will be used for _____
- b) I/we certify that the above-mentioned items (as detailed in the referenced purchase order) shall not be used for any purpose other than the purpose(s) stated above and that such use shall not be changed nor the items modified or replicated without the prior consent of the Government of India. Post shipment verification shall be allowed if required by the Government of India, as may be applicable.
- c) The end-user shall not himself, or through another, cause the items, or replicas, or derivatives thereof to be re-transferred / sold without the consent of the Government of India, to any party within (country of final destination) _____ or outside it.
- d) I/We also certify that the above items imported by us shall not be used to develop, acquire, manufacture, possess, transport, transfer or use, chemical, biological, nuclear weapons or for missiles capable of delivering such weapons and that the chemical(s) will only be used for purposes not prohibited under the Chemical Weapons Convention (CWC).
- e) I/we also certify that all the facts contained in this certificate are true and correct to the best of my knowledge and belief and that I/we do not know of any additional facts that are inconsistent with this certificate.

Signature: _____
(Signature of authorised signatory)

Date: _____

Name: _____

Designation: _____

Address: _____

Telephone number: _____

Email: _____

PART 4 – CERTIFICATION ON BEHALF OF THE RECEIPT STATE¹

As an authorised signatory for the government of the recipient state, I confirm that the chemical(s) described in Part 2, will be used by the entity named at 1(f) and that the chemical(s) will only be used for purposes not prohibited under the Chemical Weapons Convention (CWC) and the chemical(s) shall not be transferred to any other person or re-exported from the recipient country.

Signature _____
(signature of official government representative)

Date _____

Name: _____

Government department/ministry stamp

Designation _____

Organization & Contact details: _____

[To be submitted, for export of items in Category 1 of SCOMET list, by all entities in the chain of supply on the letterhead of the respective entity. Any additional sheets must be signed by the same person who signs this form.

1: To be filled for transfers of SCOMET Category 1C Chemicals to states not party to the Chemical Weapons Convention