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India Global Trade Advisory (GTA) Newsletter: Delivering clarity

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Budget updates



On the Customs front, the Union Budget 2023 placed emphasis on boosting manufacturing, enhancing domestic value addition, promoting export and encouraging green energy and mobility. In Budget 2023, Government has simplified the tax structure with fewer tax rate slabs to help in reducing compliance burden and improving tax administration. Further, the Government has proposed some legislative changes as part of the policy decision and to enhance trade facilitation. Click here to read the detailed budget publication on Union Budget 2023.

Here are the major legislative changes announced in the Budget on the customs front:

A. Changes in Indian Customs Act

- a) Validity of Customs Exemptions Notifications: Amendment has been proposed to Section 25 of Customs Act to state that two-years validity clause will not be applicable to exemption notifications in some specified cases. Amongst others the same includes exemption notification issued under any multilateral or bilateral trade agreements, obligations under international agreements, treaties or conventions, schemes under Foreign Trade Policy and Central Government schemes with validity of more than two years.
- b) Time limit for disposing of the application before Settlement commission: It is proposed to prescribe a time period of 9 months from the last date of the month in which the application is made for the settlement commission to dispose of the application. If no order is passed within the said period, the settlement proceeding shall abate, and the case shall be reverted to the adjudicating authority.
- c) Amendment to the general explanatory note to the General Rules for Interpretation (GRI) of the Schedule one of Customs Tariff Act: With this amendment, an article preceded by "----" 'in addition to being a subclassification of "-" or "--", the said article or group of articles may be considered a sub-classification of the immediately preceding description of the article or group of articles which has "---". These changes have been proposed to align the import tariff with complementary amendments to the HSN 2022.
- d) Introduction of Section 65A in Customs Act: The Finance Bill 2023 passed in the Lok Shaba has proposed introduction of a new Section, Section 65A in the Customs Act. This was not there in the Finance Bill presented on 1 Feb 2023. Following are key points in the said Section:
 - A bill of entry for home consumption needs to be filed for moving the goods to a warehouse operating under Section 65 of Customs Act instead of Bill of entry for warehousing.
 - Integrated Goods & Service Tax (IGST) and compensation cess needs to be paid on such goods kept in the warehouse operating under Section 65 of Customs Act. For the purpose of payment of duty other than the aforesaid i.e., Basic Customs Duty etc., the goods shall be treated as warehoused goods.
 - The Government may notify the category of goods, importers or exporters and industry sector on which the provisions of Section 65A shall not be applicable.
 - The above changes can have major impact on the Manufacturing and Other Operations in Warehouse (MOOWR) Scheme.

B. Tariff changes:

- a) Review of Customs duty exemptions: The Indian government has announced the extension and withdrawal of customs duty exemptions on various goods. As a result, out of 196 exemptions, 146 exemptions have been extended for a period of 1 year i.e., up to 31 March 2024 for the purpose of undertaking review. Further, out of the remaining, a few have been extended for 5 years, 2 years, and 1 year. While some of the exemption entries are to be discontinued with effect from 31 March 2023.
- b) Exclusion of solar power plant/solar power projects from purview of Project Import: The Indian government has proposed amendments to CTH 9801 by excluding solar power plant/solar power project from the scope of project imports, effective from the date of enactment of the Finance Bill i.e., 31 March 2023.
- **c) Tariff changes:** Other tariff changes can be seen in the detailed budget publication, whose link is given above in Part A.

What is next?

The government is making changes by extending and withdrawing customs duty exemptions on various goods and inserting clauses to the Customs Act to enhance trade facilitation and align with the Government goals. However, the change relating to MOOWR will have major impact and may cause the scheme to lose its sheen. Also, various other changes in tariff will require analysis to ensure that internal systems can be adjusted in a timely manner.



Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023



The Central Board of Indirect Taxes & Customs (CBIC) has notified the Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 effective from 11 February 2023. These rules aim to curb significant undervaluation in transactions between unrelated parties and increase accountability and scrutiny of imports.

Here are some key points of the new rules:

- A preliminary and detailed examination (in case required) shall be undertaken by the Screening Committee and Evaluation Committee respectively. Based on the examination, a report containing the recommendation shall be submitted to CBIC.
- CBIC based on recommendation may issue a notification specifying the identified goods and 8-digit HSN (harmonised system of nomenclature) Code, the unique quantity code to be necessarily used by the importer to declare the value, technical or other specifications necessary to be declared, and the checks to be exercised. Also, the duration for which it shall remain valid which shall not be below one year and not exceed two years.
- Importers of identified goods will be required to declare the value of goods using the unique quantity code specified in the notification and the additional obligation as may be stipulated. The officer for reasons recorded in writing may ask for further information and documents from the importer to examine the truthfulness and accuracy of the declared value. If requested by the importer, the Proper officer may provisionally assess and clear goods subject to the importer furnishing appropriate security.
- The above rules shall not be applicable in specified cases. The same amongst others include the following: -
 - Imports not involving duty
 - Related party imports for which an investigation on relationship has already been contemplated or finalised.
 - Goods imported for re-export.
 - Imports made in non-commercial quantities and,
 - Imports specified by CBIC.

[Notification No. 03/2023-Customs (NT); dated 11 January 2023 & Circular No. 1/2023-Customs; dated 11 January 2023]

What is next?

The said Rule is brought with an aim to increase the accountability of the importers. This aim is not just to safeguard domestic industry from significantly undervalued imports but also increase accountability and scrutiny of imports.



Introduction of New Foreign Trade Policy 2023 & Handbook of Procedures 2023:



- The Government has notified the New Foreign Trade policy which shall come into force from 1 April 2023. The chapter wise FTP can be accessed at the link.
- The chapter wise relevant changes of the New FTP have been summarised in the below-

Chapter/ Relevant changes	Brief update
General Provisions regarding import and export	 The foreign trade policy's Chapter 2 has undergone minor changes, including the removal of SCOMET provisions, while Chapter 10 has been added to strengthen India's export control system. New provisions have been introduced to promote India as a merchanting trade hub, including allowing trade in restricted and prohibited items subject to conditions, and involving Indian intermediaries in the shipment of goods between foreign countries.
Developing Districts as Export Hubs	 A new chapter has been added to the Foreign Trade Policy to build partnerships with state governments and promote exports at the district level through the Districts as Export Hubs (DEH) initiative. An institutional mechanism, including State Export Promotion Committee and District Export Promotion Committee, will identify export-worthy products and resolve concerns at the district level.
Duty Exemption/ Remission Scheme	 There are no significant changes in duty exemption/remission schemes such as Advance Authorisation (AA), Duty Free Import Authorisation (DFIA), Remission of Duties and Taxes on Exported Products (RoDTEP) except for some trade facilitation measures for certain sectors. These include extending the Special Advance Authorisation Scheme to the apparel and clothing sector. Benefits of Self-Ratification Scheme for fixation of Input-Output Norms extended to 2 star and above status holders in addition to Authorised Economic Operators.

Chapter/ Relevant Brief update changes **Export Promotion** There are no significant changes to the EPCG Scheme, but some additions Capital Goods (EPCG) have been made: Scheme - To provide relief to EPCG license holders under the Insolvency and Bankruptcy Code 2016 - To support Agriculture, Dairy, Handloom, Aquaculture sectors etc. exemptions has been provided under EPCG from maintaining average export obligation. **Export Oriented Units** There are no major changes in the provisions pertaining to EOUs/STPs and (EOUs)/ Software Deemed Exports. **Technology Parks (STPs)** & Deemed Exports **Promoting Cross Border** • A new chapter has been introduced in the Foreign Trade Policy to provide a **Trade in Digital** framework for cross-border trade of goods and services in the digital **Economy** economy, with a focus on promoting e-commerce and other emerging channels of exports from India. The policy outlines several measures to promote e-commerce, including - Handholding and outreach programs, - Establishment of e-commerce export hubs, and Promotion of e-commerce exports through postal services

(Notification No. 01/2023; dated 31 March 2023 & Public Notice No. 01/2023 dated 01 April 2023)

What is next?

The FTP 2023 has been brought with the vision to promote exports from India. The introduction of separate chapter for e-commerce industries shows that belief of the Government in the potential of e-commerce industry to promote exports. Further, the vision of the Government to develop districts as export hubs could help in the providing the necessary impetus to export from India. Further, the new FTP has been released with a long-term focus and has no expiration date in contrast to past FTPs, which had a 5-year validity span. Any updates to the FTP going forward must be made as needed to facilitate trade and in response to input from the sector.



Other changes in Customs and Foreign Trade Policy



A. General trade facilitation measures:

- Inclusion of further Products in Faceless Assessment Standard Examination Order (SEO)
 through Risk Management System (RMS) -Phased implementation of SEO through RMS: CBIC
 has issued Circular, according to which the Board has decided to implement SEO through the
 RMS (second check assessment) for more categories of products as follows:
 - Textile products falling under Chapter 50 to 71 w.e.f. 01 February 2023
 - Electrical machineries falling under Chapter 85 w.e.f. 20 January 2023
 - Misc. products/Project imports falling under Chapter 93 to 98 w.e.f. 06 February 2023
 - Automobile and instruments falling under Chapter 86 to 92 w.e.f. 24 February 2023
 - Mineral products falling under Chapter 27 w.e.f. 23.03.2023
 - Primary Products falling under Chapter 01 to 26 w.e.f. 31.03.2023

[Circular No. 02/2023-Customs; dated 11 January 2023]

Amendment in Form for maintenance of record in relation to warehoused goods by the
warehouse licensee: CBIC has recently amended Customs Circular no. 25/2016 to add a new
column No. 25A after column no. 25 in Form-A for capturing the details related to ex-bond Bill
of entry or Shipping bill. This is to address the previous issue where the form did not explicitly
capture the necessary details of ex-bond bill of entry or shipping bill for cases where goods are
removed from the warehouse for home consumption or exported respectively. This update aims
to improve the maintenance of records for warehoused goods and provide more clarity for
businesses dealing with customs and taxes.

[Circular No. 04/2023-Customs; dated 21 February 2023]

• Clarification on coverage of technology related products: CBIC has issued a circular regarding the identification of telecom equipment covered under its earlier issued notification which had amended notification No. 57/2017-Customs dated 30-06-3017.

Earlier, the Government had issued N.N. 2/2019-Customs substituting the entry 20 in the original N.N. 57/2017-Cus which provides the conditional exemption at entry 20 on all goods under the HS code 8517 62 90 or 8517 69 90 except on following-

- i. Wrist wearable devices (commonly known as smart watches).
- ii. Optical transport equipment.
- iii. Combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS).
- iv. Optical Transport Network (OTN) products.
- v. IP Radio's.
- vi. Soft switches and Voice over Internet Protocol (VoIP) equipment, namely, VoIP phones, media gateways, gateway controllers and session border controllers.
- vii. Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching Transport Profile (MPLS-TP) products
- viii. Multiple Input/Multiple Output (MIMO) and Long-Term Evolution (LTE) products.

The circular aims to provide better understanding of the technology-related goods covered in the notification. The Board consulted with the Department of Telecommunications to illustrate the identification of products/equipment covered under the notification. An alphanumeric code/identifier will need to be declared in the bill of entry by importers from 01.04.2023 for products/equipment under tariff items 85176290 and 85176990.

[Circular No. 08/2023-Customs; dated 13 March 2023]

B. Changes in Import/Export Policy

• The Government has amended the import/ export policy condition for the following items (products):

Export Policy:

Product/ITC(HS)	Existing Export policy	New Export policy	Reference
22072000; 27102000; 38260000	Restricted but the export is permitted under license only for non-fuel purposes.	Export is permitted under license only for non-fuel purposes. However, Export of Biofuel from Special Economic Zones (SEZ) Export Oriented Units (EoUs), are allowed for Fuel as well as non-Fuel purposes without any restriction when produced using only imported feed stock.	Notification No. 62/ 2015-20 dated 22nd March 2022

Import Policy:

Product/ITC(HS)	Existing Import policy	New Import policy	Reference
29051220/Isopropyl alcohol (IPA)	Free	The import of isopropyl alcohol (IPA) is allowed subject to country-based quantitative restriction (QR) only for one year, i.e., in 2023-24 from 01.04.2023, unless notified otherwise subject to a valid registration certificate (RC) issued by DGFT.	Notification No. 64/ 2015-20 dated 31 March 2022

- C. Other Changes in Foreign Trade Policy (FTP)
 - Amendment in Appendix 2T lists of Export Promotion Councils/Commodity Boards/Export
 Development Authorities of FTP 2015-20: The DGFT has issued a Public Notice to modify
 Appendix 2T by including the Mobile and Electronic Devices Export Promotion Council
 (MEDEPC) for issuing RCMC for specific products, such as smartphones, electronic devices, and
 their accessories. The RCMC issued by old EPCs will remain valid until their expiration.
 Furthermore, all products and services provided by SEZs are now included.

(Public Notice No. 49/2015-20; dated 9 January 2023)

• Implementation of RoDTEP Committee Report in relation to apparent errors and anomalies in HS Codes: The Indian government has implemented the RoDTEP Committee's report, which includes revisions to 432 HS codes due to errors or anomalies in earlier notified rates/caps by DGFT. The revised RoDTEP Appendix 4R is available at a given link and will apply to exports made from 16.01.2023 to 30.09.2023.

(Notification No. 53/2015-20; dated 9 January 2023)

• Export Obligation Discharge Certificate (EODC) Online Monitoring System for Advance/ EPCG Authorisations by DGFT: The DGFT has updated its IT systems, and the new system now allows users to monitor the progress of EODC applications for Advance/EPCG Authorisations. Details such as IEC details, license status, and data transmission details are now available on the DGFT website under the "Services" tab. If the Authorisation is closed or redeemed but the status is incorrect, users can correct it by uploading the copy of the closure/redemption letter on the DGFT website's "Manual EODC Update" section under "Services" and "AA/DFIA/EPCG."

(Trade Notice No. 24/2022-23; dated 12 January 2023)

- DGFT amends policy for issue of export Authorisation for "Stock and Sale" of Special Chemicals, Organisms, Materials, Equipment, and Technologies (SCOMET) items: The DGFT has issued public notice amending the authorisation policy for "Stock and Sale" of the (SCOMET) items.
 - The amendments revise the applicability of the policy for export from the Indian subsidiary
 of foreign company (applicant exporter) to its foreign parent/another subsidiary of foreign
 parent company and allow repeat order Authorisation under the Stock and Sale policy.
 - Further, policy states the process to be followed by the applicant for obtaining the license and areas for consideration by the Inter-Ministerial Working Group (IMWG) of application for grant of Authorisation for bulk export of certain SCOMET items. Such bulk export contemplates export from an Indian exporter to an entity abroad for subsequent transfer to the ultimate end users.
 - The above revision aimed at enabling ease of doing business reduces the need to apply for SCOMET licence if repeat orders are being done to parent/group companies. The revised policy shall be effective immediately.

(Public Notice No. 51/2015-20; dated 17 January 2023)

• DGFT issued clarification related to implementation of Paper Import Management System (PIMS): The DGFT has issued a policy circular providing clarifications on the implementation of PIMS. The circular outlines that registration under PIMS is mandatory for all transport modes and is applicable to returnable paper items imported temporarily. However, samples with an FOB value of INR 10,000 or less and imported in any quantity are exempt from registration. The PIMS registration requirement also applies to imports made through Advance Authorisation, Export Oriented Unit (EOU), Special Economic Zone (SEZ), and Import of Goods at Concessional Rate of Duty (IGCR). However, DTA units are not required to register for PIMS at the time of clearance from SEZ/ EOU, provided no processing has taken place at the time of entry into SEZ/EOU.

(Policy Circular No. 45/2015-20; dated 23 January 2023)

• Alignment of Remission of Duties or Taxes on Export Products (RoDTEP) Scheme: The DGFT has aligned the RoDTEP schedule under Appendix 4R for chapters 28, 29, 30 & 73 with the First Schedule of the Customs Tariff Act,1975. The revised RoDTEP Appendix 4R containing eligible export items, rates, and value caps is available on the DGFT website. It is applicable for exports made from February 15, 2023, to September 30, 2023.

(Notification No. 55/2015-20; dated 7 February 2023)

• Processing of Merchandise Exports from India Scheme (MEIS) / Service Exports from India Scheme (SEIS) applications pending at Regional Authority (RA): The DGFT has responded to representations from industries by allowing RA to re-open all MEIS /SEIS applications that are deficient or pending at the RA under provisions of Para 3.06 of the Handbook of Procedures 2015-20 (HBP). The RAs may examine these applications again on merits or additional documents submitted by the firm as per the extant policy and procedural conditions. The decision comes as both MEIS and SEIS schemes have been discontinued and are on the verge of final closure, making it difficult to transfer/migrate files from one RA to another. The Directorate has also advised RAs to provide an opportunity for personal hearings before rejecting a case.

(Policy Circular No. 46/2015-20; dated 20 February 2023)

Amendments in Export Obligation (EO) period and its extension: The DGFT has introduced a
new sub-para (j) to para 4.42 of HBP regarding the EO period and its extension. The new subpara specifies the applicable Composition Fee to be levied for the implementation of all Policy
Relaxation Committee decisions involving the extension of the EO period and/or regularisation
of exports already made under the Advance Authorisation Scheme. The applicable
Composition Fee will vary depending on the CIF value of the Advance Authorisation Licenses
issued.

(Public Notice No. 51/2015-20; dated 17 January 2023)

CIF Value of Advance Authorisation (AA) Licenses issued	Composition Fee to be levied (INR)
Up to INR 2 crores	25,000/-
More than INR 2 crores to INR 10 crores	50,000/-
Above INR 10 crores	1,00,000/-

The amendment aims to provide a uniform and transparent system to reduce transaction costs and facilitate ease of doing business.

(Public Notice No. 59/2015-20; dated 28 February 2023)

• Inclusion of 18 HS Codes under Heading 5208 in Appendix 4R for RODTEP: The Central Government on the recommendation of the RoDTEP Committee, has added 18 tariff lines falling under HS Code 5208 like of handloom, lungi, shirting fabric, saree etc in Appendix 4R under RoDTEP schedule for exports made from 28.03.2023.

(Notification No. 63/2015-20; dated 25 March 2023)

D. News on levy of Anti-Dumping Duty (ADD)

• Levy of ADD: The central government has imposed and further extended the ADD on the following products:

Product	Effective period	Reference		
Originating or exported from the People's Republic of China				
Fishing Net falling under	In force up to and	Notification no. 03/2023 –		
Tariff heading 5608 11 10	inclusive of the 9	customs (ADD), dated 06 January		
	September 2023	2023		

What is next?

The Government commonly levies ADD/CVD based on representations from the industry and to protect the domestic industries.

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