

(To be published in the Gazette of India Extraordinary Part-I, Section-I)

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

Public Notice No. 53/2023

New Delhi, Dated 27.03.2024

Subject:-Notification of the procedure for General Authorisation for Export of Information Security items(GAEIS) under Category 8A5 Part 2 of SCOMET- reg.

In exercise of the powers conferred under Paragraph 1.03 and 2.01 of the Foreign Trade Policy (FTP) 2023 as amended from time to time, the Directorate General of Foreign Trade (DGFT) hereby makes the following amendment to chapter 10 of the Handbook of Procedures (HBP) 2023

Para 10.15(II): General Authorization for Export of Information Security items under SCOMET Category 8A5 Part 2

Export of indigenous SCOMET items (Information Security items under SCOMET Category 8A5 Part 2) will be allowed based on a one-time General Authorization (GAEIS) subject to the following conditions:

1. Policy & Eligibility: SCOMET authorization will not be required, for the export and/or re-export of Information Security items (*excluding technology*) under SCOMET Category 8A5 Part 2 subject to the following conditions:

- a. The applicant exporter shall submit an application for getting a one-time license under GAEIS through the online SCOMET portal and attach the information in the prescribed performa.
- b. The application would be reviewed/examined for the issuance of GAEIS by the Inter-Ministerial Working Group (IMWG) based on the submitted application and other supporting documents submitted by the applicant exporter in the prescribed proforma including:
 - i. Detailed description of the items that are intended to be exported under this authorization with relevant technical details/specifications;
 - ii. End-user certificate (EUC) from all the entities involved in the supply chain (buyer, consignee, end user and any other intermediary) on the letterhead (duly signed and stamped) is to be submitted before issuance of authorization. Subsequent EUC submissions for entities in the list of countries (as approved) will be subject to post-reporting requirements as mentioned at viii below.

iii. The list of countries where the export is expected to be done under GAEIS is to be provided by the applicant at the time of submission of the application.

iv. Undertaking on the letterhead of the firm duly signed and stamped by the authorized signatory stating the following:

1. Any on-site inspection will be allowed by the applicant exporter if required by the DGFT or authorized representatives of the Government of India;

2. The applicant exporter declares that the items that are intended to be exported shall not be used for any purpose other than the purpose(s) stated in the EUC and that such use shall not be changed nor the items modified or replicated without the prior consent of the Government of India.;

3. The applicant exporter declares that subsequent to the issuance of export authorization, if the licensee has been notified in writing by DGFT or if they know or has reason to believe that an item may be intended for military end use or has a potential risk of use in or diversion to weapons of mass destruction (WMD) or in delivery of their missile system, the exporter would not be eligible for GAEIS for export of that/those item(s) and would apply separately to DGFT for a fresh authorization in terms of regular policy.

4. Action will be taken against the exporter under FT (D & R) Act, 1992 for any mis-declaration.

v. Certified/Approved Internal Compliance Programme by the Compliance Manager of the Company.

vi. Authorized Economic Operator (AEO) T2 Certification of CBIC.

vii. In case of re-export of imported items, the following additional documents have to be submitted

(i) Proof of import of the item(s):

- Documentary proof that the item(s) originally imported, match with intended item(s) of re-export;
- Bill of entry containing details of the items to be re-exported;
- Export License (if applicable) or any other documents showing that export regulation of the country of export does not have any restriction on re- export from India;
- In case of any such restriction, the exporter will provide a letter of explanation detailing the list of countries/entities, to which re-export/return is restricted / regulated;
- Purchase order

viii. After issuance of GAEIS authorization and before actual export, the applicant exporter must ensure the following:

1. They shall notify the relevant government authorities in the online portal of DGFT, on a quarterly basis of such export in the prescribed format [**Aayat Niryat Form (ANF) 10I**], along with the End-Use Certificate (EUC) for each export.
2. The EUCs in prescribed proforma [Appendix 10j(i)] are to be filled by all the entities involved in the chain of supply e.g. foreign buyer/consignee / end-user/intermediary (ies) on the letterhead of the respective entity, duly signed in ink and stamped by the authorized signatory of the company. In case of any additional sheet used along with the EUC, the same must be on the letterhead of the company and signed by the same person who signs the EUC.
3. They have an agreement or purchase order, an excerpt of a contract from the entity (buyer/consignee / end-user) receiving the items which state that the export is for a permitted use / an end-use as declared in the EUC before the actual export;
4. The documents submitted by the exporter must include the name, contact number and email ID of the authority signing the EUC before actual export.
5. Additional details, if any sought by DGFT.

2. **Post reporting for export / re-export of items under GAEIS**

- a. The Indian exporter shall submit post-shipment details of each export/re-export of SCOMET items under the above Categories/sub-categories under GAET for 3 years on quarterly basis (March/June/September/December) by the end of subsequent month of each quarter, in respect of exports made in the previous quarter;
- b. In case of re-export of imported items, the additional documents as mentioned in 1.b.vii.(i) have to be submitted at the time of post reporting.
- c. Failure to do so may entail imposition of penalty and/or suspension/revocation of GAEIS.

3. **Record Keeping**

The exporter will be required to keep records of all the export documents, in manual or electronic form, in terms of Para 10.18 of HBP, for 5 years from the date of GAEIS issued by DGFT.

4. **General Conditions & Exclusions**

- a. GAEIS would not be issued in case of items to be used to design, develop, acquire, or manufacture, possess, transport, transfer and/or used for military applications, explosives, chemical, biological, nuclear weapons or for missiles capable of delivering weapons of mass destruction and their delivery system;
- b. GAEIS would not be issued for countries or entities covered under UNSC embargo or sanctions list or on assessment of proliferation concerns, or national security and foreign policy considerations, etc.:
- c. In case of inclusion of new countries or amendment to the existing list of countries where the export is expected to be done under GAEIS the applicant exporter will obtain prior permission from DGFT with relevant details;
- d. IMWG shall reserve the right to deny the issuance of GAEIS without assigning any reason(s).

5. **Validity**

- I. GAEIS issued for export / re-export of SCOMET items under the above Categories / Sub Categories shall be valid for Three years from the date of issue of GAEIS subject to subsequent post reporting(s) on a quarterly basis to be reported within 30 days from the last quarter;
- II. GAEIS cannot be revalidated in terms of Paragraph 10.20 of HBP 2023.

6. **Suspension / Revocation**

GAEIS 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 post-shipment details/reports/documents within the prescribed timelines or non-compliance with the conditions of the proposed policy.

Effect of this Public Notice:

The procedure for General Authorization for Export of Information Security items (GAEIS) is notified under Paragraph 10.15(II) of HBP 2023

 27.3.2024

(Santosh Kumar Sarangi)
Director General of Foreign Trade
Ex-officio Addl. Secretary to Govt. of India
Email: dgft@nic.in