New FOREIGN TRADE POLICY 2015-2020

Nikhil Vashi
Director-Indirect Tax
BDO India LLP (Pune)

CONTENT:

GLOSSARY

FTP	Foreign Trade Policy	MoF	Ministry of Finance	SION	Standard Input Output Norms
HBOP	Handbook of Procedures	FMS	Focus Market Scheme	STP	Software Technology Park
MEIS	Merchandise Exports from India Scheme	FPS	Focus Product Scheme	SFIS	Served from India Scheme
SEIS	Services Export form India Scheme	MLFPS	Market Linked Focus Product Scheme	VKGUY	Vishesh Krishi and Gram Udyog Yojna
DGFT	Director General of Foreign Trade	SION	Standard Input Output Norms	FTWZ	Free Trade Warehousing Zone
DTA	Domestic Tariff Area	STP	Software Technology Park	IEC	Import-Export Code
EO	Export Obligation	SFIS	Served from India Scheme	RBI	Reserve Bank of India
EOU	Export Oriented Unit	VKGUY	Vishesh Krishi and Gram Udyog Yojna	EEFC	Exchange Earners Foreign Currency
EHTP	Electronic Hardware Technology Park	FOB	Free on Board	CIN	Corporate Identification Number
EPCG	Export Promotion Capital Goods	DoR	Department of Revenue	DIN	Director Identification Number
EEFC	Exchange Earners' Foreign Currency	BTP	Bio-technology Park	MLFPS	Market Linked Focus Product Scheme
CBDT	Central Board of Direct Taxes	SEZ	Special Economic Zone	RA	Regional Authority
MCA	Ministry of Corporate Affairs	MoF	Ministry of Finance	SION	Standard Input Output Norms
MCO & I	Ministry of Commerce and Industry	FMS	Focus Market Scheme	STP	Software Technology Park
EODC	Export Obligation Discharge Certificate	FPS	Focus Product Scheme	SFIS	Served from India Scheme
MoCI	Ministry of Commerce and Industries	MLFPS	Market Linked Focus Product Scheme	VKGUY	Vishesh Krishi and Gram Udyog Yojna

Introduction

INTRODUCTION

- The Government of India announces FTP every 5 years.
- The Directorate General of Foreign Trade issues FTP to provide guidelines for foreign trade in India
- The new policy for 2015 to 2020 would be effective from 1 April 2015
- The Foreign Trade Policy is regulated by The Foreign Trade Development and Regulation Act,1992
- The Government will conduct a mid-policy review after two and a half years

Objective

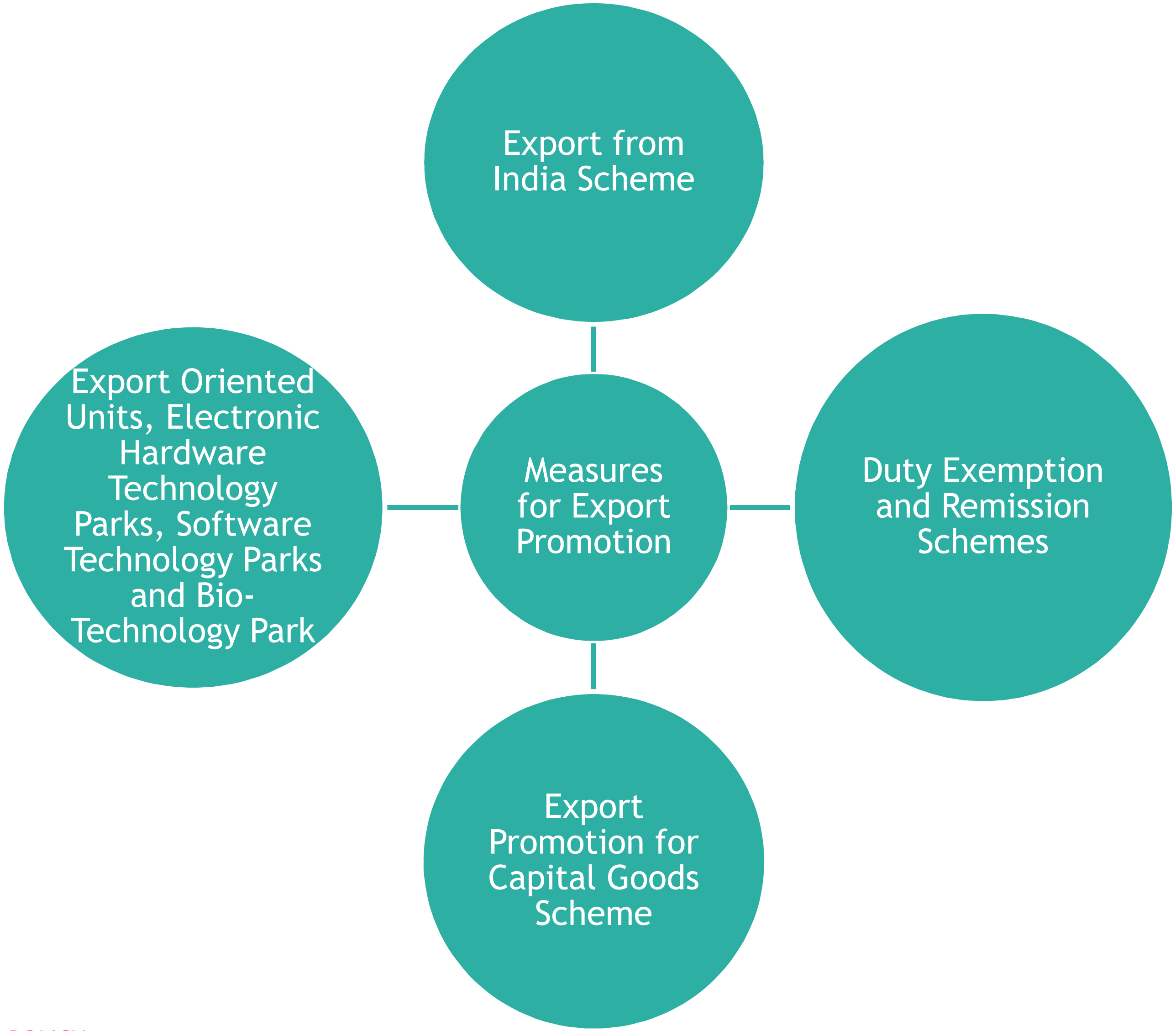
- The new policy aims at promoting exports as well as eyes at generation of employment
- FTP is in line with “Make in India” vision of the Government with focus on supporting both manufacturing and services sectors
- This policy comes with detailed Policy Statement summarizing the vision and goals of India’s Foreign Trade Policy and also laying down a road map for India’s target in global trade in the coming years
- Trade facilitation and ease of doing business are the other major focus areas of the new FTP
- One major objective of the new FTP is to move towards paperless working environment with in 24 x 7 availability

HIGHLIGHTS OF THE NEW FTP 2015-20

- The new FTP introduces two new export incentive schemes namely “Merchandise Exports from India Scheme (MEIS)” and “Services Exports from India Scheme (SEIS)”
- These schemes replace plethora of schemes from earlier policy which were subject to different conditions
- No conditions would be attached to the new schemes
- The duty scrips issued under above schemes would be fully transferable
- Self-certification for goods originating in India introduced for status holders
- Certain procedural relief benefits extended to EOUs
- In line with “Make in India” campaign Export Obligation is reduced for domestic procurement under EPCG scheme
- Online inter-ministerial consultations to be introduced for SCOMET authorization, Norms fixation etc. for speedy approvals
- Simplification of procedure/process, digitization and e-governance
- A new chapter namely, Quality Complaints and Trade disputes has been incorporated
- Forthcoming proposed e-governance:
    - Online transmission of reward scrips from DGFT to Customs
    - Online transmission of Bills of Entry from Customs to DGFT
    - Online issuance of EODC

MEASURES FOR EXPORT PROMOTION

MEASURES FOR EXPORT PROMOTION



IDENTIFYING APPROPRIATE SCHEME

Objective

Enables clarity on interpretational issues

Eligibility

Meeting the eligibility criteria is most critical before any further analysis as to applicability of the Scheme is undertaken

Entitlement

With a view to optimize the total benefit, it is critical that such scheme as would result into maximum benefit, considering commercial requirements is opted

Imports permitted

Each scheme restricts the nature of goods that can be imported under the entitlement conferred by the Scheme

Imports permitted

Satisfaction of the conditions is an absolute necessity

MERCHANDISE EXPORTS FROM INDIA SCHEME (MEIS)

MERCHANDISE EXPORTS FROM INDIA SCHEME (MEIS)

- MEIS has replaced five different schemes of earlier FTP (FPS, MLFPS, FMS, AIIS, VKGUY) which had varying conditions (sector specific or actual user) attached to their use.
- MEIS scrip will be issued for exports of notified goods to notified markets
- Benefits granted up to 5% as compared to earlier schemes which offered benefits up to 7%, however, product and market base widened
- No conditionality is attached to MEIS scrips
- Benefit entitlement shifted from FOB value of exports to realized FOB Value
- Benefits extended for exports to developed countries (like USA, Canada and EU countries) which was eligible to a very limited extent under the earlier schemes
- MEIS benefit extended to e-commerce

MEIS: Eligibility

Country Grouping: Exports to Countries eligible for export benefits are grouped as under:

Category A (Traditional Markets)	Category B (Emerging & Focus Markets)	Category C (Other Markets)
1. European Union (28) 2. USA 3. Canada.	1. Africa (55) 2. Latin America and Mexico (45) 3. CIS countries (12) 4. Turkey and West Asian countries (13) 5. ASEAN countries (10) 6. Japan 7. South Korea 8. China 9. Taiwan	Countries Notified (70) including any other country not listed in the Country Groups A or B

MEIS: Eligibility

Increase in Product Base	Increase in Market Base	Increase in Rewards
1. New products added under following Industries: 1. Defence 2. Pharmaceuticals (283) 3. Agriculture 4. Textile 5. Environment Protection 6. Women centric products	1. Global Support to 1. Agriculture Industry 2. Textile Industry 2. Product base widened to major markets for following industries: 1. Pharmaceuticals 2. Automobile 3. Engineering 4. Chemical 5. Leather 6. Steel based products	1. Higher rewards to following products: 1. Agriculture 2. Value added and packaged products 3. Eco friendly and green products 4. Labor intensive products 5. Industrial products 6. Hi-tech products

MEIS: Ineligible Categories

- EOUs/EHTPs/BTPs/STPs availing Direct Tax benefits / exemption
- Supplies made from DTA units to SEZ units
- Export of imported goods covered under paragraph 2.46 of FTP
- Exports through trans-shipment
- Deemed Exports
- SEZ/EOU/EHTP/BTP/FTWZ products exported through DTA units
- Items which are restricted or prohibited

MERCHANDISE EXPORTS FROM INDIA SCHEME (MEIS)

- Service Export
- Red sanders and beach sand
- Export products subject to Minimum export price or export duty
- Diamond, Gold, Silver, Platinum, other precious metal in any form
- Ores and concentrates of all types and all formations
- Cereals and Sugar of all types and all forms
- Crude/Petroleum products

MERCHANDISE EXPORTS FROM INDIA SCHEME (MEIS)

Ineligible categories under MEIS

- Export of Milk and Milk products
- Export of Meat and Meat products
- Products wherein precious metal / diamond are used or Articles which are studded with precious stones
- Diamond, Gold, Silver, Platinum, other precious metal in any form
- Exports made by units in FTWZ

MEIS: Benefit

- Duty entitlement scrip up to 5% of exports
- Exports would mean:
  - Realized FOB Value of Exports or FOB Value of exports as per shipping bill whichever is lower
- Duty scrip can be used to make payment of:
  - Customs Duty
  - Excise duty
  - Service Tax
  - Duty liability towards short fall in export obligation
  - Application fees
- Basic customs duty paid using scrip can be claimed as Duty drawback
- CVD, SAD, Excise Duty and Service Tax paid using scrip can be claimed as duty drawback/ CENVAT credit
- MEIS scrip is freely transferable

MEIS: Procedure

- W.e.f. 1 July 2015 shipping bills should mandatorily contain the intent to claim MEIS benefit
- Application for obtaining duty credit scrip shall be filed within a period of
  a) Twelve months from the Let Export date or
  b) Three months from date of : Uploading of EDI shipping bills onto the DGFT server by Customs or Printing/ release of shipping bills for Non EDI shipping bills

  whichever is later
- Application mandatorily to be filed electronically
- Proof of landing required except where reward is available for export to all Countries
- Documents/ records to be retained for a period of three years

SERVICE EXPORT FROM INDIA SCHEME (SEIS)

SERVICES EXPORTS FROM INDIA SCHEME (SEIS)

- Served from India Scheme (SFIS) has been replaced with Services Exports from India Scheme (SEIS).
- SEIS shall apply to "Service Providers" located in India instead of "Indian Service Providers" as defined in the earlier scheme.
- The rate of reward under SEIS would be based on Net Foreign Exchange earned.
- The SEIS duty scrip, would no longer be with actual user condition.
- The SEIS duty scrip will be freely transferable and can be used for all types of goods and service tax debits. Debits would be eligible for Cenvat credit or drawback.

SERVICES EXPORTS FROM INDIA SCHEME (SEIS)

- The present rates of reward are 3% and 5% as against 10% available under SFIS.

Category of Services	Rate of Reward
Business Services	3% to 5%
Communication Services	5%
Construction and related engineering services	5%
Educational Services	5%
Environmental Services	5%
Health related and Social Services	5%
Tourism and Travel	3% & 5%
Recreational, Cultural and Sporting Service	5%
Transport Services	5%

SERVICES EXPORTS FROM INDIA SCHEME (SEIS)

Eligibility

- Service Providers of notified services, located in India and providing services in the manner as per Para 9.51(i) and Para 9.51 (ii) of the FTP.
- Service Provider should have minimum net foreign exchange earnings of US$ 15,000 in preceding financial year.
- For Individual Service Providers and sole proprietorship, minimum net foreign exchange earnings criteria would be US$ 10,000 in preceding financial year.
- Payment in Indian Rupees for service charges earned on specified services, shall be treated as deemed foreign exchange as per RBI guidelines.
- Net Foreign Exchange Earnings for the scheme are defined as under:

  Net Foreign Exchange = Gross Earnings of Foreign Exchange minus Total expenses/payment/remittances of Foreign Exchange by IEC holder, relating to service sector in the Financial year.

SERVICES EXPORTS FROM INDIA SCHEME (SEIS)

Eligibility

- If the IEC holder is a manufacturer of good as well as service provider, then the foreign exchange earnings and Total expenses/payment/remittances shall be taken into account for service sector only.
- Service Provider should have an active IEC to claim the reward.

SERVICES EXPORTS FROM INDIA SCHEME (SEIS)

Ineligible categories

- Foreign exchange remittances other than those earned for rendering of notified services.
- Following shall not be taken in to account for calculation of entitlement:

a) Foreign Exchange remittances:

I. Related to Financial Service Sector

(i) Raising of all types of foreign currency loans

(ii) Export proceeds realization of clients

(iii) Issuance of Foreign Equity through ADRs / GDRs

(iv) Issuance of foreign currency bonds

(v) Sale of securities and other financial instruments

(vi) Other receivables not connected with services rendered by financial institutions

II. Earned through contract/regular employment abroad

b) Payments for services received from EEFC account

c) Foreign exchange turnover by Healthcare Institutions like equity participation, donations etc.

d) Foreign exchange turnover by Educational Institutions like equity participation, donations etc.

e) Export turnover relating to services of units operating under SEZ/EOU/EHTP/STP/BTP Schemes or supplies of services made to such units.

f) Clubbing of turnover of services rendered by SEZ/EOU/EHTP/STP/BTP units with turnover of DTA service providers

SERVICES EXPORTS FROM INDIA SCHEME (SEIS)

Ineligible categories

g) Export of Goods

h) Foreign exchange earnings for services provided by Airlines, Shipping lines for routes not touching India at all.

i) Service providers to Telecom Sector.

COMMON PROVISIONS/PROCEDURES FOR EXPORT FROM INDIA SCHEMES (MEIS and SEIS)

BDO

COMMON PROVISIONS (MEIS and SEIS)

Transitional Arrangement

- Policy and Procedures of the earlier policy for eligibility, entitlement, transferability, usage of scrips would apply to exports of goods or services rendered up to the date of notification of the new policy even if the scrips applied / issued is on or after the notification of the new policy.

CENVAT/Drawback

- Additional Customs duty/Excise duty/Service Tax paid through cash or Duty scrip will be adjusted as CENVAT credit or Duty Drawback.
- Basic Custom duty paid through cash or Duty scrip will be adjusted for Duty Drawback.

Import under lease financing

- Duty Credit Scrips can be utilised for payment of duty of capital goods imported in terms of Para 2.34 of FTP.

Transfer of Export Performance

- Transfer of export performance from one IEC holder to another IEC holder is not permitted.
- MEIS rewards can be claimed by the supporting manufacturer. Provided disclaimer is received from the company/firm who has realized foreign exchange.

COMMON PROVISIONS (MEIS and SEIS)

Facility of payment of customs duties in case of E.O. defaults and fees.

- Duty Credit Scrip can be utilized/debited for payment of custom duties in case of EO defaults under Chapter 4 and 5 of this policy. However, penalty/interest shall be paid in cash.
- Duty Credit Scrip can also be used for payment of composition fee, application fee under FTP, if any and for payment of value shortfall in EO under para 4.49 of HBP 2015-20

Risk Management System

- Computer system in DGFT HQ, on random basis, will select 10 % of cases for each RA which has issued scrips in the preceding month by 10th of the month.
- The list of selected cases will be sent to concerned Ra by 15th of the month.
- Concerned RA will ask for the original documents by 30th of the month for examination in detail.
- Applicant shall be under obligation to submit the document asked for within 15 days.
- After examination of documents by RA, if any deficiency reported, applicant shall rectify it in one month from date of communication. In case of excess availment of rewards, applicant would have to refund excess claim with interest.
- RA will initiate action if the applicant fails to comply with the above provisions.

COMMON PROVISIONS (MEIS and SEIS)

Jurisdictional RA / RA Concerned

- For submitting applications for MEIS and SEIS the applicant shall have an option to choose Jurisdictional RA on the basis of Corporate Office/Registered Office/Head Office/Branch Office address endorsed on the IEC at the beginning of the financial year.
- Once the option is exercised, no change would be allowed for claims relating to that year.

Import from private / public bonded warehouses

- Duty Credit Scrips can be used for import from private / public bonded warehouses as per para 2.36 of FTP and DoR notification.

Re-export of defective/unfit goods

- Goods imported and found defective or unfit for use, can be re-exported even if the Duty Scrip has been used for such imports.
- Customs shall issue a certificate containing details of scrip used, amount debited, date of goods re-exported.
- Based on the certificate received from Customs, upon application a fresh scrip shall be issued by concerned RA to the extent of 98% of debited amount with same port registration an valid for a period equivalent to the balance period available on date of import of the defective goods.

COMMON PROVISIONS (MEIS and SEIS)

Validity period

- Duty Credit Scrips will be valid for 18 months from the date of issue and must be valid on the date on which actual debit of duty is made.

- Revalidation of Duty Credit Scrip shall not be permitted unless covered under para 2.20(c) of HBP 2015-20

- The last date for filing application for SEIS is 12 months from the end of relevant financial year of the claim period.

	Particulars	Amount	Calculated on			Particulars	Amount	Calculated on
A	Assessable Value	100.00			A	Assessable Value	100.00	
B	BCD @ 10%	10.00	A		B	BCD @ 10%	10.00	A
C	CVD @ 12.50%	13.75	A+B		C	CVD @ 12.50%	13.75	A+B
D	Ed Cess on CVD @ 2%	0.00	C		D	Ed Cess on CVD @ 2%	0.00	C
E	S&HEC on CVD @ 1%	0.00	C		E	S&HEC on CVD @ 1%	0.00	C
F	Ed Cess @ 2%	0.48	B+C+D+E		F	Ed Cess @ 2%	0.48	B+C+D+E
G	S&HEC @ 1%	0.24	B+C+D+E		G	S&HEC @ 1%	0.24	B+C+D+E
H	SAD @ 4%	4.98	B+C+D+E+F+G		H	SAD @ 4%	4.98	B+C+D+E+F+G
I	Total Duty	29.44	B+C+D+E+F+G+H		I	Total Duty	29.44	B+C+D+E+F+G+H
	Cenvat/Drawback available					Cenvat/Drawback available		
	CVD	13.75	C			BCD (Only Duty Drawback)	10.71	B + E + F
	SAD	4.98	H			CVD	13.75	C
						SAD	4.98	H
	BCD - Cost to the Importer	10.71	B + E + F			Cost to the Importer	0.00	

STATUS HOLDERS

- The nomenclature of status holder certificate has been changed.
- The export performance criteria have been changed from present system of INR to USD earnings as below.

STATUS CATEGORY	EXPORT PERFORMANCE IN FOB/FOR VALUE (IN USD MILLION) DURING CURRENT AND PRECEDIDNG TWO YEARS
One Star Export House	3
Two Star Export House	25
Three Star Export House	100
Four Star Export House	500
Five Star Export House	2000

STATUS HOLDER

Self-certification by Status Holders

•Manufacturers who are status holders of 3 star and above, would be allowed to self-certify with a view to qualify for preferential treatment under various trade agreements in operations, as goods are originating from India.

Double weightage

•Double weightage would be granted to One Start Export House only

•The benefit would not be available to other categories

•Double weightage can be availed only once.

•Status certificate issued under FTP 2009-14 shall remain valid till 30th June 2015 or till issuance of status certificate under the new FTP 2015-20, whichever is earlier.

DUTY EXEMPTION / REMISSION SCHEME

ADVANCE AUTHORISATION

- There are no major changes in this scheme
- Annual Advance Authorisation would be issued only if the inputs are notified in SION and will not be available in case where adhoc norms are fixed
- Imports under Advance Authorisation would now also be exempted from Transition Product Specific Safeguard Duty
- For fixation of norms application shall be uploaded online to concerned Norms Committee
- Details of Norms Committee along with the product groups dealt by each Norms Committee have been prescribed in this policy. This will reduce time in fixation of norms. This is a welcome step.

SCOMET

- The validity of export authorization has been extended from 12 months to 24 months
- Authorisation for repeat orders will be considered automatically, subject to certain conditions
- Verification of End User Certificate (EUC) is being simplified if SCOMET item is being exported under Defence Export Offset Policy.

EXPORT PROMOTION CAPITAL GOODS SCHEME

EXPORT PROMOTION CAPITAL GOODS SCHEME

- To boost Make in India campaign, the specific export obligation for domestic procurement of capital goods has been reduced from 90% to 75% of the normal export obligation.
- Clubbing of authorization restricted only in cases where endorsed products on the authorization are same/ similar and if authorizations are issued by the same RA.
- Period for maintenance of records after redemption of authorizations has been reduced from three years to two years.

NEW INITIATIVES FOR EOU / EHTP / STP / BTP

EOU / EHTP / STP / BTP SCHEMES

- Sharing of infrastructural facilities allowed among themselves, enabling units to utilize the infrastructural facilities in a optimum way.
- Inter-unit transfer of goods and services allowed among themselves. This will help group of units sourcing inputs centrally to avail bulk discounts. This will also reduce cost of transportation and other logistics cost.
- EOUs can now set up Warehouses near the port of export to reduce lead time of delivery of goods and address the issues of unpredictability of supply orders.
- STP units, EHTP units, software EOUs allowed the facility to use all duty free equipment's/goods for training purpose.
- Facility of supply of spares/ components up to 2% of the value of the manufactured articles to a buyer in domestic market for the purpose of after sale services is allowed to EOU units.
- Due to adverse market conditions or any genuine hardship block period of five years for achieving positive NFE can be extended by one year.
- Validity of LOP revised to 2 years as against 3 years for faster implementation of projects.
- Extension up to one year can be granted by Development Commissioner for valid reason in writing if units are not able to commence production in two years.

EOU / EHTP / STP / BTP SCHEMES

- Further extension of one year can be granted by the Unit Approval Committee subject to two thirds of activities including construction are complete and Chartered Engineers certificate to that effect is submitted.
- Further extension over and above four years will be granted by Board of Approvals.
- Simplified procedure to fast track the de-bonding / exit of the STP/ EHTP units will be provided in the near future.
- Physical export turnover reduced from Rs. 15 crore to Rs.10 crore and above, for issuance of pre-authenticated procurement certificate after the same is notified by DoR.

DEEMED EXPORTS

DEEMED EXPORT

- Now covered under Chapter seven.
- A new para is added for Risk Management and Internal Audit mechanism for this chapter.
- For benefits already granted under this chapter, Computer system in DGFT headquarters will select randomly 10% of cases from each RA. Such cases will be scrutinized by the Audit team which will be headed by the JDGFT, in office of the respective Zonal Addl. DGFT.
- The zonal offices of Additional DGFT shall constitute Audit Team to carry out post audit.
- RA will take necessary action for recovery of payment along with interest at the rate of fifteen percent per annum on recoverable amount.
- In addition to recovery applicant will also be liable for penal action as per T.T.(D&R) Act, Rules.

QUALITY COMPLAINTS AND TRADE DISPUTES

QUALITY COMPLAINTS AND TRADE DISPUTES

- A new chapter is added to resolve trade disputes with foreign buyers and create confidence in the business environment of the country.
- A committee known as "Committee on Quality Complaints and Trade Disputes (CQCTD)" will be constituted to deal with complaints and disputes effectively in twenty-two offices the RA's.
- The committee will be responsible to enquire and investigate all Quality related complaints and other trade related complaints and resolve the grievances of importers, exporters and overseas buyers within three months of receipt of the complaint.
- The procedure and format for lodging complaints is given the HBOP

Thank You