



Chat ONLINE

FIEO offers you opportunity to chat online every Wednesday between 3pm and 5pm (IST) with Mr Ajay Sahai, DIRECTOR GENERAL & CEO FIEO, on issues related to foreign trade. Mr Sahai has served many important offices in various capacities. As Jt. DGFT (Policy) from 1996-2003 he was closely associated with the formulation of the Exim Policy.

Feel free to seek clarifications / advice from Mr Sahai on issues related to foreign trade. All that you need to do is to click 'FIEO Online Chat Service' at www.fieo.org. Some portions of the chats held last week are reproduced here.

FIEO's expert answers queries by exporters from various parts of the country.

Q: Can we use DFIA license for pre-export and take transferability for balance inputs in licence for selling purpose without payment of any duty?

FIEO: In case you transfer the inputs already imported under DFIA, you have to refund the additional customs duty availed at the time of import of such inputs. If the inputs have not been imported at the time of transferability, the inputs will not get exemption from additional customs duty at the time of import after endorsement of transferability. Exemption from other customs duty will continue in both the scenario.

Q: We have obtained an EPCG authorisation in 2005 in the handicrafts sector .When we applied for redemption, the Licensing Authority is asking us to furnish a Central Excise installation certificate for the capital goods imported under EPCG. As we are not under excise, Central Excise has refused. What should we do?

FIEO: It seems you are a manufacturer of handicrafts which is a sector not covered under Central Excise. You have already fulfilled the export obligation and submitted the documents for discharge of EODC to the Regional Office. You may furnish an

installation certificate by an independent chartered engineer instead of a certificate from Central Excise. Before 28-01-2004 non-excisable units were allowed to produce installation certificate by a chartered engineer. Again with effect from 01-09-2004, the same provision was restored.

Q: Our deemed exports claim is pending for over a year despite submitting response to all deficiencies raised by the Licensing Authority. Are we eligible to claim interest on it and if so at what rate?

FIEO: The provision of simple rate of interest @ 6% per annum in the case of delayed refund of Duty Drawback and TED was introduced in the Policy of 2008, which now says that if the claim has become due on or after 1.4.2007, and is not settled within 30 days of receipt of complete application, an interest @ 6% per annum is payable in case of delayed refund of Duty Drawback and TED. You may refer to paragraph 8.5.1 of the Foreign Trade Policy.

Q: We had obtained an EPCG licence for which EO could not be completed for the second block period in the specified time .We want to get the period extended.

What is the procedure for the same?

FIEO: Please go through provisions of Para 5.8.3 of HBP (Vol. I) which provided for extension in export obligation period of any particular block subject to payment of composition fee of 2% on duty saved amount in proportion to the shortfall at the end of each block. You see how much was the export obligation at the end of the second block and how much has been fulfilled by you .On the differential, you pay composition fee as per the above provision.

Q: We have two sister concerns which are going to apply for EPCG benefits. One company has only two years exports to its credit while other has one year of exports in its account. How will the average EO for both the companies be fixed?

FIEO: If an applicant has been in existence for less than 3 years, the denominator in the above calculation will be the number of years. For first company it will be the total of two years divided by 2, while for the second company it will be the export of one year. The table on next page will make it clear.

Q: We are a Super Star Trading House recognised by the Government. We want to open a warehouse abroad for better marketing. What are procedural requirement of the same?

FIEO: Banks are allowed to consider the applications received from you and grant permission for opening/hiring warehouses abroad subject to the following conditions:

- i. Your export outstanding does not exceed 5% of exports made during the previous financial year.
- ii. You have a minimum export turnover of \$100,000 during the last financial year.
- iii. Period of realisation should be as applicable.

	Year 1 (2011-12)	Year 2 (2010-11)	Average Export Obligation
Firm/Company in existence for more than 1 year but less than 2 years			
Exports	NIL	Not applicable	NIL
	x	Not applicable	$x/1 = x$
Firm/Company in existence for more than 2 years but less than 3 years.			
	NIL	NIL	NIL
	NIL	x	$x/2$
	x	x	$(x+x)/2 = 2x/2 = x$

- iv. All transactions should be routed through the designated branch of the banks.
- v. The above permission may be granted to the you initially for a period of one year and renewal may be considered subject to you satisfying the requirement above.

Q: We want to enter into merchanting trade so as to increase our group turnover and profitability. What are the regulations governing it? Are we eligible for exports benefit on such exports?

FIEO: Merchanting trade is permitted in India, and the RBI governs such third-country trade. It is subject to the following:

- a) Goods involved in the transactions are permitted to be imported into India and all the rules, regulations and directions applicable to export (except export declaration form) and import (except Bill of Entry) are complied with for the export leg and import leg, respectively.
- b) The entire merchant trade transaction is completed within a period of 6 months.
- c) The transactions do not involve foreign exchange outlay for a period exceeding three months.
- d) Payment is received in time for the export leg.
- e) Where the payment for the export leg of the transaction precedes the payment for import leg, banks

are to ensure that the terms of payment are such that the liability for the import leg of the transaction is extinguished by the payment received for the export leg of the transaction, without any delay.

Merchanting trade transactions are not eligible for exports benefits which are only given on goods manufactured in India and shipped from India.

Q: Are merchanting trade transactions eligible for Rupee Payment Mechanism worked out by the Government with Iran?

FIEO: The Rupee Payment Mechanism for Iran only covers exports of goods of Indian origin which are allowed for exports as per the Foreign Trade Policy of DGFT and which are not under the UN sanction list. Moreover, only such goods which are exported directly from India to Iran are covered under the Payment Mechanism.

Q: We had a dispute with a supplier for an import supply which has now been resolved. However, the bank is not permitting import payment as more than 12 months have lapsed since the shipment of imports. What should we do?

FIEO: In terms of the RBI regulations, remittances against imports

should be completed not later than six months from the date of shipment, except in cases where amounts are withheld towards guarantee of performance. However, banks may permit settlement of import dues delayed due to disputes, financial difficulties, etc. Interest in respect of delayed payments for a period of less than three years from the date of shipment may also be permitted by banks. You may therefore draw the attention of your bank to the Master Circular of RBI on imports dated July 1, 2011.

Q: We want to invoice in rupees so as to insulate ourselves against exchange risk fluctuations. However, our bank in Allahabad said the same is not allowed. Is there any notification which we can show to our bank?

FIEO: Please see paragraph 2.40 of the Foreign Trade Policy 2009-14 which allows exports contract/invoices to be denominated in Indian rupees. The said paragraph is reproduced below:

"All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realised in freely convertible currency. However, export proceeds against specific exports may also be realised in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of ACU or Nepal or Bhutan. Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account. Free foreign exchange remitted by buyer to his non-resident bank (after deducting the bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP."

With regard to exports to Iran in
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Indian rupees, DGFT has already issued Notification No.105 dated 5.3.2012 which allows export proceeds against export to Iran realised in Indian rupees to be extended all export benefits on a par with export proceeds realised in freely convertible currency.

Q: Whether exports under claim of rebate under amended Notifications No. 19/2004-CE(NT) dated 6.9.2004 or under bond in terms of amended Notification No. 42/2001-CE(NT) dated 26.6.2001 are permitted even when the export proceeds are paid in Indian rupees for exports to Nepal.

FIEO: Neither Rule 18 or Rule 19

of Central Excise Rules, 2002, nor the Notification No. 20/2004-CE(NT) dated 6.9.2004 which has been rescinded vide Notification No. 25/2011-CE(NT) dated 5.12.2011 w.e.f March 1, 2012 make any distinction on the basis of mode of payment of currency for exports. Therefore, exports to Nepal will continue to be permissible irrespective of whether the payments are made in Indian currency or foreign convertible currency as long as they are in accordance with applicable RBI guidelines.

Q: We are a merchant exporter and would like to avail factory stuffing permission for goods exported under Rule 18 of Central

Excise Rules. Can we avail this facility?

FIEO: Facility of factory stuffing entailing option of examination and sealing of export containers by Central Excise officers at the place of dispatch is available to both manufacturer-exporters (except when the export is on free Shipping Bill) and merchant-exporter in respect of the goods exported in terms of Rule 18 or 19 of the Central Excise Rules, 2002. Such examination, stuffing and sealing of export containers by Central Excise officers are permitted at the factory or warehouse or any other approved premises. You as a merchant exporter can also avail it. ■