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Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade
Udyog Bhawan

Public Notice No. 20 /2015-20
New Delhi, dated 24th July, 2019

Subject: Inclusion of Paragraph 2.79F in the Handbook of Procedures of the Foreign Trade Policy (FTP) 2015-20 to lay down the procedure for Global Authorisation for Intra-Company Transfer (GAICT) of SCOMET items/software/technology

In exercise of the powers conferred under Paragraph 1.03 of the Foreign Trade Policy (FTP) 2015-20, the Directorate General of Foreign Trade (DGFT) hereby makes amendments to Handbook of Procedures (HBP) of FTP 2015-20 for inclusion of a new entry at Paragraph 2.79 with immediate effect.

2. After sub-Para 2.79E of the HBP of FTP 2015-20, a new entry shall be inserted as under:

“Para 2.79F - Global Authorisation for Intra-Company Transfers (GAICT) of SCOMET¹ Items/Software/Technology

A. Scope and Eligibility: Pre-export authorization will not be required for re-export of imported SCOMET items, software and technology [excluding items under SCOMET Categories 0, 1B, 1C², 3A401, 5 and 6] under following conditions:

- i. where the re-export is an Intra-company transfer from an Indian subsidiary (applicant exporter) to its foreign parent company and/or to subsidiaries of the foreign parent company for re-export of imported SCOMET items (covered under para 2.A above) from India and;
- ii. where the transfer fulfils the conditions mentioned at (a) to (g) below:
 - a) The items/software/technology to be re-exported, by Indian subsidiary, have been imported under a License Exception available in the country of the parent company abroad or from subsidiaries of the parent company abroad;

Note: The license exception should clarify the control list classification, equivalent to the SCOMET item number and whether the licence exception is available for the subsidiaries of the parent company abroad;

¹ Special Chemicals Organisms Materials, Equipment and Technologies listed in Appendix 3 – SCOMET to Schedule 2 Export Policy

² for re-export to States not party to Chemical Weapons Convention (CWC)

- b) The items/software/technology to be re-exported is based on a Master Service Agreement / Contract between the parent company and the Indian subsidiary for carrying out certain services including design/encryption/research/development/delivery/validation/testing;

Note: As a result of the service carried out by the Indian exporter, the items/software/technology should not undergo change in functionality and classification.

- c) These items/software/technology is/are to be re-exported to the foreign parent company and / or subsidiaries of foreign parent company;
- d) The applicant exporter declares that the re-exported items would be used for the purposes for which it is intended by the parent company and/ or its subsidiaries;
- e) The exporter furnishes either a certified/approved Internal Compliance Programme (ICP) or demonstrates compliance to the ICP of the parent company;
- f) The exporter agrees to allow on-site inspection, if required by the DGFT or authorised representatives of Government of India;
- g) The exporter is granted a Global Authorisation for Intra-Company Transfers (GAICT) as per procedure mentioned in para 2.B below.

B. Procedure for grant of Global Authorization for Intra-Company Transfers (GAICT)

Filing and Assessment of Application

- a. In respect of re-export of SCOMET items/software/technology against Licence Exception which has been granted by the export control licensing authority of the country of parent company, the Indian exporter shall submit application for GAICT through online SCOMET portal and attach information in proforma -ANF 20(b);
- b. The application would be assessed for the issue of GAICT by Inter-Ministerial Working Group (IMWG) based on the submission of the application and other supporting documents by the Indian exporter in the prescribed proforma:
- i. Documentary proof of the corporate relationship between the foreign parent company and /or its subsidiaries abroad with the Indian subsidiary (applicant exporter);
 - ii. Copy of Master Service Agreement (MSA) / Contract and other related documents (if any), as may be relevant, between the foreign parent company and the Indian subsidiary;
 - iii. Classification of item/software/technology in SCOMET (indicating SCOMET category and sub-category);
 - iv. Detailed description of the item intended to be re-exported with relevant technical details, such as model, part number, etc. and in case of software/technology, details

of encryption algorithm, key length, encryption functionality, eligibility under cryptography note etc. to be provided;

- v. Documentary proof of licence exception granted by the export control licensing authority of country of the foreign parent company and the subsidiaries of the parent company in different countries where it is valid;
- vi. Certified/approved ICP of the exporter or self-certified copy of the ICP of the parent company being adopted by Indian subsidiary/exporter along with an undertaking thereon;
- vii. Additional details, if any sought by DGFT.

C. Post reporting for re-export of items/software/technology under GAICT

- a. The Indian exporter shall submit post-shipment details of each transfer/consignment of exports of SCOMET items/software/technology under GAICT to the SCOMET Division of DGFT (Hqrs), New Delhi, via E-mail (scomet-dgft-pr@nic.in) on quarterly basis (March / June / September / December), by the end of subsequent month of each quarter, in respect of the exports made in the previous quarter;
- b. The post-shipment details shall be submitted in proforma ANF 20(c) along with a copy of EUC in Appendix 2S (iv), from the parent company abroad;
- c. Failure to do so may entail imposition of penalty and / or suspension/revocation of GAICT.

Note: ANF (Aryat Niryat Form) – ANF 20(b), ANF 20(c) and End Use Certificate proforma Appendix 2S (iv) would be notified separately.

D. Record Keeping

The exporter will be required to keep records of all the export documents, in manual or electronic form, in terms of Para 2.73 (c) of HBP, for a period of 5 years from the date of GAICT issued by DGFT.

E. General conditions

- a. GAICT would not be issued in case of item/software and / or technology to be used to design, develop, acquire, manufacture, possess, transport, transfer and / or used for chemical, biological, nuclear weapons or for missiles capable of delivering weapons of mass destruction and their delivery system;
- b. GAICT would not be issued for countries or entities covered under UNSC embargo or sanctions list or to the countries or entities assessed for risk of proliferation concern, based on national security and foreign policy considerations;
- c. IMWG shall reserve the right to deny issue of GAICT without assigning any reason(s).

F. Subsequent re-exports / re-transfer of the item/software/technology from the foreign parent company or its subsidiary to end users in other countries

Further re-export / re-transfer of the item/software/technology from the foreign parent company or its subsidiary to end users in other countries would be subject to the export control regulations of the country of the foreign parent company or its subsidiary.

G. Validity

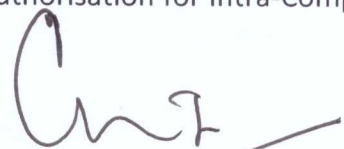
- a) GAICT issued for intra-company transfers of SCOMET items/software/technology shall be valid for a period of **three years** from the date of issue of GAICT by DGFT and shall be further subject to the following validity time line, whichever is earlier:
- i. Till the validity of license exception of foreign parent company for that product (Items/Software/Technology); or
 - ii. Till the validity of license exception of foreign parent company for subsidiaries of the parent company abroad; or
 - iii. Till the validity of Master Service Agreement (MSA) / Contract with the foreign parent company and the Indian subsidiary.
- b) GAICT cannot be revalidated in terms of Paragraph 2.80 of HBP of FTP 2015-20.

H. Suspension / Revocation

GAICT issued shall be liable to be suspended / revoked by the DGFT on receipt of an adverse report on proliferation concern or for non-submission of mandatory reports within the prescribed time lines or for non-compliance with the conditions of this Public Notice.

3. Effect of this Public Notice:

Paragraph 2.79F has been inserted in the Handbook of Procedures (HBP) of the Foreign Trade Policy (FTP) 2015-20 to lay down the procedure for issue of Global Authorisation for Intra-Company Transfer (GAICT) of SCOMET Items/Software/Technology.



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