

Revamp of the Foreign Trade Policy

The pandemic led to the extension of the five-year Foreign Trade Policy (FTP) 2015-2020 by two years. From April 1, 2022, India's new FTP is expected to be introduced. In all likelihood, the focus will be on strengthening exports and reducing compliances.

Meanwhile, the Indian Government has undertaken review of some export related schemes which were subject of disputes and have been found to be inconsistent with the WTO's legal framework. For instance, the Merchandise Export from India Scheme (MEIS) has been replaced with the Remission of Duties and Taxes on Exported Products (RoDTEP) to compensate exporters for non-creditable taxes in the exported goods. India's current Special Economic Zone (SEZ) regulations are to be replaced by a completely new legislation later this year. It will be an opportune time for SEZ companies to raise their concerns. The new SEZ law is expected to overcome hurdles of land acquisition, connectivity and lack of support from local State Governments. A three-decade old Export Promotion Capital Goods (EPCG) scheme that allowed exporters to import duty-free capital goods into India is also up for reconsideration.

Make in India Initiative

With the advent of the Modi government in 2014, it has been a well adverted and consistent policy endeavor to position India as a 'manufacturing/services hub'. Few of the initiatives taken by the Government in this regard include Production Linked Incentive (PLI) Schemes across 14 key sectors with an aim create national manufacturing champions and generate employment opportunities for country's youth.

Further, the Public Procurement (Preference to Make in India), Order 2017 notified by the DPIIT on June 15, 2017 gives preference to local suppliers in procurements by the Central Government. The public procurement categorizes the suppliers in three categories viz. Class-I local supplier, Class-II local supplier and Non-local supplier. This categorization shall determine the order of preference in tenders floated by the Government and is entirely dependent on the value of "local content" - the value addition made by the suppliers in India.

The recently announced Union Budget 2022 offers further impetus to the above reforms. Some key policy initiatives announced in the budget includes a master plan with an outlay of USD 2.67 billion to support the infrastructural growth of Road, Railways, Ports etc. Gradual phasing out of concessional rate of Customs duty on capital goods and project imports and 350 customs exemptions where sufficient domestic capacity exists; and Boost to 'Start up' community by setting up of an Expert Committee for the PE/VC sector, are some of other initiatives.

The capital procurement budget for Defence is proposed to be increased to 68% from the existing 58%. Further, Defence R&D will be opened up for start-ups, industry and academia with 25% of defence research and development budget. Additionally, private industry participation will be sought for design and development of military platforms and equipment in collaboration with DRDO and other organizations through an SPV model.

Amendments in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 have been proposed. These rules essentially provide benefit of concessional duty on import of specified goods. The amended rules lay down simplified procedures to avail the benefit by largely automating the entire process right from availment till reporting in one consolidated monthly return.

Export Controls (SCOMET List)

After a major overhaul of the SCOMET list (India's export control list) in 2017, the Government time-to-time revisits its SCOMET list to align it with multilateral export control regimes namely, Wassenaar Arrangement, Missile Technology Control Regime and Australia Group - to which India is a member. In recent times, the DGFT has implemented the General Authorization for export of Chemicals and related equipment (GAEC) with effect from January 19, 2022. GAEC is a one-time and general authorization (with validity of five years) for export of chemicals and related equipment to any of the Australia Group member countries. GAEC aims at bringing in a simpler and hassle-free licensing procedure for exports.

Allied Regulatory Updates

With a view to standardize products, the statutory body – Bureau of Indian Standards (**BIS**) in consonance with other Ministries, have sought to include various sectors such as electronics, chemicals, toys etc. which now requires mandatory certification from BIS. In future, it is expected that various other products may be included in the expansive list.

The National Security Directive on Telecom Sector (Directive), as approved by the Cabinet Committee of the Government of India on December 16, 2020, requires the Telecom Service Providers (**TSPs**) in India to procure only such equipment for their networks which are certified as “**Trusted Products**” from “**Trusted Source**”. Made effective from June 15, 2021, the Directive aims to tighten the security of telecommunication networks in India, especially ahead of the network expansions in light of the upcoming launch of 5G technology in India.

A Trusted Telecom Portal has also been launched by the Government of India to administer the process of procurement of equipment by TSP. The National Cyber Security Coordinator (**NCSC**) is the Designated Authority for determination of inclusion of a vendor as Trusted Source and of inclusion of a product as Trusted Product. For the said determination, the NCSC is required to take approval from the National Security Committee on Telecom Sector (**NSCT**) committee which is headed by the Deputy NSA of India and includes members from various ministries and industries.

Recent trends in investigation

India is also tightening the rules to avoid misuse of her Free Trade Agreements (**FTAs**) by exporters who are alleged to have circumvented goods through countries with whom India had signed the FTAs. While the regulatory framework in India’s Customs Act was put in place in 2020, the customs authorities in recent past have initiated investigations against multiple companies *qua* FTA imports, primarily aimed at verifying the authenticity of imports and value addition thereof.

About Us

Economic Laws Practice

Economic Laws Practice (**ELP**) is a leading Tier 1 full-service law firm in India assisting clients on advisory, litigation and regulatory matters.

ELP’s Customs and trade regulatory practice is considered as one of the most well-respected trade practices in India.

We assist with matters involving import/export policies, tariff classification, valuation, country of origin issues, export controls, trade regulations such as BIS, ROHS, e- waste regulations, legal metrology etc. and compliances. The team works closely with Indian policy makers in policy formulation, tariff rationalization and advocacy assistance.

Members of the firm are regularly invited to be part of high-level advisory committees formed by the Ministry of Commerce & Ministry of Finance (ELP appointed as a member of a legal committee for its flagship program “Invest India”, The National Investment Promotion and Facilitation Agency of India has appointed ELP to assist with the entire compliance module for doing business in India).



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