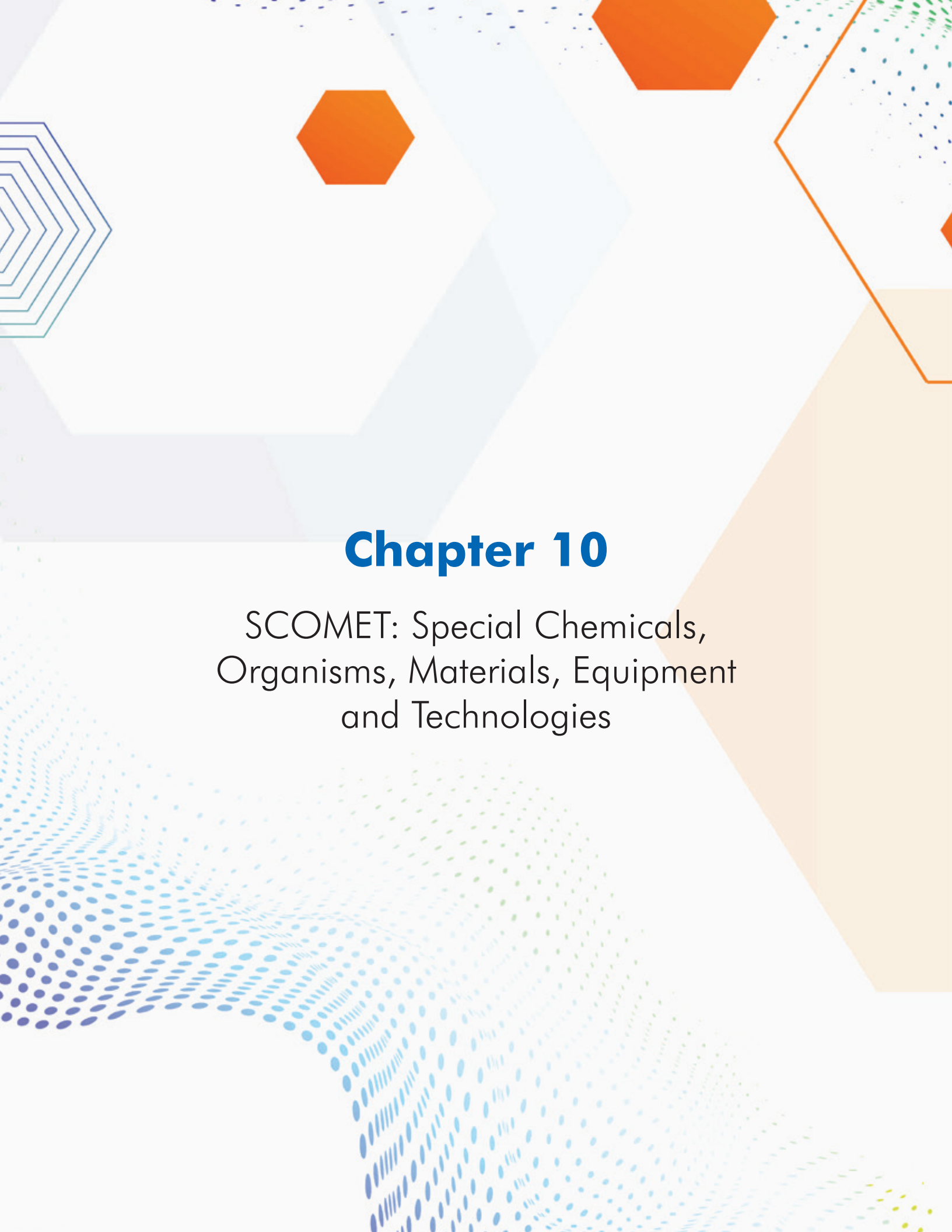




Chapter 10

SCOMET: Special Chemicals,
Organisms, Materials, Equipment
and Technologies





SCOMET: Special Chemicals, Organisms, Materials, Equipment and Technologies

10.00 Objective

The general provisions governing the export of dual use items, munitions and nuclear related items, including software and technology viz. SCOMET, are dealt with in this Chapter.

10.01 Brief Background

India is a signatory to international conventions on disarmament and non-proliferation, viz. the Chemical Weapons Convention (CWC) and Biological and Toxin Weapons Convention (BWC). The United Nations Security Council Resolution 1540 obliges all countries to prohibit access of weapons and mass destruction and their delivery systems to non-state actors (in particular for terrorist purposes); and prescribed measures and controls on weapons of mass destruction, their delivery systems and related materials, equipment and technology. India is also a member of the major multilateral export control regimes, viz. the Missile Technology Control Regime (MTCR), Wassenaar Arrangement (WA) and Australia Group (AG); and has harmonized its guidelines and control lists with

that of the Nuclear Suppliers Group (NSG). In consonance with the guidelines and control lists of these international conventions and obligations as well as multilateral export control regimes, India has regulated the exports of dual use items, nuclear related items, including software and technology.

In respect of controls on export of specified goods, services and technology, the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 (21 of 2005) shall apply to exports, transfers, re-transfers, brought in transit, trans-shipment of, and brokering in specified goods, technology or services. These provisions have been incorporated in Chapter IVA of Foreign Trade (Development & Regulation) Act, 1992, as amended in 2010.

10.02 SCOMET List

Export of dual-use items, including software and technologies, having potential civilian / industrial applications as well as use in weapons of mass destruction is regulated. It is either prohibited or is permitted under an Authorization unless specifically exempted.

SCOMET is an acronym for Special Chemicals, Organisms, Materials, Equipment and Technologies. Accordingly, the SCOMET list is our National Export Control List of dual use items munitions and nuclear related items, including software and technology and is aligned to the control lists of the all the multilateral export control regimes and conventions. The SCOMET List has been notified under Appendix 3 to Schedule 2 of ITC (HS) Classification of Export and Import Items, which is available on the website of DGFT.

10.03 Classification of SCOMET categories and Licensing jurisdiction

The SCOMET List is divided into nine categories of items from Category 0 to Category 8. However, Category 7 is presently 'Reserved' and has not been populated. The broad classification of different categories under SCOMET List and their jurisdictional licensing authorities are tabulated as under:

Table: SCOMET Categories and Licensing Jurisdiction

SCOMET Category	SCOMET items	Jurisdictional Licensing Authority	Remark
0	Nuclear materials, nuclear-related other materials, equipment and technology	Department of Atomic Energy (DAE)	Including items mentioned in Note 2 of CIN of SCOMET List
1	Toxic chemical agents and other chemicals	Directorate General of Foreign Trade (DGFT)	
2	Micro-organisms, Toxins	DGFT	
3	Materials, Materials Processing Equipment and related Technologies	DGFT	
4	Nuclear-related other equipment and technology, not controlled under Category '0'	DGFT	
5	Aerospace systems, equipment, including production and test equipment, and related Technology and specially designed components and accessories thereof.	DGFT	
6	Munitions List	Department of Defence Production (DDP)/ Ministry of Defence	Excluding those covered under Note 2 and 3 of CIN and Sub-category 6A007, 6A008
7	'Reserved'	DGFT	
8	Special Materials and Related Equipment, Material Processing, Electronics, Computers, Telecommunications, Information Security, Sensors and Lasers, Navigation and Avionics, Marine, Aerospace and Propulsion.	DGFT	

CIN : Commodity Identification Note of SCOMET List

Note: DGFT to be licensing authority for above specified categories/sub-categories and any other sub-category as may be specified.

10.04 Export of SCOMET Items

Procedure for grant of export authorization for SCOMET items in respect of Categories 1 to 5 and 8, is specified under Chapter 10 of Hand Book of Procedures (HBP). Export of SCOMET items under Category 0 and Note 2 of the Commodity

Identification Note (CIN) of SCOMET will be permitted against an authorization issued by the Department of Atomic Energy (DAE) as per the guidelines for Nuclear Transfers (Exports) and Notification of schedule of Prescribed Substances, Prescribed Equipment and Technology” issued under Atomic Energy Act 1962 and Atomic Energy (Working of Mines, Minerals and Handling of Prescribed Substance) Rules 1984. Export of SCOMET items under Category 6 (Munitions List) [except those covered under Note 2 and 3 of CIN and items under Category 6A007, 6A008], irrespective of end use of the items, whether military or civil will be permitted against an authorization to be issued by Department of Defence Production (DDP)/ Ministry of Defence under the extant guidelines /Standing Operating Procedure (SOP) issued by the DDP, time to time.

10.05 Additional controls on Non-SCOMET items for dual use (Catch-all controls)

Export of items not in the SCOMET List may also be regulated under provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005. If the exporter has been notified in writing by DGFT or he knows or has reason to believe that an item not covered in the SCOMET list has a potential risk of use in or diversion to weapons of mass destruction (WMD) or in their missile system or military end use (including by terrorists and non-state actors), the export of such an item may be denied or permitted subject to the grant of a license, as per the procedure provided for SCOMET items in Para 10.05 and 10.06 of HBP.

10.06 Supply of SCOMET Items from DTA to SEZ/EoU and outside the country

Export authorisation is not required for supply of SCOMET items from DTA to SEZ /EoU. However, all supplies of SCOMET items from DTA to SEZ/EoU will be reported to the Development Commissioner (DC) of the respective SEZ/EoU by the supplier in the prescribed performa within one week of the supplies getting effected. Export Authorisation is, however, required if the SCOMET items are to be physically exported outside the country from SEZ/EoU, i.e. to another country (Rule 26 of the SEZ Rules, 2006 may be referred).

10.07 Export of imported SCOMET items

Imported goods covered under the SCOMET list are not permitted for export, even from the Customs bonded ware

house, without an export authorization, unless specifically exempted.

10.08 Different types of export authorizations for SCOMET items

- (i) Direct export to ultimate end user: Export to the ultimate end users abroad after due verification process;
- (ii) Export for repeat orders of same SCOMET items: Repeat export of items of same technical specifications which have earlier been allowed for export to the same countries/entities after due verification process;
- (iii) Export for Stock and Sale purpose: Export of items initially to the stockist abroad and then from the stockist to the ultimate end users in the same country or approved countries;
- (iv) Export of spare parts under SCOMET under Stock and Sale: Export of spare parts along with main item/ equipment under stock and sale;
- (v) Export for/after repair / replacement of defective SCOMET items: Export authorizations for repair/ replacement of imported items on being found defective and export authorization after repair of indigenous/third party items imported for repair;
- (vi) Temporary export of SCOMET items: Export authorization for demo/display/exhibition/tenders/ RFP/RFQ/NIT abroad or for return abroad after demo/ display/ exhibition/ tenders/ RFP/ RFQ/ NIT etc. in India;
- (vii) Export of imported items to the same foreign entity or to its OEM: Export of imported items to its foreign supplier or its OEM on obsolescence of technology, dead on arrival, cancellation of order, calibration, testing, etc.;
- (viii) Global Authorization for Intra-Company Transfers (GAICT) of SCOMET Items including Software/ Technology :Only one time authorization will be required, for export and/or re-export of SCOMET items including software and technology under SCOMET Category 8 (except items listed in Appendix 10M), where the export is an Intra-company transfer from the Indian parent company (applicant exporter) to its foreign subsidiary company or from the Indian subsidiary of foreign company (applicant exporter) to its foreign parent/another subsidiary of foreign parent company and; based on a Master Service Agreement / Contract between the Indian parent company/Indian subsidiary of foreign company and foreign subsidiary

of Indian company/foreign parent company of Indian subsidiary for carrying out certain services but not limited to design, encryption, research, development, delivery, validation, calibration, testing, related services, etc. in specified countries for the one time validity of 3 years subject to the post export reporting of all the exports done under the authorisation.

- (ix) General Authorization for export of Chemicals and related equipments(GAEC) except software and technology : Export of chemicals (Excluding Software and Technology) listed in 1C,1D, 3D001 and 3D004 sub-categories is allowed to Australian Group(AG) countries and those listed in 1E sub-category allowed for export to State Parties to the Chemical Weapons Convention (CWC) on the basis of a onetime General authorization for export of Chemicals and related equipments (GAEC) issued by DGFT with one time validity of 5 years subject to the post export reporting of all the exports done under the authorisation.
- (x) General Authorization for export after repair in India(GAER): Export of imported SCOMET items to the same entity abroad after repair in India will be allowed on the basis of a one-time General authorization for Export after Repair in India (GAER) issued by DGFT subject to post reporting on quarterly basis and other conditions as specified in para 10.12(D) of the Hand Book of Procedures.

10.09 Issue, amendment and revalidation of SCOMET authorizations

Export authorization for SCOMET items will be issued

centrally by the DGFT (HQrs). Amendments, including revalidation, etc. on such authorization will also be done by the DGFT (HQrs) only. The procedure for Revalidation is prescribed in Para 10.20 of Handbook of Procedures.

10.10 Outreach Programmes on SCOMET and Export Control Framework

DGFT in association with Administrative Ministries/ Departments and Trade Associations will organize Industry Outreach Programmes on regular basis for effective awareness among the exporters/importers dealing with trade and manufacture, in particular, of SCOMET items. Institutional mechanism will be adopted to organize sector specific / region specific outreach programmes with focus on MSMEs and Startups.

10.11 Voluntary Self Disclosure of export of dual use items

DGFT recognizes that there may be occasions where responsible exporters, occasionally did not comply with the export control provisions of the FTDR Act, WMD Act, Customs Act, or any regulation, order, license, or other authorization on export controls issued by DGFT. DGFT encourages voluntary self disclosures of failure to comply with the export control provisions, and supports raising awareness among exporters to avoid any incidents of non-compliance while taking strict action under FTDR Act for violation of SCOMET policy in cases other than voluntary self disclosure.