UNIT 8 FTDR ACT, 1992 AND FOREIGN TRADE POLICY

Structure

8.0 OBJECTIVES

After reading this Unit, we shall be able to:

- outline Foreign Trade Development and Regulation Act, 1992 (FTDR) – its salient features;
- enlist basic objectives of the Foreign Trade Policy (FTP);
- know strategy to achieve these objectives;
- discuss Foreign Trade Policy in General;
- enlist pre-requisites for starting export/import business in India;
- state various Export Promotion Policies like Export Promotion Capital Goods Scheme, Duty Exemption/Remission Schemes;
- know 100% Export Orienting Unit and Special Economic Zone Scheme etc;
- describe status Scheme;
- enumerate regulation of exports; and
- state general conditions of import.

8.1 INTRODUCTION

Foreign Trade, as all of you must be aware is one of the most important factor in the overall economic development of the country. For an ordinary person it is a very complex area which involves a whole gamut of policies, procedures etc. laid down by different Departments of the Government, which are responsible for this activity. Therefore, it is not easy to understand this complex maze of policies/procedures and an exporter or prospective exporter in a country like India who wants to enter into this area, does not know where to start. In this chapter, we will be trying to understand this complex scenario and we would have an overview of foreign trade, its policies, procedures and some of the important schemes for the exporters/ importers, being run by the Government Departments. The basic idea of this exercise would be to aquaint ourselves with all aspects of foreign trade so that we are able to know how the foreign trade is regulated in the country and how one can maximize the benefits being given by the Government to the exporters/ importers under its various schemes executed by different departments. Main Government departments which deal with the foreign trade in India are the Ministry of Commerce and Industry, Office of Directorate General of Foreign Trade, Ministry of Finance, Draw Back Directorate, Export Inspection Council etc. and all these departments have very well developed websites from where information about the functions which these departments perform and various schemes run by these departments can be easily obtained. It is recommended that once we are sensitized about the basis of foreign trade, it is advised that they must visit various websites of these Government Departments dealing with Foreign Trade so as to continuously update our knowledge about various policies being executed by these departments.

8.2 SALIENT FEATURES OF FOREIGN TRADE DEVELOPMENT AND REGULATION (FTDR) ACT 1992

(i) This Act replaced the earlier Act which used to be called as Import and Export (Control) Act 1947.

(ii) The basic objective of FTDR 1992 is to provide a frame work for development and regulation of foreign trade by facilitating imports into the country, as well as, taking measures to increase exports from India and any other related matters.

(iii) The Act empowers the Central Government to make any provision in order to fulfill these objectives.

(iv) In terms of these powers contained in FTDR Act 1992, the government makes provisions to fulfill the objectives by way of formulation of the Export and Import Policy.

(v) Earlier this policy used to be called as Export and Import Policy i.e. Exim Policy, however, of late the Policy is being termed as Foreign Trade Policy (FTP) of the country as it covers areas beyond export and import in the country. This Policy, in terms of the Act is formulated by the office of the Directorate General of Foreign Trade (DGFT), an attached office of the Ministry of Commerce & Industry, Government of India.

(vi) The Act lays down that no person can enter into import or export business in India unless he is issued an Importer Exporter Code No. (IEC No.) by the office of the DGFT.

(vii) In case any exporter or importer in the country violates any provision of the Foreign Trade Policy or for that matter any other law inforce, like Central Excise or Customs or Foreign Exchange, his IEC number can be cancelled by the office of DGFT and thereupon that exporter or importer would not be able to transact any business in export or import.

(viii) The Act also provides for issuance of a permission called licence or authorization for import or export, wherever it is required in terms of the policy. Similarly, powers to suspend and cancel the licence for import or export are also provided for in the Act.

(ix) The powers related to search and seizure etc. of the premises, where any violation of Export Import Policy has taken place or is expected to take place are also provided for in the Act.

(x) What constitutes a violation of the provision of this Act is also contained in the Act itself. Violations would cover situations when import or export has been made by unauthorized persons who are not legally allowed to carry out import or export or when any person carries out or admits to carry out any import or export in contravention of the basic Export Import Policy.

(xi) The penalties which can be imposed by the authorities, competent to do so, in case of any contravention or violation of the Foreign Trade Policy are also described in the Act.

(xii) As is the norm in any Act of the Government, in order to fulfill the basic dictum of natural justice, detailed provisions for appeal and revision of orders are also provided for in the Act. In terms of these provisions, any person who is aggrieved by any decision taken by an authority under the Act can make an appeal to the superior Authority for appeal and revision of the orders issued by the subordinate Authority.

(xiii) In terms of the Act an order has also been issued which lists down the categories which are exempted from the application of provisions of the Foreign Trade Policy. This order is called Foreign Trade (Exemption from Application of Rules in Certain Cases) Order, 1993. This order separately lists the institutions and entities for export, as well as, imports on which the rules framed under FTDR Act, 1992 are not applicable.

(xiv) To operationalize the provisions of any Act, Rules are required. For the FTDR Act, the rules framed and issued by the Government are called Foreign Trade (Regulation) Rules, 1993 which lay down the various operational provisions such as fee requirements for issuance of licenses, conditions of licenses, refusal, suspension and cancellation of licenses etc.

As explained above, the Foreign Trade Policy (FTP), is the most important policy document related to Imports & Exports in the country which is issued under the provisions of the FTDR Act, 1992. We shall review the detailed policies after undertaking the following exercise.

Check Your Progress Exercise 1

Note: a) Use the space below for your answers.
b) Check your answers with those given at the end of the unit.

1) Which are main Departments/Ministries in India dealing with International Trade?

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2) State the basic objectives of FTDR Act 1992 and which erstwhile Act it has replaced?

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3) Who lays down and implements the Foreign Trade Policy (FTP) in India?

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4) What is the first requirement to start import/export business in India?

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5) How can you broadly say that violation of provisions of FTDR Act has taken place?

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6) Explain the appellate provisions contained in the Act?

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8.3 FOREIGN TRADE POLICY

8.3.1 Legal Mandate

Legal basis to the FTP is provided in Section 5 of the FTDR Act, 1992 which empowers the Central Government to formulate and notify the Export Import Policy of the country. Foreign Trade Policy gives powers to the office of the DGFT to specify the procedures which need to be followed by an exporter or an importer for transacting import-export business.

8.3.2 Basic Objectives of the FTP

The present policy which is inforce in the country is called 2004-2009 Foreign Trade Policy. It is a five-year policy covering the period from 2004 to 2009. The Policy has been last updated as on 19th April 2007. The Preamble of the FTP 2004-2009 contains its basic objectives namely that trade is not an end in itself but it is a means to achieve economic growth and national development.

Therefore, the primary objective of trade is not earning more foreign exchange but to generate greater economic activity for an all-around development of the country. Based on this belief, FTP has laid down two major objectives i.e.:

(i) To double India's percentage share of global merchandise trade within the next five years.

(ii) To act as an effective instrument of economic growth by giving a thrust to employment generation. Some of the areas under specific thrust of the present FTP are agriculture, handicrafts, gems and jewellery, handloom, leather and marine sector.

8.3.3 Strategy to Achieve Objectives of FTP

After the basic objectives of FTP have been specified, there would definitely be a need to develop a strategy as to how to achieve these objectives. Some of the means prescribed in this regard can be mentioned as follows:

(i) Various control measures in trade need to be unshackled with the purpose of creating an environment of trust and transparency so that our manufacturers, industrialists and traders are encouraged to work with renewed vigor in export and import business for an overall development of the economy of the country.

(ii) Various procedures related to imports and exports need to be simplified further so as to bring down the transaction cost for the exporters. Simplification of procedures would definitely make respective export products more competitive.

(iii) All levies and duties imposed on the inputs which are used in the export products must be neutralized because the fundamental principle in export is that duties and levies should not be exported.

(iv) To take measures so that India can be developed as a global hub for manufacturing, trading and services.

(v) Strategy also involves providing special emphasis on focus areas, upgrading our infrastructural network and activating Board of Trade in the country and also our embassies so that all these important players can act in tandem to increase exports of the country.

8.4 GENERAL PROVISIONS REGARDING EXPORT/IMPORT

After having explained legal mandate of the policy, its objectives and overall strategy to achieve these objectives, let us understand broadly the general provisions contained in the Foreign Trade Policy (FTP) which every exporter or importer or prospective importer and exporter of the country need to be aware of. These are:

(i) In general, all export and import is free without any control of Government except for the areas where there is a specific restriction mentioned in the FTP. The FTP released by office of DGFT normally is contained in three important publications:

(a) Foreign Trade Policy.

(b) Handbook of Procedures.

(c) ITC (HS) classification.

Foreign Trade Policy is the basic documents, which contains the policy, whereas Handbook of Procedures contain the detailed procedures and appendices, etc., which are required in order to implement the policy. Item wise Import or Export Policy is given in ITC (HS) Classification of Export and Import Items, a voluminous book which is compiled and issued by the office of DGFT in terms of Section 5 of FTDR Act, 1992. All items which are traded in the international arena are given an 8-digit level Classification and its import policy, i.e. whether it is free or restricted or prohibited is given along side each such item in the ITC (HS) book. Items which do not require any license or permission from any authority under the FTP are described as 'free' whereas for the items whose import is permitted only against a license or a permission, the policy is described as 'restricted'. In case the item is not allowed for import at all, the policy is described as 'prohibited' for that item. Then there are certain items for which import or export can be made only through State Trading Enterprises. In such cases, the policy in the ITC (HS) classification book would be described as 'State Trading Enterprises' (STE). Similarly, for items of exports also, the policy is described as prohibited, restricted, STE, free and conditional.

Any prospective exporter or importer in the country, before he plans for export or import of a particular item, must refer to the ITC (HS) Classification book so as to know the exact policy for its import or export. In case the policy indicated is free, he is required to simply place the order and import the goods without any license or permission from the office of DGFT. In case the item is restricted, the prospective importer or exporter is required to take permission/license for its import or export.

(ii) Generally exports/imports are allowed to/from any country. However, there are certain exceptions contained in FTP, e.g., import/export of arms and related materials from/to Iraq are not allowed at all i.e. these items have been placed under prohibited category. Similarly certain items are not allowed to be traded with Democratic Peoples Republic of Korea (DPRK) and Iran. As far as these prohibited goods are concerned, their trade can be allowed only with the specific approval of the Central Government.

Check Your Progress Exercise 2

Note: a) Use the space below for your answers.
b) Check your answers with those given at the end of the unit.

1) What are the basic objectives of FTP?

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2) Differentiate between Foreign Trade Policy, handbook of procedures and ITC (HS) Classification Books in terms of its contents?

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3) What do you mean by a 'free', 'restricted', 'prohibited' and 'state trading enterprise' items?

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8.5 PRE-REQUISITE OF IMPORT/ EXPORT

Any person, who is desirous of entering into import/export business in the country, needs to have an Importer/Exporter Code (IEC) number issued from the office of the DGFT. Without having an IEC number, no person can enter into or conduct import/export business in India. Of course, there are certain categories of importers/exporters which are exempted from obtaining an IEC number, for example, Ministries/Departments of Central, as well as, State Government, diplomats importing goods for personal use, etc. All these exceptions are specifically mentioned in the FTP. Issuance of IEC number requires a completely filled application form along with the prescribed fee, copy of Permanent Account No. (PAN) issued by Income tax authorities, Banker's Certificate and statutory declaration regarding NRI interest in the prescribed form.

An importer/exporter also needs to have a basic idea about different export promotion schemes being run by the Government under the provisions of the FTDR, 1992. He needs to make a comparative analysis of the benefits accruing on account of these export promotion schemes and to judge for himself which scheme is able to give him the maximum advantage. Keeping this in view, a brief description of the contents and benefits arising out of different schemes formulated by the Government under the FTDR 1992 is provided below.

8.6 EXPORT PROMOTION SCHEMES

Major Export Promotion Schemes at present in operation in the country are as follows:

(i) Export Promotion Capital Goods (EPCG) Scheme.

(ii) Duty Exemption Scheme (DES).

(iii) Export Oriented Unit Scheme (100% EOU Scheme).

(iv) Special Economic Zone (SEZ Scheme).

(v) Status Holder Scheme.

Now we will discuss these schemes in detail.

8.6.1 Export Promotion of Capital Goods (EPCG) Scheme

This scheme allows import of Capital Goods (CG) at concessional basic customs duty of only 5%. This permission to import capital goods at concessional duty also puts on the unit importing under this scheme, an export obligation equivalent to 8 times of duty saved on import of CG. Export obligation is required to be fulfilled within 8 years, counted from the date of issuance of this permission/authorization. Under this policy, even spares, jigs and moulds are also permitted to be imported under concessional duty. Of late, the government has even allowed import of second hand capital goods, without any age restriction, under this scheme. Components of capital goods are also permitted for imports under the scheme. However, import of motorcars, sports utility vehicles etc., are allowed only to travel agents, tour operators etc., subject to certain specific conditions such as if the total foreign exchange earning by these categories in the current and preceding three years is Rs.1.5 crores or above. Spares for existing plant and machinery have also been allowed under the scheme. Different benefits under EPCG Scheme have also been extended in the retail sector recently where retailers having a minimum area of 1000 Sq. Meters can also import capital goods under EPCG to create modern infrastructure in this important and emerging sector.

As already explained, the units importing capital goods under concessional duty EPCG Scheme, are required to fulfill condition of mandatory export obligation. As per the scheme, exports required to be made would be eight times of the custom duty saved on the import of the capital goods. Export obligation in the current policy is five times of duty saved for agro, cottage and tiny sector, whereas it is six times of the custom duty saved for SSI Units. EPCG Scheme lays down that the export obligation is required to be completed within 8 years/12 years. In case duty saved amount is Rs.100 crores or more, export obligation is required to be fulfilled within 12 years. For example: If a company is exporting goods worth Rs. 100 crores, and it saves 10% customs duty (10 crores) under the EPCG scheme, then it has to export goods worth 80 crores within 8-12 years.

Now let us consider what would constitute the exports towards fulfillment of export obligation imposed on these EPCG permissions/authorizations/licenses. Only those exports which are capable of being manufactured through the use of capital goods imported/sought to be imported under EPCG license would get covered in the export obligation. Export obligation could also be completed by export of goods produced in different manufacturing units of the company. Facility to export additional items is also permitted for the purpose of fulfillment of export obligation under EPCG licence. Only exports which are made in freely convertible currency can be taken towards fulfillment of export obligations. These exports would also include any exports made under the scheme in addition to average exports already achieved.

8.6.2 Duty Exemption and Remission Schemes

Duty Exemption Schemes are those schemes where import of inputs and raw materials required for exports, are allowed duty free, for use in export production. These schemes are:

(a) Advance Authorization Scheme (Earlier used to be called Advance License Scheme).

(b) Duty Free Import Authorization (DFIA) Scheme.

In comparison, a Duty Remission Scheme would enable an authorization holder to get remission of duty, on the inputs used in the export production i.e. duties on the input used for exports are refunded after the exports have been made. Thus fundamental difference between Exemption and Remission Scheme is not to pay any duty before the exports or to pay it first and get the refund on post exports basis, respectively. Duty Remission Schemes are (a) Duty Entitlement Pass Books Scheme (DEPB) and (b) Duty Draw Back Scheme (DBK). Out of the above mentioned 4 Schemes under Exemption/Remission Schemes, only one scheme is implemented by the Customs Department in India i.e. Duty Draw Back Scheme (DBK), whereas other 3 Schemes are implemented by regional offices of the DGFT. Now let us discuss more about these 4 schemes, as these are the most important schemes being implemented by DGFT and Custom Departments for exporters in India:

Advance Authorization Scheme

Advance Authorization Scheme used to be called advance license scheme in its earlier avatar. Here an advance authorization is issued for the purpose of allowing duty free import of inputs which are physically incorporated in the export product, after making normal allowance for wastages. These Advance Authorizations are issued for inputs which are allowed against the export items as have been given under Standard Input Output Norms (SION) Book. This book contains hundreds of items under different sectors such as engineering, electronics, chemicals etc. Against a particular export product for its certain quantity, items of imports and its specified quantities are allowed.

To make it amply clear, let's discuss with the example of a particular item in SION book:

S.No.	Export Item	Quantity	Imports	Quantity
H-30	Articles made of polypropylene	1 kg	Polypropylene granules	1.05 kg/ kg contained in exports

From the above entry, it can be seen that for export of 1 kg articles made of polypropylene, import of 1.05 kg of polypropylene granules (the raw material) is allowed duty free as per SION. Extra quantity of 0.05 kg/kg of export is basically the wastage permitted on the export of 1 kg.

Thus every exporter of these commodities (mentioned in SION Book) are in fact aware of the inputs and its quantities before making an application for Advance Authorization. These Advance Authorizations make the exporter eligible for exemption from payment of basic custom duty, additional custom duty, education cess, anti dumping duty and safeguard duty, if any, on the inputs allowed on the Advance Authorization. Advance Authorization and/or materials imported under these authorizations are with actual user condition i.e. the authorization as well as materials under it will not be sold/ transferred even after export obligation is complete. Advance Authorizations are issued on the following types of exports:

(i) Physical Exports – where the exports are made to overseas destinations. These also include exports to SEZ.

(ii) Intermediate supply – where the supply of an intermediate product is made to an exporter in India who finally uses the intermediate product as an input to his final product.

(iii) Deemed exports – where the supplies are made within the country to certain specified projects.

Now let us discuss these exports in more details.

(i) Advance Authorization for Physical Exports – under this category, duty free import of inputs (as per SION) is allowed for the purpose of exports from India. Basic requirement of this authorization is minimum positive value addition which is required to be achieved. Positive value addition implies that Free on Board (FOB) value of exports for an authorization has to be more compared to Customs, Insurance, Freight (CIF) value of imports allowed for the same authorization. As per the conditions on the Advance Authorization, exports as well as imports against the authorization, needs to be completed within 24 months from the date of issue of authorization. Moreover for safeguarding Government's interests, before making imports against the authorization, the holder is required to execute a bond cum bank guarantee or a legal undertaking to the Customs Authorities. On the authorization, description of the export item, its quantity, its FOB value, description of import items, its quantities as well as CIF values are indicated. Import of inputs is exempted from all types of customs duties as has been indicated above.

(ii) Advance Authorization for Intermediate Supply – This type of Advance Authorization would be issued to a manufacturer, who enters into a tie up arrangement with an ultimate exporter holding an Advance Authorization, to supply an intermediate product which would be used by the ultimate exporter in the manufacture of final product. Let us understand this authorization with the help of an example. For export of an item A, for example, let's assume there are inputs B, C and D (as in the SION) and the exporter receives an advance authorization for the same. Now instead of importing item B, the ultimate exporter enters into a tie-up arrangement with another supplier in India for supplying input B to him. This supplier would be called the intermediate manufacturer. For manufacture of item B, the intermediate manufacture wants to import inputs. For this, the intermediate manufacture would request for an Advance Authorization for intermediate supplies i.e. for manufacturing item B to make supplies to the ultimate exporter. This scheme basically encourages domestic procurement of intermediate products instead of importing the inputs from foreign countries. It also leads to value addition within the country. Inputs required to manufacture intermediate product are also exempted from payment of customs duty as well as excise duty.

(iii) Advance Authorization for Deemed Exports – under this scheme, Advance Authorizations are issued for the supplies which are to be made within the country. Deemed exports are basically those transactions where the goods supplied do not leave the borders of the country and payments for such supplies are also made either in Indian Rupees or in free foreign exchange. These authorizations are also issued based on SION entries. Inputs in this regard are exempted from payment of custom duties and terminal excise duty.

There is another very important scheme under this category called Annual Advance Authorization, which are issued for Annual requirement of certain specified categories of exporters. This is basically to avoid repeat requests for advance authorizations from exporters for each export order. This scheme is available only to status holders i.e. to only Export Houses, Trading Houses, Star Trading Houses and also to all other exporters having two years exports to their credit. Entitlement under the Annual Advance Authorization is to the extent of 300% of the FOB value of exports made in preceding year or Rs.1 crore whichever is higher. This authorization is valid for exports or imports for 24 months from the date of its issue. There are provision for extension in the validity of the Authorization, as well as, extension in the export obligation. Such authorizations mention only the export product group (not individual items of exports), overall value of the imports and exports. Authorization holder can export any product covered within the product group mentioned on the Authorization.

Duty Free Import Authorization (DFIA)

This scheme has come into existence from 1 May, 2006. Under this scheme, exporters are allowed to import inputs free of basic customs and additional duties. These authorizations are issued only for products for which SION have been notified. DFIA indicates on its body the names and quantities of the raw material which are to be allowed without payments of any duties. A minimum value addition of 20% is required to be achieved for issuance of such Authorization. Value addition is calculated by the formula:

$$\text{Value Addition in \%} = \frac{\text{FOB}_{\text{exports}} - \text{CIF}_{\text{imports}}}{\text{CIF}_{\text{imports}}} \times 100$$

Almost all clauses of Advance Authorization Scheme are also applicable to this scheme. However, there is one major difference i.e. upon completion of export obligation, DFIA or the material imported under it are fully transferable with few exceptions whereas advance authorization as well as materials indicated on it remain nontransferable i.e. with Actual condition only, even when the export obligation is complete.

Duty Entitlement Pass Book Scheme (DEPB)

This is the most important and exporter friendly scheme under the FTP. The basic aim of this scheme is to neutralize the incidence of custom duty on the imports contained in the export product. Office of the DGFT notifies DEPB rates for a wide range of export products. DEPB rate of a particular item of export is dependent on SION, value addition and basic custom duty on the import items given under SION. These DEPB rates are contained in a book called ‘DEPB schedule’ which is duly notified. As per the schedule, exporters are entitled for the DEPB credit at the pre-specified rate called DEPB rate which is expressed as a certain percentage of FOB value of exports. The credit so obtained in the DEPB can be utilized for payment of basic custom duty, additional custom duty on the import of items which are otherwise freely importable except capital goods. Validity of the passbook is 24 months. Every year, DEPB rates are revised keeping in view the changes made by the Government in the rates of custom duties.

Now let us discuss how DEPB rate of a particular item of export is fixed. Any applicant who desires to fix a DEPB rate for his product, is required to make an application as per the prescribed format given in FTP. Along with the application, he is required to furnish a minimum of 5 copies and a maximum of 2 shipping bills per month relating to the past one year, of the item whose DEPB rate is required to be fixed. Similarly, he is also required to submit minimum 5 copies and a maximum of two copies per month of bills of entries for the items of imports prescribed under SION for the export product, during the past one year. All applications for fixation of DEPB rates need to be routed through the concerned Export Promotion Council/ Commodity Board.

As already mentioned, SION is the basic requirement for applying for a DEPB rate. However, FTP also has provisions for fixing of a provisional DEPB rate for items whose SION are not fixed in order to encourage diversification and to promote export of new products. Here the DEPB rates are fixed on self-declared FOB value of exports (without furnishing any shipping bills) and customs duty on the imports (without furnishing any bills of entries). Such provisional DEPB rate are valid for a limited period of 6 months only during which the exporter is required to compile and furnish data on actual imports and exports for fixation of a regular DEPB rate.

Once DEPB rate has been fixed, any exporter desiring to lodge a claim for DEPB credit is required to make an application in the prescribed format accompanied by export promotion copies of shipping bills and original copy of bank certificate of exports and realization. He is also required to submit the application fee, as prescribed. On verification of the application and the DEPB rate, which may be provisional or regular, credit as calculated on the basis of the specified rate would be issued to the exporter in the form of DEPB. It is a freely transferable document. Thereafter, whenever its holder makes any import, the credit available under the DEPB is utilized for payment of customs duties.

Draw Back (DBK) Scheme

This scheme is entirely operated by the Customs Department. Draw back rate are fixed by the Customs Departments on all India basis. For a particular export product, draw back is issued in the form of a cheque by the Customs Departments. Draw back rates are also fixed exclusive to a company/firm for a particular product being exported by it. Draw back rates are announced by Customs Department in the form of a ‘Draw Back Schedule’ which presently covers around 1200 products. Every year the draw back schedule is revised and is normally notified around the month of June. Majority of the draw back rates are specific and are notified as a percentage of the FOB value of exports i.e. on ad-valorem basis. This is a very important scheme which is available to the exporters in direct competition with the DEPB Scheme. Fundamental difference between the two schemes being that under the Draw Back Scheme, incidence of duties on inputs is reimbursed in the form of hard cash through the cheques issued by the Customs Department whereas in DEPB Scheme these are given to the exporters in the form of a DEPB credit which is used to pay customs duties etc. at the time of imports. Basically both these schemes aim to neutralize the incidence of Customs Duties imposed on the raw-materials/inputs used in manufacture of final product.

8.6.3 100% Export Oriented Unit Scheme (100% EOU)

This scheme was introduced in early 1980's, as a result of Prakash Tandon Committee report. Its basic aim is to provide duty free and control free regime of export production without placing any restrictions on the location of the unit. These 100% EOUs are approved only for manufacturing and services and no trading is allowed to be made by these 100% EOUs.

These units are required to export their entire production of goods and services, except for a small percentage which is allowed to be sold within the country.

Various facilities extended to these 100% EOUs in the FTP are as follows:

(i) The units can import or export any goods except the ones which are under prohibited categories.

(ii) The units are exempted from payment of income tax as per Section 10 B of IT Act.

(iii) The units are exempted from industrial licensing which is a pre-requisite for manufacture of items reserved for Small Scale Industries (SSI) sector.

(iv) Such units are allowed to retain 100% of its export earnings in their Exchange Earners Foreign Currency (EEFC) accounts.

(v) The units are permitted to realize their export proceeds within 12 months.

(vi) 100% FDI investment is permitted in such units through automatic route.

(vii) The units are eligible to sell goods upto 50% of the FOB value of exports, within the country. Such sales in the country by these 100% EOU are called DTA (Domestic Tariff Area) sales.

(viii) Net Foreign Exchange (NFE) earning is required to be positive over a period of five years.

(ix) All supplies made to these units by suppliers within the country are treated as deemed exports of such suppliers. Accordingly, these suppliers are eligible to get deemed export benefits on such supplies.

(x) 100% EOUs are also entitled to reimbursement of any Central Sales Tax (CST) paid on the goods manufactured.

(xi) The units are also exempted from payment of Central Excise Duty on the goods procured from DTA.

(xii) The units are also allowed to avail Central Value Added Tax (CENVAT) credit on the service tax paid by them.

8.6.4 Special Economic Zone (SEZ) Policy

Policy relating to Special Economic Zone (SEZ), even though contained in the FTP, is presently governed by SEZ Act, 2005 and the rules framed thereunder. In brief, the salient features of SEZ Schemes are as follows:

(i) The Scheme has been in place from March 2000 onwards.

(ii) In simple terms SEZ is basically a foreign territory within the country, as far as different taxes and duties are concerned.

(iii) Any movement of goods from DTA to SEZ constitutes exports for DTA Unit and any transfer from SEZ to DTA constitutes exports for the SEZ.

(iv) Developers of SEZs are eligible for various tax/duty exemptions.

(v) A developer of a SEZ is exempted from Income Tax as per Section 80 I A of the IT Act. Import or procurement of capital goods and inputs is made by SEZs without payment of any customs/excise duty. SEZs are also exempted from payment of CST as well as Service Tax.

(vi) As far as units in the SEZ are concerned, many facilities are available to these. Some of the facilities are:

- Import and export of all goods is freely allowed without payment of any duties/ taxes.
- Exemption from Income Tax Act as well as industrial licensing for SSI items.
- 100% FDI is permitted in the units through domestic route.
- Similar to 100% EOUs, Net Foreign Exchange (NFE) earning is required to be positive over five years.
- 100% of export earning can be retained in the EEFC account. There are no time limits for export remittance unlike other units.
- DTA sales are allowed without any limit as long as NFE is kept positive.
- There is no interference from custom authorities inside the zone.
- The supplies made to SEZ units are treated as exports.
- The units are exempted from payment of CST as well as Service Tax.

8.6.5 Status Scheme

Status Scheme is one of the important promotional measures available for established exporters, contained in the FTP. Exporters are categorized as Export House, Star Export House, Trading House, Star Trading House and Premier Trading House based on their export performances. Limits of export performance for these categories are given in the following table:

Category	**Total Exports during the current year plus previous 3 years taken together (Rs. in crores)**
Export House	20
Star Export House	100
Trading House	500
Star Trading House	2,500
Premier Trading House	10,000

These status holders are entitled to the following facilities:

(i) They are eligible for authorization as well as custom clearances for both imports and exports on self-declaration basis.

(ii) They are exempted from compulsory negotiation of documents through banks i.e. they are eligible to directly negotiate documents with their importers or exporters.

(iii) Their requests for fixation of SION are to be finalized on priority within a maximum period of 60 days.

(iv) These status holders are allowed a repatriation period of 360 days compared to normal period of 180 days for other exporters.

(v) These units are also exempted from execution of a bank guarantee under the provisions of FTP.

Check Your Progress Exercise 3

Note: a) Use the space below for your answers.
b) Check your answers with those given at the end of the unit.

1) What are the basic pre-requisites of starting an import/export business?

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2) What are the main benefits of EPCG Scheme?

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3) Differentiate between Duty Exemption and Duty Remission Schemes with examples?

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4) State the basis of advance authorization scheme and explain with examples?

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5) Differentiate between physical exports, intermediate supply and deemed exports?

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6) Briefly mention important features of DEPB Scheme and explain how the DEPB rates are fixed?

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7) Explain differences between DEPB and DBK Scheme?

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8) What are 100% EOUs and state the main facilities available to 100% EOUs in India?

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9) What is the SEZ Policy and what are the main benefits available under it?

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10) Who is a status holder and what are the benefits available to such status holders in terms of FTP?

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8.7 REGULATIONS OF EXPORTS

Export Policy, similar to imports, also indicates an item wise policy and it is a part of ITC (HS) classification book. In fact the items here are categorized as prohibited, restricted, STE or free. Similar to the import policy, an eight-digit classification has been followed in the export policy also. A large majority of the items are already free for the purpose of exports from India. Few items such as special chemicals, organisms, materials, equipments and technologies (SCOMET items), certain seeds and planting material, ores, birds, animals etc., are not allowed to be exported and hence fall under prohibited category. Then there are certain items like marine products, dairy, poultry etc. which can be exported subject to certain conditions in view of specific restrictions imposed by importing countries. These items can be exported only after quality/health certificates are issued by the designated authority i.e. Export Inspection Council of India.

8.8 GENERAL CONDITIONS FOR THE IMPORTS

As has already been explained the general import policy is governed on the basis of item wise policy as given in the ITC (HS) Classification book i.e. policy would be indicated as prohibited, restricted, free or under STE. However, still it would be better to have a general idea about important conditions, which an importer must bear in mind before venturing into this area. Government of India has imposed certain conditions on the import of certain specified items in view of basic WTO parameter of national treatment i.e. an imported product, after it has entered a country – upon payment of custom duties, has to be given similar treatment, which is accorded to a similar domestic product. There cannot be any discrimination between an imported and domestic product. Some of these provisions are:

(i) Import of hazardous waste into India would be subject to the provisions of Hazardous Wastes (Amendment) Rules, 2003.

(ii) Import of beef in any form and import of products containing beef are not allowed in the country. Consignments of edible oil and processed food would also need to carry a declaration that these do not contain any beef in them.

(iii) All package products need to follow the provisions given under Standards of Weights and Measures, (Packaged Commodities) Rules, 1977. All imported packaged commodities need to have all necessary information on the package itself as per the provisions of the above mentioned Rules, including mention of Maximum Retail Price (MRP) of that product.

(iv) In order to ensure that import products also follow the same conditions which are imposed on domestic products, the import policy contains a list of products, import of which need to comply with the mandatory quality standards enforced by Bureau of Indian Standards (BIS) – presently there are 68 items which are under mandatory list and a copy of the items is given at Annex-A.

(v) Import of meat and poultry products into India are subject to all conditions including that of quality, as laid down under Meat Food Products Order, 1973. These products are required to meet all sanitary and hygiene conditions prescribed under the Order.

(vi) Import of edible/food products need to follow all provisions contained in Prevention of Food Adulteration Act, 1954 (PFA Act).

(vii) All primary agricultural products can be allowed for import only after issue of a Sanitary and Phyto-sanitary Standards (SPS) import permit by Ministry of Agriculture.

(viii) Import of textile and textiles articles is allowed subject to the condition, among others, that these products do not contain any of the hazardous dyes.

(ix) Imports of edible/food products are also required to follow provisions of shelf life, as is applicable to domestic producers i.e. the product, at the time of importation must have a valid shelf life of not less than 60% of its original shelf life.

(x) Import of genetically modified (GMO) food is allowed subject to certain conditions.

Check Your Progress Exercise 4

Note: a) Use the space below for your answers.
b) Check your answers with those given at the end of the unit.

1) Mention five important general conditions being imposed on imports into the country?

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8.9 LET US SUM UP

The Export Inspection Council of India (EIC) was set up by the Government of India under Section 3 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), in order to ensure sound development of export trade of India through Quality Control and Inspection.

The Council is an advisory body to the Central Government, which is empowered under the act to:

- Notify commodities;
- Establish standards of quality;
- Specify the type of quality control and/or inspection; and
- Prohibit the export in the course of international trade of a notified commodity unless a certificate issued under Section 7 of the Act accompanies it.

Besides its advisory role, EIC also exercises technical and administrative control over the five Export Inspection Agencies (EIAs), one each at Chennai, Delhi, Kolkata, Kochi and Mumbai, established by the Ministry of Commerce, Government of India, under Section 7 of the Act for the purpose of implementing the various measures and policies formulated by EIC.

EIC, either directly or through Export Inspection Agencies, its field organisations, renders services in the areas of:

- Assurance of quality of exports commodities through pre-shipment inspection (consignment-wise inspection) and certification.
- Assurance of quality and safety of food items for export through of Food Safety Management Systems based certification of food processing units as per international standards.
- Issue of Certificates of Health, Authenticity, non-GMO, etc. under various schemes for export products.
- Issue of Certificates of Origin under various preferential tariff schemes for export products.
- Laboratory testing.
- Training and awareness to industry in areas of Quality and Safety Management Systems based on principles of Good Manufacturing Practices (GMP)/ Good Hygienic Practices (GHP)/ Hazard Analysis Critical Control Point (HACCP) systems, testing, interpretation of rules of origin (RoO) of various countries, ISO 9000, ISO 17025 and other related areas.

In rendering the above services, EIAs are backed by qualified technical manpower, having more than forty years of diversified experience of quality control and inspection of notified commodities including their testing as per the importing country's specifications.

EIC closely monitors the activities of EIAs with special emphasis on facilitation of export through its approved programmes. Other Inspection Agencies and laboratories recognised under the Act are also monitored by EIC.

In view of economic reforms initiated by the Government of India in early 1990s, the operation of compulsory quality control and inspection of export commodities had been simplified. The following steps initiated in this direction continued to be in operation during the year 2006-2007:

1) Star Trading Houses, Trading Houses, Export Houses as well as Industrial Units in Export Processing Zones, Free Trade Zones and 100% Export Oriented Units have been exempt from the purview of Compulsory Pre-shipment Inspection.
2) Units approved by EIAs under the system of In-process Quality Control (IPQC) have been authorised to issue statutory certificates by themselves.
3) Items which were earlier subjected to compulsory pre-shipment inspection have been exempted from the same, provided the exporter has a firm letter from the overseas buyer, stating that the overseas buyer does not require pre-shipment inspection from any official Indian inspection agencies.

With liberalization of the trade regime, the role of EIAs has become more of a voluntary nature for many items. However, in the areas of fish & fishery products, dairy products, poultry products, eggs products, meat & meat products and honey, certification for exports remains mandatory. Further, with the establishment of the WTO and signing of especially the SPS & TBT Agreements, the role of certification in assuring quality and safety of food products has become very significant. Certification Systems have been redefined to cover both product and systems aspects with a focus on farm to table concept in line with international requirements with a view to facilitate exports. In addition, EIC is focussing on negotiating bilateral and regional Agreements with major trading partners with a view to seeking recognition of EIC's certification by them, so that trade is facilitated. EIAs are also providing support, by way of training and awareness to the trade and industry for overall upgradation of their quality and quality assurance systems, in line with international requirements.

This volume contains the activities of the Export Inspection Council and the Export Inspection Agencies during 2006-2007. The audited Annual Accounts of the Council/Agencies are brought out in a separate volume.

8.10 KEY WORDS

ITC (HS)	**:**	Itemwise Import or Export policy is classified in ITC (HS), a voluminous book issued by DGFT. All items which are traded in the international arena are given in 8-digit level classification and import policy is given alongside each such item.
Capital Goods	**:**	Capital goods means component spares and accessories of goods for pollution control equipment and goods falling under chapter 82, 84, 85 and 90, heading nos. 6801.10 in the Tarriff Act (Central Excise Tarriff Act, 1985). It also includes moulds and dyes, refractories, tubes, pipes and fittings and storage tanks used in the factory of the manufacturer of the final product. It does not include and equipment, appliance used in an office.
CENVAT	**:**	Central value added tax –the concept of VAT was developed to avoid cascading effect of taxes. It was found to be a very good and transparent collection system which reduces the tax evasion, ensures better tax compliance and increases tax revenue.
SEZ	**:**	SEZ or Special Economic Zones are specially demarcated geographical regions that have more liberal economic laws as compared to the centralized laws of the country. The purpose of a SEZ is to develop the area covered under the special economic zone by following special economic policies with the basic motive of attracting mass foreign investments in the country.
Duty Entitlement Passbook Scheme (DEPB)	**:**	The objective of Duty Entitlement Passbook Scheme is to neutralise the incidence of basic customs duty on the import content of the export product. The neutralisation shall be provided by way of grant of duty credit against the export product. The duty credit under the scheme shall be calculated by taking into account the deemed import content of the said export product as per Standard Input Output Norms and determine basic customs duty payable on such deemed imports. The value addition achieved by export of such product shall also be taken into account while determining the rate of duty credit under the Scheme.

DBK : Draw Back Scheme.

DTA : Domestic Tariff Area.

NFE : Net Foreign Exchange earning.

EEFC : Exchange Earners Foreign Currency.

SION : Standard Input Output Norms Book.

DFIA : Duty Free Import Authorization (DFIA) Scheme.

EPCG : Export Promotion Capital Goods (EPCG) Scheme.

SSI : An industrial undertaking in which the investment in fixed assets in plant and machinery whether held on ownership terms on lease or on hire purchase does not exceed Rs. 10 million.

8.11 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Your answer should include the following points:

Check Your Progress Exercise 1

1) Ministry of Commerce and Industry, Office of Directorate General of Foreign Trade (DGFT), Ministry of Finance, Draw Back Directorate, Export Inspection Council etc.

2) Basic objective of FTDR, 1992 is to provide a frame work for Development and Regulation of Foreign Trade by facilitating imports into the country, as well as, taking measures to increase export from India and any other related matters. It replaced the erstwhile Act called Import and Export (Control) Act 1947.

3) Office of Directorate General of Foreign Trade (DGFT), an attached office of the Ministry of Commerce & Industry, Government of India.

4) Obtaining an Importer-Exporter Code No. (IEC No.) from O/o DGFT.

5) In the following situations, violation of provision of the Act can be said to have taken place:

   (a) When import or export has been made by unauthorized persons, who are not legally allowed to make the import or export;

   (b) When any persons makes or admits to make any import or export in contravention of the basic Export Import Policy.

6) Any person who is aggrieved by any decision taken by an authority under the Act can make an appeal to the superior Authority for appeal and revision of the orders issued by the subordinate Authority.

Check Your Progress Exercise 2

1) FTP has laid down two major objectives i.e.:

   (a) To double India's percentage share of global merchandise trade within the next five years.

(b) To act as an effective instrument of economic growth by giving a thrust to employment generation.

2) Foreign Trade Policy contains the basic import and export policy, whereas Handbook of procedures contain the detailed procedures and appendices, etc., which are required in order to implement the policy. Item wise Import or Export Policy is given in ITC (HS) Classification of Export and Import Items, a voluminous book which is compiled and issued by the office of DGFT in terms of Section 5 of FTDR Act, 1992.

3) Items which do not require any license or permission from any authority under the FTP are described as 'free' whereas for the items whose import is permitted only against a license or a permission, the policy is described as 'restricted'. In case the item is not allowed for import at all, the policy is described on 'Prohibited' for that item. Items for which import or export can be made only through State Trading Enterprises are described as 'State Trading Enterprises' (STE) items.

Check Your Progress Exercise 3

1) Any person, desirous of entering into import/export business in the country, needs to have an Importer/Exporter Code (IEC) number issued from the office of DGFT. Without having an IEC number, no person can enter into or conduct import/export business in India. Simultaneously an importer/exporter also needs to have a basic idea about different export promotion schemes being run by the Government under the provisions of FTDR, 1992. He needs to make a comparative analysis of the benefits accruing on account of these export promotion schemes and to judge for himself which scheme is able to give him the maximum advantage.

2) EPCG Scheme allows import of capital goods at a concessional basic custom duty. This policy also allows import of spares, jigs, moulds, components and even second hand capital goods under concessional Custom Duty. Import of Motor Cars, Sports Utility Vehicles (SUV) etc. are also allowed to travel agents and tour operators under the scheme.

3) Fundamental difference between Duty Exemption and Duty Remission Scheme is not to pay any duty before the exports or to pay it first and get the refund on post exports basis, respectively. Duty Remission Schemes are (a) Duty Entitlement Pass Books Scheme (DEPB) and (b) Duty Draw Back Scheme (DBK). Advance Authorization Scheme and Duty Free Import Authorization Scheme are the examples of Duty Exemption Scheme.

4) Advance Authorization is issued for the purpose of allowing duty free import of inputs which are physically incorporated in the export product, after making normal allowance for wastages. These Advance Authorizations are issued for inputs which are allowed against the export items as have been given under Standard Input Output Norms (SION) Book. This book contains hundreds of items under different sectors such as engineering, electronics, chemicals etc. Against a particular export product for its certain quantity, items of imports and its specified quantities are allowed.

   To make it amply clear, following example of a particular item in SION book can be taken:

Sl.No.	Export Item	Quantity	Imports	Quality
H-30	Articles made of polypropylene	1 kg.	Polypropylene granules	1.05 kg/ kg contained in exports

From the above, it can be seen that for export of 1 kg articles made of polypropylene, import of 1.05 kg of polypropylene granules (the raw material) is allowed duty free as per SION. Extra quantity of 0.05 kg/kg of export is basically the wastage permitted on the export of 1 kg.

5) Physical Exports – where the exports are made to overseas destinations. These also include exports to SEZ.

Intermediate supply – where the supply of an intermediate product is made to an exporter in India who finally uses the intermediate product as an input to his final product.

Deemed exports – where the supplies are made within the country to certain specified projects.

6) This is the most important and exporter friendly scheme under the FTP. The basic aim of this scheme is to neutralize the incidence of custom duty on the imports contained in the export product. Office of the DGFT notifies DEPB rates for a wide range of export products.

- DEPB rate of a particular item of export is dependent on SION, value addition and basic custom duty on the import items given under SION.
- Exporters are entitled for the DEPB credit at the pre-specified rate called DEPB rate which is expressed as a certain percentage of FOB value of exports.
- The credit so obtained in the DEPB can be utilized for payment of basic custom duty, additional custom duty on the import of items which are otherwise freely importable except capital goods.
- Validity of the passbook is 24 months. Every year, DEPB rates are revised keeping in view the changes made by the Government in the rates of custom duties.

Any applicant who desires to fix a DEPB rate for his product, is required to make an application as per the prescribed format given in FTP. Alongwith the application, he is required to furnish a minimum of 5 copies and a maximum of two shipping bills per month during the past one year, for the item for which DEPB rate is required to be fixed. Similarly, he is also required to submit minimum 5 copies and a maximum of 2 copies per month of bills of entries for the items of imports prescribed under SION for the export product, for the past one year. All applications for fixation of DEPB rates need to be routed through concerned Export Promotion Council/ Commodity Board. Based on the incidence of Customs duty on the inputs (as per SION), DEPB rate is calculated on a percentage of FOB value of exports, after accounting for the prescribed value addition.

7) Fundamental difference between the two schemes is that under the Draw Back Scheme, incidence of duties on inputs is reimbursed in the form of

hard cash through cheques issued by the Customs Department whereas in DEPB Scheme these are given to the exporters in the form of a DEPB credit which is used to pay customs duties etc. at the time of imports. Basically both these schemes aim to neutralize the incidence of Customs Duties imposed on the raw materials/inputs used in manufacture of the final product.

8) These 100% EOUs are required to export their entire production of goods and services, except for a small percentage which is allowed to be sold within the country. Various facilities extended to these 100% EOUs in the FTP are given in Para 8.6.3.

9) The salient features of SEZ Schemes are as follows:

   - The Scheme has been in place from March 2000 onwards.
   - In simple terms SEZ is basically a foreign territory within the country, as far as different taxes and duties are concerned.
   - Any movement of goods from DTA to SEZ constitutes exports for DTA Unit and any transfer from SEZ to DTA constitutes exports for the SEZ.
   - Developers of SEZs are eligible for various tax/duty exemptions.

   Many facilities available to these units are given in para 8.6.4.

10) Exporters are categorized as Export House, Star Export House, Trading House, Star Trading House and Premier Trading House based on their export performances as per the limits indicated in the FTP. The list of various facilities offered to status of holders are given in para 8.6.5.

Check Your Progress Exercise 4

1) Any 5 general conditions, out of the important provisions indicated in para 8.8 may be given as an answer.

8.12 SUGGESTED READING

http:/exim/indiamart.com/foreigntradepolicy

http:/exim.indiamart.com/act_regulations/ftrd.html

FTDR Act, 1992

http:/dgftcom.nic.in/exim/2000/policy/contents.htm