



## India global trade advisory newsletter

### Delivering clarity

#### I. Advisory on Remission of Duties and Taxes on Export Products Scheme (RoDTEP) by CBIC:

- CBIC has comprehensively reviewed the implementation of the RoDTEP Scheme and has laid emphasis on RoDTEP scheme notification prescribing the various conditions and restrictions

subject to which duty credit shall be issued, used, transferred etc. The gist of the circular and notification has been summarised in the table below:

Particulars	Brief
<b>Implementation &amp; Operationalisation</b>	<ul style="list-style-type: none"> <li>• It has been clarified that the facility for                             <ul style="list-style-type: none"> <li>- making claim of RoDTEP on shipping bill/bill of export filed; and</li> <li>- the eligibility for grant of RoDTEP in respect of items covered under the scheme was operationalised by Systems Directorate from 1 January 2021 onwards.</li> </ul> </li> <li>• The Systems Directorate will commence the processing of the claims on the basis of risk evaluation similar to Risk Management System (RMS) implemented for duty drawback claims.</li> </ul>
<b>Remission</b>	<ul style="list-style-type: none"> <li>• Under the scheme, rebate would be granted to eligible exporters at notified rate as percentage of FOB value with a value cap per unit of the exported product wherever applicable.</li> <li>• Rate of rebate under RoDTEP has been notified in Appendix 4R of Notification No. 19/2015-2020 dated 17 August 2021</li> </ul>

Particulars	Brief
<b>Availment of Scheme</b>	<ul style="list-style-type: none"> <li>For the purpose of availment of the scheme, declaration has to be made on the electronic shipping bill along with undertaking to abide by scheme provisions.</li> </ul>
<b>Generation of Scroll and e-scrip</b>	<ul style="list-style-type: none"> <li>After processing of the claim of RoDTEP by the Systems Directorate, scroll will be generated in the customs automated system.</li> <li>The scroll will contain the following details                             <ul style="list-style-type: none"> <li>Details of shipping bill,</li> <li>Amounts of duty credit allowed against the shipping bill etc.</li> </ul> </li> <li>For the purpose of creating e-scrips in the ledger, exporters may combine the duty credit available in a scroll or no. of scroll.</li> <li>An electronic ledger shall be created for every holder of IEC number who is either the exporter having made a claim of RoDTEP against export of goods or is a recipient of duty credit by way of transfer.</li> </ul>
<b>Validity of Scrips</b>	<ul style="list-style-type: none"> <li>The duty credit scrips can be utilised for payment of Basic Customs Duty.</li> <li>The e-scrips are transferable and have one-year validity period from the date of its generation in the ledger.</li> </ul>
<b>Transfer of duty credit</b>	<ul style="list-style-type: none"> <li>Freely transferable to holder of IEC.</li> <li>Transfer of duty credit scrip in part not allowed.</li> </ul>
<b>Suspension or cancellation of duty credit scrips</b>	<ul style="list-style-type: none"> <li>E-scrips can be revoked if any provision of the Customs Act or any other law currently in effect is violated.</li> <li>It has also been clarified that if an amount of duty credit has been allowed in excess of what the exporter is entitled to, the excess amount as well as applicable interest, will be recovered.</li> <li>Also, it has been stated that the sale proceeds for exports for which RoDTEP has been claimed must be realised in prescribed time, and if the sale proceeds are not realised, the amount of duty credit must be recovered from the exporters.</li> </ul>

(Circular No. 23/2021-Customs dated 30 September 2021)

(Notification No. 75/2021– Customs (N.T) dated 23 September 2021)

(Notification No. 76/2021- Customs (N.T) dated 23 September 2021)

## What's next?

Ever since the roll out of RoDTEP Scheme, exporter had been facing challenges in availment of the benefit under the Scheme. Through the above-mentioned Notification and circular, the Government has apprised trade and industry of the process to be followed for claiming of RoDTEP benefit and also the consequences in case there is failure to abide by the conditions stipulated.

## II. Harmonising of Customs Tariff Act 1975 with the HSN 2022 with effect from 1 January 2022:

Changes to the First Schedule to the Customs Tariff Act 1975 to align it with HSN 2022 shall come into force with effect from 1 January 2022. HSN 2022 proposes around 351 amendments to the existing harmonised nomenclature, covering a wide range of goods. This was notified in the Union Budget 2021-22 presented on 1 February 2021.

(Refer page 132 to 190 of the Finance Act, 2021)

## What's next?

Industries will have to undertake a meticulous examination & delicate scrutiny of impacted regulations while adopting HS 2022.

## III. Other changes in Customs and Foreign Trade Policy 2015-2020

### Changes in Customs Law & Regulations

- Exemption of Import Duty on COVID-19 Vaccine:** CBIC have the exempted import duty on COVID-19 vaccine from 1 October 2021 till 31 December 2021. However, the Covid-19 vaccines continue to attract IGST @ 5% on such imports.

(Notification No. 45/2021-Customs dated 29th September 2021)

- Amendment to customs tariff rules on Anti-dumping Duty (ADD):** CBIC has amended the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995. New rules are inserted with respect to anti-absorption review, initiation of investigation to determine absorption and determination of absorption. The gist of the amended rules has been summarised below:
  - Insertion of Rule 29 for Anti-Absorption Review: In order to tackle Anti-Absorption (i.e., where exporters reduce their price to the extent of Anti-dumping Duty), Designated authority after review may recommend change in the form/quantum/rate of the ADD after reassessing the dumping margin and injury margin.
  - Insertion of Rule 30 for Initiation of investigation to determine absorption: Investigation to be initiated by designated authority under section 9A of the Customs Act, 1962 upon receipt of written application. Designated Authority can also initiate Suo moto investigation.

- Insertion of Rule 31 for Determination of Absorption: The Designated Authority is required to make final determination and recommend modifications which shall be applicable retrospectively from the date of initiation of the anti-absorption investigation.

(Notification No. 84/2021– Customs (N.T) dated 27 October 2021)

- **Amendment to customs tariff rules on Countervailing Duty:** Similar to the amendments made in Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, CBIC has also amended the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995.

(Notification No. 83/2021– Customs (N.T) dated 27 October 2021)

- **Import of wireless equipment by Telecom Service Providers on the basis of self-declaration:** Import of “transmitting apparatus and of receiving apparatus incorporated in a single unit transmitting apparatus” is allowed only to persons who have been licensed to import such apparatus by the Ministry of Telecommunication.

As part of Ease of doing business initiative, Department of Telecommunications (DoT) has eased the manner of license processing for import of wireless equipment. As per the modified procedure, importer shall apply to DoT 30 days prior to arrival of shipment. On such application, the license can be automatically generated on self-declaration basis by the importer through the portal named Saralsanchar. The detailed procedure has been provided in the said instruction.

The said facility has been made available with effect from 15 November 2021. The integration with ICEGATE for transmission of WPC license/approvals is underway, the Customs officers can verify the authenticity of the certificate by scanning the QR code in the certificate to get an appropriate link to verify the details of such certificate on the Saralsanchar portal.

(Instruction No. 23/2021 – Customs dated 23 November 2021)

- **CBIC relaxes norms for easing availability of containers:** CBIC in the form of circular as well as instruction provided a three-month extension for re-export of containers without attracting import duty to prevent export of empty containers. This will help ease the container shortage being felt by exporters due to global container shortage.

(Circular No. 21/2021– Customs dated 24 September 2021)  
(Instruction No. 20/2021-Customs dated 10 September 2021)

## What's next?

The above-mentioned trade facilitation measures will help in smooth flow of business operations and benefits to the major trade and industries. Certain changes introduced are in line with the Governments objective of moving towards digitisation.

- **Government has notified the Standard Operating Procedure (SOP) for random checking of imported consignment of metal scrap with respect to radioactive contamination:** Directorate General of Foreign Trade (DGFT) vide Public Notice No. 37/2015-2020 dated 15 November 2021 has notified the SOP for random checking of imported consignments of metal scrap with respect to radioactive contamination with effect from 15 November 2021. SOP to be followed at field level by officers are as under-

- No container should be allowed to unload without a certificate issued by a Pre-Shipment Inspection Agency (PSIA);
- Checking the origin of scrap and the authenticity of PSIA should be verified from the list given in specified Appendix;
- Checking of the seal, serial number of the container, material description etc.;
- Check for copy of agreement between Importer and exporter that the consignment does not contain radioactive material;
- Verify the measured radiation levels with the details mentioned in the certificate issued by PSIA or Self declaration cum Legal Undertaking. In case of variation in radiation levels, same to be informed to DGFT.
- In case upon verification source radiation is identified as a Naturally Occurring Radioactive Material (NORM), the container may be considered as clean, and free to depart the measurement /monitoring area. In other case where the source radiation is identified as radionuclide other than NORM, it should be immediately intimated to Emergency Control Room for necessary action.

(Public Notice No. 37/2015-2020 dated 15 November 2021)

- **Amendment in Para 2.76 of Handbook of Procedures (HBP) of FTP 2015-2020 with respect to export of SCOMET items from DTA to SEZ/EOU and outside Country:** The DGFT has amended the existing entry at Para 2.76 of HBP of FTP 2015-20 and substituted with revised Para to clarify that supply of SCOMET items from DTA to EOUs will also be allowed without any authorisation similar to process followed for SEZ earlier. However, an authorisation will be required when SCOMET item are to be physically exported from SEZ/EOU to outside India.

(Public Notice No. 32/2015-2020 dated 29 October 2021)

- **Last date of filing online claim for Scrip based schemes i.e. MEIS/SEIS/ROSL/ROSTCL:** The DGFT has revised the last date for making online application under MIES/SEIS/ROSL/ROSTCL schemes to 31 December 2021 and the online IT system will not be operational and no applications/ claims after 31 December 2021 would be entertained. Further it has been notified that the facility of filing applications, with a late cut provision, would also not be available and all applications will get time barred after said date. Therefore, the DTGFT has requested trade and industry to take a note of the same and ensure that applications/ claims are submitted online within the stipulated timeline for timely release/issue of scripts by DGFT Regional Authorities.

(Trade Notice 22/2021-22 dated 2 November 2021)

## What's next?

The above-mentioned changes have been issued to clarify doubts prevailing in industry.

### Import policy

The Government has amended the import policy for the following items (products):

Product	Existing policy	New policy	Existing policy condition	Revised policy condition	Reference
Urea, whether or not in aqueous solution (31021000)	No Change	No Change	Import allowed through STC, MMTC and RCF subject to Para 2.20 of FTP 2015-2020. However, import of Technical Grade Urea (TGU) meant for non-agriculture purpose/ industrial use/NPK Manufacturing shall be Free	Import allowed through RCH and NFL subject to Para 2.20 of FTP 2015-2020. In addition, import of Urea is allowed through IPL for a period upto 31.03.2022. However, import of Technical Grade Urea (TGU) meant for non-agriculture purpose/ industrial use/NPK Manufacturing shall be "Free"	Notification no. 40/2015-20, dated 3 November 2021
Syringes with or without Needles (90183100)	Free	Restricted	-	-	Notification no. 34/2015-20, dated 4 October 2021

### Export policy

The Government has amended the export policy for the following items (products):

Item or Product	Existing policy	New policy	Reference
Agarwood (Aquilaria Malaccensis) (including chips and power) [12119080]	Free	Restricted and inserted policy conditions	Notification no.45/2015-20, dated 29 November 2021
<ul style="list-style-type: none"> <li>VTM kits and Reagents</li> <li>RNA Extraction Kits and Reagents</li> <li>RT-PCR Kits and Reagents [ex3822]</li> </ul>	Restricted	Free	Notification no. 39/2015-20, dated 14 October 2021
And other items at Sl.No. 207H to 207S and 207AC of Schedule-I of import policy are also moved to Free category of import			

## What's next?

The change related to export policy on all diagnostic kits and reagents (including instruments/apparatus) is big relief to trade for fighting with COVID 19 pandemic as such products can be exported from India without restriction.

**News on levy of Anti-Dumping Duty (ADD)**

- **Levy of definitive ADD:** The central government has imposed the definitive ADD on the following products:

Product	Originating or Export Country	Effective period	Reference
Axle for Trailers in CKD/SKD form	Peoples Republic of China	Continuation of ADD imposed vide Notification No. 54/2016 – customs (ADD), dated 29 November 2016 from the date of issuance of this notification, i.e., 13 December 2021	Notification no. 69/2021 – customs (ADD), dated 13 December 2021
Certain Flat rolled Products of Aluminium	China PR	For a period of five years from the date of issuance of this notification, i.e., 6 December 2021	Notification no. 68/2021 – customs (ADD), dated 6 December 2021
Seamless tubes, pipes and hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14” OD	China PR	For a period of five years from the date of issuance of this notification, i.e., 28 October 2021	Notification no. 64/2021 – customs (ADD), dated 28 October 2021

- **Revocation of ADD:** The central government has revoked the ADD imposed on “Phenol” which are originating in or export from European Union, Singapore and Korea RP imported into India by rescinding the Notification No. 06/2016-Customs (ADD), dated 8 March 2016  
(Notification No. 61/2021-Customs dated 20 October 2021)

## What’s next?

The Government commonly levies ADD on the basis of representations from the industry to protect the interest of domestic market players. It may levy ADD on more products over the next few months as non- tariff measures to safeguard the interest of domestic manufacturers.

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### Connect with us

**Maresh Jaising**  
mjaising@deloitte.com

**Payal Tuli**  
patuli@deloitte.com



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