**PUBLIC NOTICE NO.04**

**DTD.24.04.2017**

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 lCertificatel 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;  
  
j) 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(1)(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 l " 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)