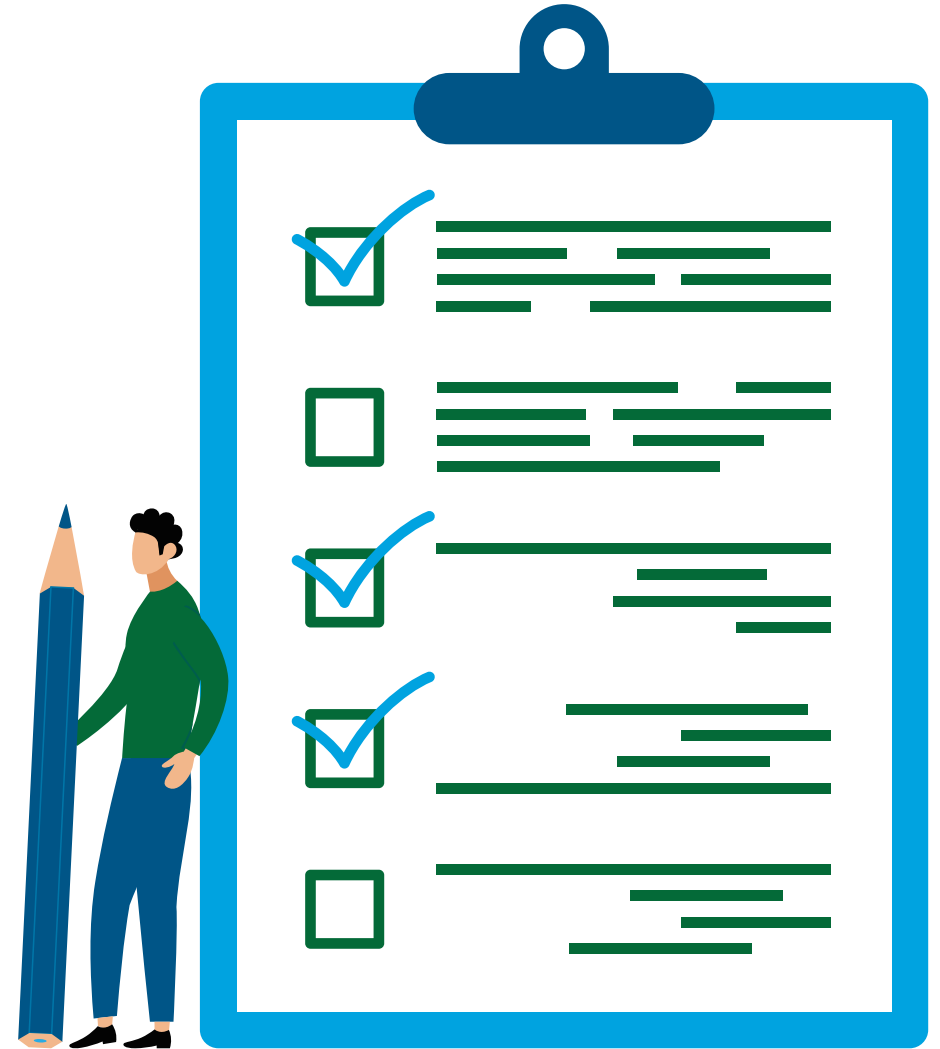
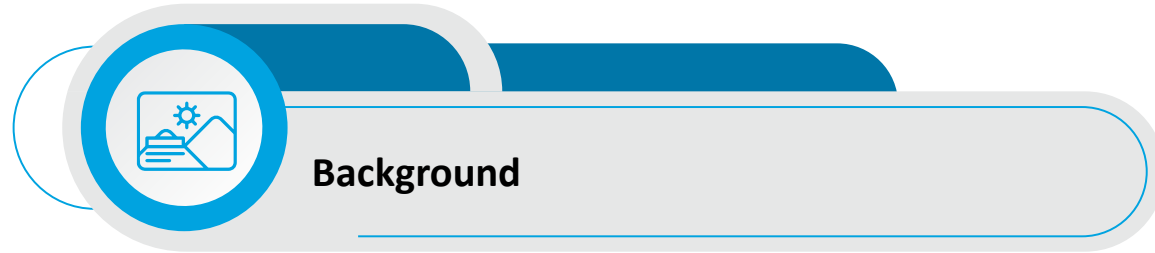




Import and Export Licensing

October 2023

Contents



Import Export Policies

About Import and Export Policy

An import-export policy is a government's set of rules and regulations governing international trade. It covers general policy applicable for all the goods and product specific policies/guidelines which shall be based of the HS Code or the category of the product



Foreign Trade Policy

01

Check Chapter 2 of the Foreign Trade Policy for general guidance on policy conditions.

General import Export policy

Product specific import export policy



Indian Trade Classification (Harmonized System)

02

Check the ITC(HS) for HS Code specific import and export restrictions.

Statutory framework governed by the line ministries

Check the specific provisions of the line ministries. E.g. Bureau of Indian Standards certification for several consumer electronic goods such as adapters, smart card readers, etc.

About Import and Export Policy – ITC(HS)



Imports may be made freely except to the extent “restricted” or “prohibited” for various reasons such as security, health, or environmental concerns. The Import-Export policy under the ITC(HS) is as below:

01



Free

- Import/Export without any restrictions
- Anyone who has a valid IEC can import/export
- Specific approval in domestic law may still be required based on the technical specification/ nature of goods
- E.g. clothing, accessories, books, office supplies, plastic bags, etc.

02



Restricted

- Import/export only after obtaining an import/export license from the relevant licensing authority
- E.g. Food Safety and Standards Authority of India for several food products.

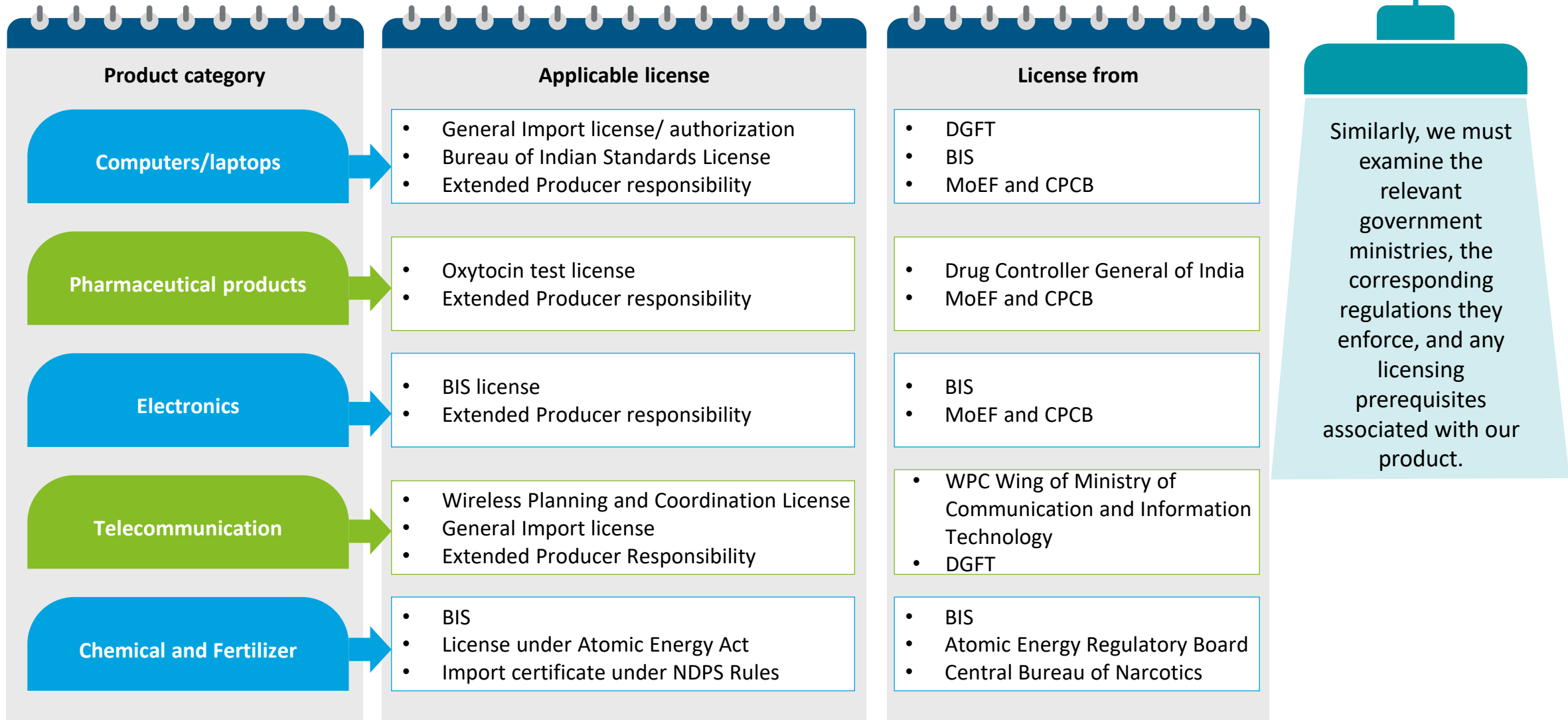
03



Prohibited

- Strictly prohibited on all import channels in India
- E.g. Certain animal products, Mobile phones without IMEI number, etc.

About Import and Export Policy – License from ministries



Common Import Licenses

Import Licensing for Laptops, Servers, Computers etc.

Import Licensing for Laptops, Servers, Computers etc.

The DGFT has introduced mandatory licensing requirements on the following IT goods from 1st November 2023 onwards:

ITC (HS)	Item Description
8471 30 10	Personal Computer
8471 30 90	Other
8471 41 10	Micro computers
8471 41 20	Large or main frame computer
8471 41 90	Other
8471 49 00	Other automatic data processing machines presented in form of systems
8471 50 00	Processing systems other than subheading 8471.41 or 8471.49

Import of laptops, tablets, all-in-one personal computers, and ultra small form factor computers and servers falling under **HSN 8471**, shall be **'restricted'** and their import would be **allowed under a valid licence from DGFT (starting 1st November 2023).**

Exceptions where licensing requirement do not apply

Imports for the purpose of R&D, testing, benchmarking, evaluation, repair and re-export, product development is provided for up to 20 items per consignment;

Re-import of goods repaired abroad

Imports under Baggage Rules

Laptops, tablets, all-in-one personal computers, and ultra small form factor computers and servers which are essential part of capital goods

Import of 1 laptop, tablet, all-in-one personal computer, or ultra small form computer, including those purchased from e-commerce portals, through post or courier

Exemption from import licence is provided on self-certification basis on import of IT goods for repair and/or return and/or replacement of IT Hardware sold earlier in India

Private entities importing IT hardware for supply to Central or State Government or their agencies, undertaking for Defence and Security purposes are exempt from the requirement of import licensing. However, such private entities need to submit a valid end user certificate from relevant Govt. entities at the time of import

*Prohibited goods are not allowed to be imported under a licence.

Import Licensing for Laptops, Servers, Computers etc.

Points for Consideration: SEZ to DTA clearance



- Special Economic Zones (SEZ) and Software Technology Parks of India (STPI)/Export oriented Unit (EOU) exempted from import licensing requirement. However, such **dispensation** from import licensing requirements **applies only to units using these items for captive consumption**. Therefore, it seems that SEZ/STPI units involved in trading activities would not be exempt from import licensing requirements.
- IT hardware manufactured in Special Economic Zones (SEZ) can be cleared into Domestic Tariff Area (DTA) without need for an authorization/ import licence on payment of applicable custom duties.
- Further, activities such as **re-packing, labelling, refurbishing, testing, and calibration would not be considered as manufacturing within the SEZ**. Hence, import license may apply on such DTA clearances of the aforesaid IT goods.
- Importers can **apply for multiple authorisations** and authorisation issued would be **valid until September 30, 2024**.
- Quantity mentioned on a valid import authorisation can be amended at any time subject to the overall value of the import authorisation remaining unchanged (i.e., changes can be made to the quantity of imports without amending the overall value of the license).
- IT hardware which are an essential item for capital goods (such as laptops to be used with MRI machine) is only exempt from import licensing requirements. However, the exemption is only applicable if laptops, servers etc. are accompanying such capital goods.
- There are no import restrictions on import of spares, parts, assemblies, sub-assemblies, components, and other inputs required for IT hardware devices.



Import Licensing – What business must be prepared for ?



Analyse and identify the products which would be affected due to the change in policy



Coordinate internally with different stakeholders within the organization for gathering of the requisite information



Collate the information required for filing of the application for import authorization/licence



Submit the online application before hand for a hassle-free transition before the cut off date*

***1st November 2023**



Take stock of the internal inventory in-order to avoid import around the cut off date*



Polling question 1



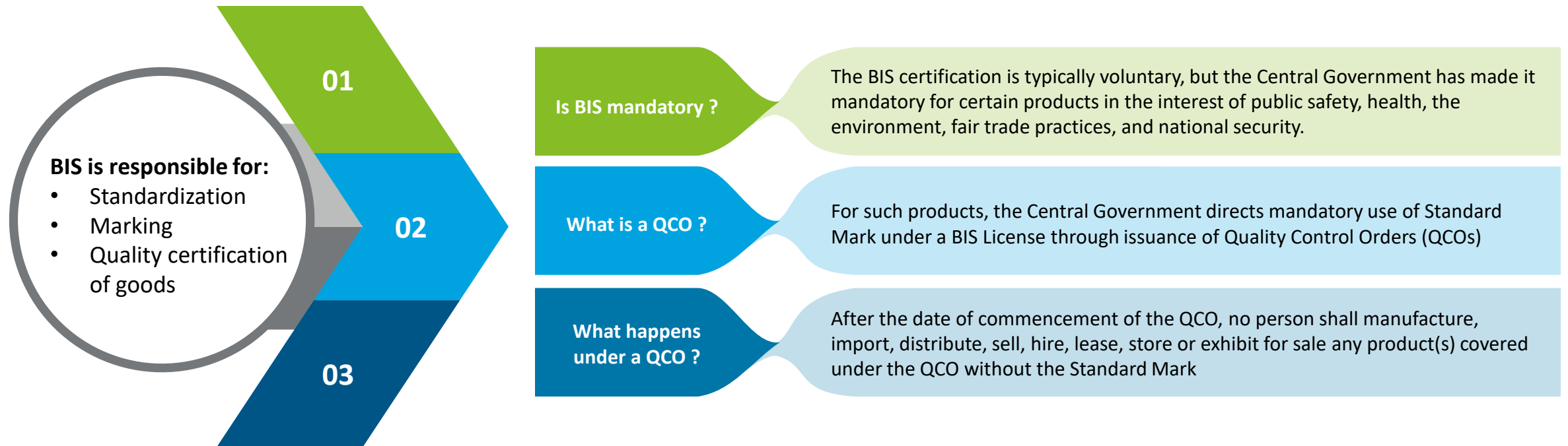
Do you think the import licensing requirement is likely to help government meet its objective in the medium term ?

- Yes
- No
- May be

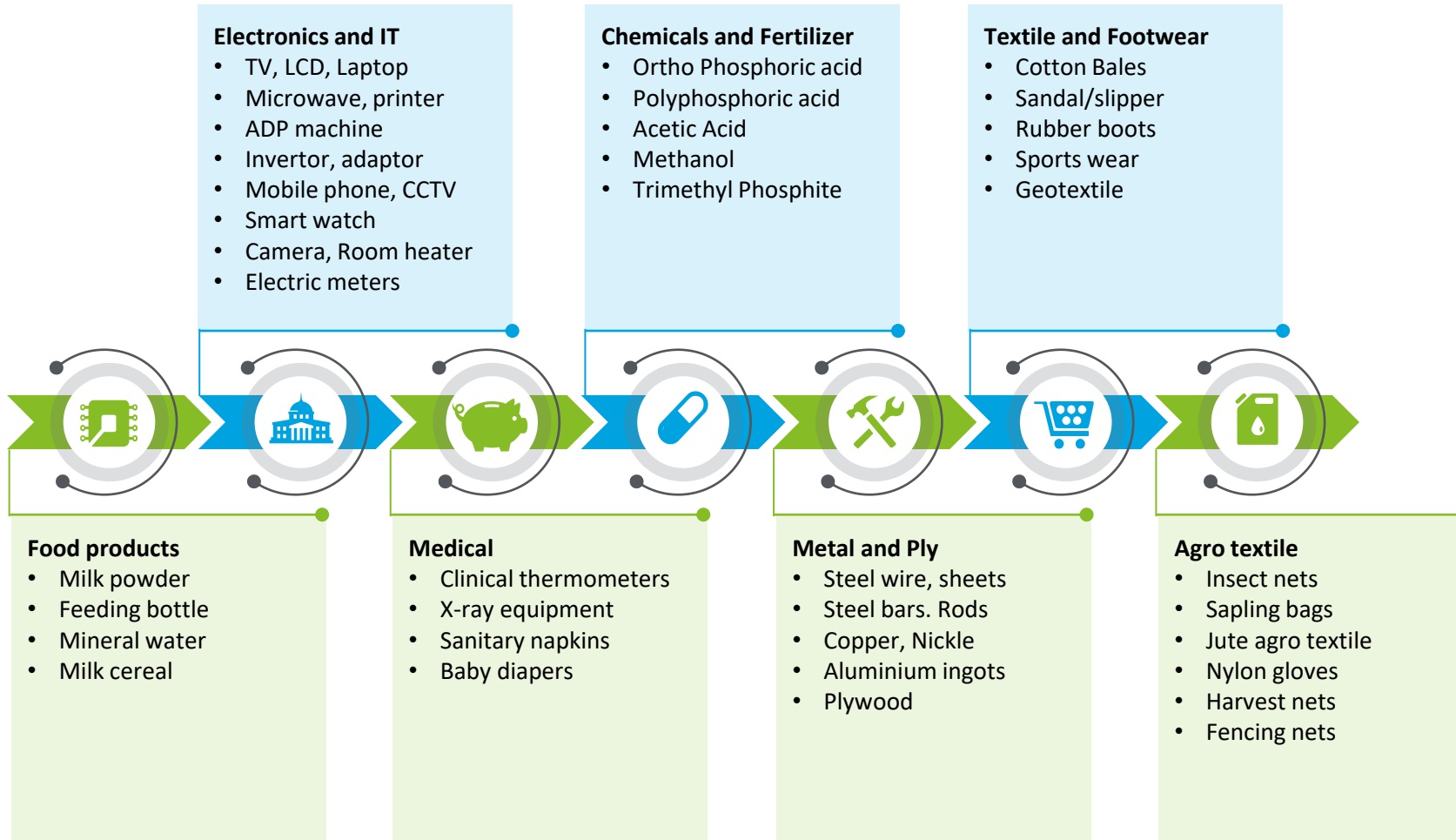


Bureau of Indian Standards (BIS)

Bureau of Indian Standards License



Bureau of Indian Standards License – Illustrative coverage & Upcoming QCO's



Here are some upcoming QCOs that are due for implementation within next 6 months:

Industrial items - 67

Chemicals and Petrochemicals - 32

Heavy Industrial goods- 23

Textile - 20

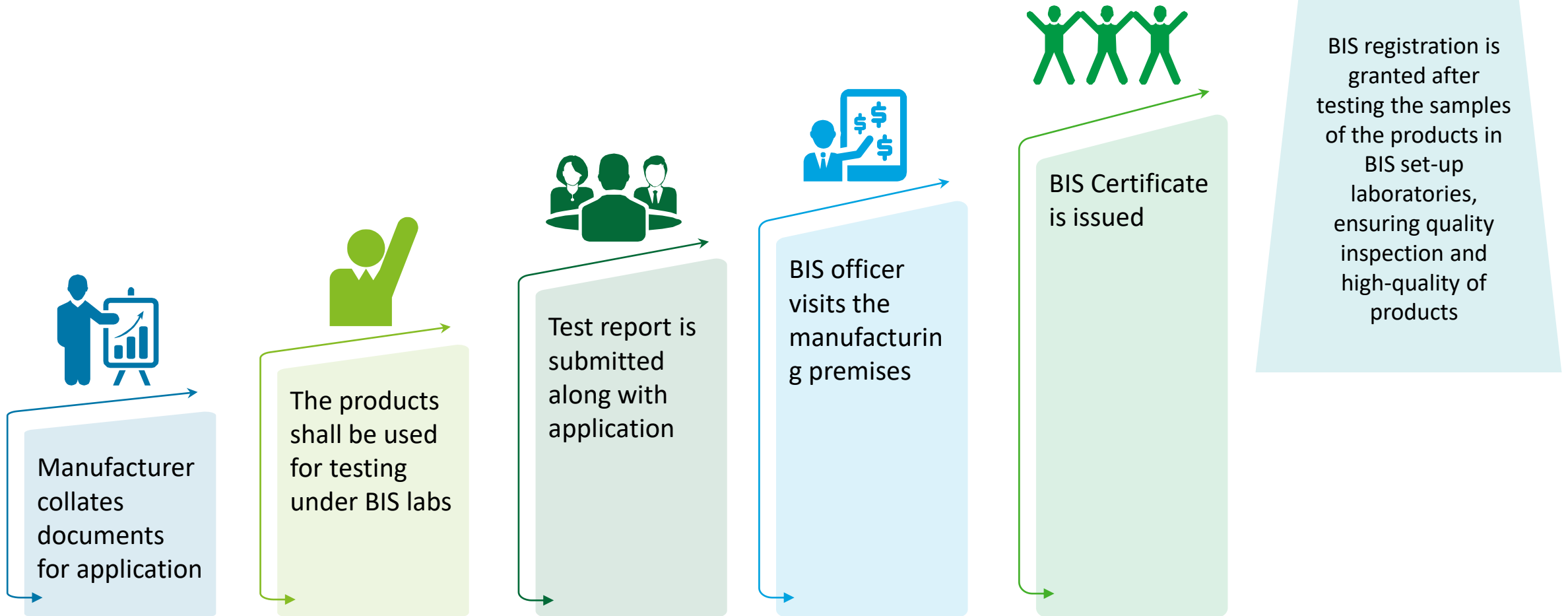
New and Renewable Energy - 2

Electronics and IT - 1

Steel - 1

Bureau of Indian Standards License – Cont'd

Flowchart of Registration Procedure



Bureau of Indian Standards License – Implications of Non-Compliance



Do you have a BIS License ?

Polling question 2



How would you rate the clarity on the BIS license applicability and application process

- Very clear
- Clear with some gaps
- Very unclear



Extended Producer Responsibility (EPR)

Extended Producer Responsibility

Background

The Ministry of Environment, Forest and Climate Change ('MoEF'), notified Rules to regulate the handling and management of

Plastic waste

Battery waste

e-waste

Waste tyres

Extended Producer Responsibility ('EPR') aims to assign the responsibility on a producer for the environmentally sound management of the product until the end of its life. EPR guidelines includes Reuse, Recycling, Use of recycled content, and End of life disposal

Who is covered under the Rules ?



Plastics - Plastic Waste Management Rules

- Rigid plastic packaging;
- Flexible plastic packaging of single layer or multilayer (more than one layer with different types of plastic), plastic sheets or like and covers made of plastic sheet, carry bags, plastic sachet or pouches
- Multilayered plastic packaging (at least one layer of plastic and at least one layer of material other than plastic)
- Plastic sheet or like used for packaging as well as carry bags made of compostable plastics.



Batteries - Battery Waste Management (BWM) Rules, 2022

- Portable batteries used in consumer electronics which are rechargeable
- Portable batteries, except those used in consumer electronics which are rechargeable
- Electric Vehicles (EV) battery of e-rickshaw (three-wheelers), two-wheelers and for four wheelers
- Automotive battery
- Industrial battery



E-waste – E-waste (Management) Rules, 2022

- Electric and Electronic Equipments listed under Schedule I of Rules



Tyre waste

- Tyres - Hazardous and Other Wastes (Management and Transboundary Movement) Amendment Rules, 2022**
- New Tyre
 - Waste Tyre

Extended Producer Responsibility – Illustrative Industry/Sector Covered

Plastic Waste

- **Fast Moving Consumer Goods (FMCG)** - Milk packets, cooking oil in plastic bottles
- **Pharmaceutical** - Capsules and tablets packed in plastic bottles
- **Automobile Industries** - Car parts, and other vehicle parts in plastic packaging
- **Construction and building material** - PVC
- **Agriculture and agribusiness** - Plastic packaging for seeds, fertilizers etc
- **Electronics** -Electrical cables, switches etc.



Battery Waste

- **Consumer electronics** - Smartphones, laptops, tablets, cameras etc.
- **Automotive** - Electric vehicles
- **Aerospace** - Aircraft, satellites, spacecraft
- **Healthcare** - Medical devices such as pacemakers, hearing aids and other diagnostic equipment
- **Telecommunications** - Cell towers, base stations and network equipment
- **Renewable energy** - Solar power and wind power systems



E-waste

- **IT and Telecommunication equipment** – Computers, printer, telephone, router **Consumer electronics** – TV, Refrigerator, AC etc.
- **Electronic equipments** – Freezers, Dish washer, Microwave, etc.
- **Electronic Tools** – Drills, Sewing machine, etc.
- **Toys and sports** – Electric car racing set, Video games, etc.
- **Medical devices** – Cardiology equipment, ventilator, etc.



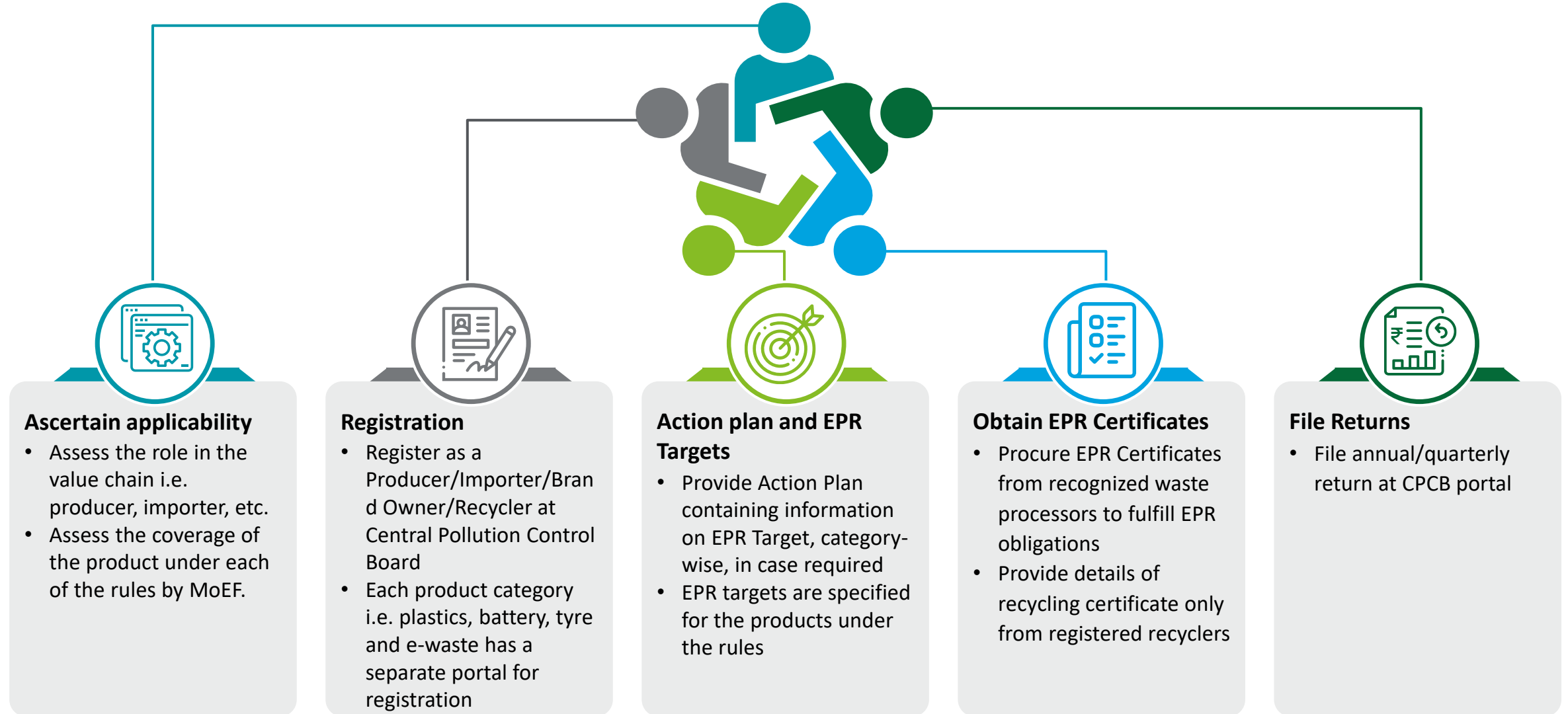
Waste Tyre

- **Transportation and Logistics** - Tyres of commercial trucks, buses, delivery vehicles
- **Aerospace** - Aircraft, smaller planes having landing gear
- **Automobile Industries** - Car, bike, bicycles, sports utility vehicles , etc.
- **Heavy Machinery and Equipment** - bulldozers, loaders, mining trucks, forklifts etc.
- **Agriculture** - tractors, combine harvester etc.
- **Maritime and boating industries** - boats, shipyard equipment etc.

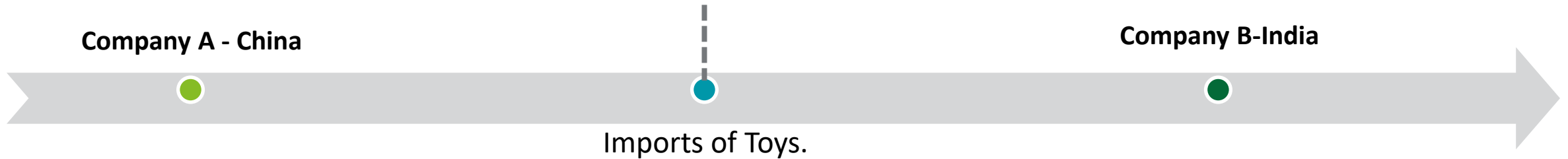


Extended Producer Responsibility – What you need to do ?

This is a general process for EPR, specific processes are defined in the SOPs issued by the MoEF under each of the waste management Rules.



Case Study : Import of Toys



Facts:

A company based in India, imports toys from China for sale in India.

Action:

- To check whether there is a requirement of EPR registration or BIS license, we need to look out whether these toys are being imported with plastic packaging or do they have rechargeable batteries.
- We observed that toys are covered under the BIS Scheme.
- On examining the product, we observed that the imported toys have plastic packaging and also have rechargeable batteries within them.

Result:

- We need to evaluate the QCO's on toys for BIS requirement and accordingly seek registration.
- We identified that the toys being imported require EPR registration under Plastic Waste Management Rules and Battery Waste Management (BWM) Rules, 2022. Also, the importer needs to accomplish the EPR targets for both plastics and batteries.
- Company B need to promptly apply for the necessary import license from the BIS and MoEF/ CPCB before proceeding with the shipment for hassle free imports and avoid potential legal penalties.

Extended Producer Responsibility – Implications of Non-compliance



Levy of Environmental compensation by CPCB based on industrial pollution index



Reputational damage since environmental responsibilities are a priority



Bear the entire cost of waste management, including collection, recycling, and disposal



Create legal liabilities and penalties



Do you have a EPR Registration ?

Polling question 3



Are you aware about your EPR targets and obligations ?

- Yes, I am aware
- Yes, but it's not clear
- No, I am not aware
- Not applicable



Export Licensing

SCOMET

Special chemicals, Organism, Materials, Equipment and Technologies (SCOMET)

Export Policy of India

- Foreign Trade Policy 2023 ('FTP') governs the export policy of India
- Export policy of India can be segregated into three categories, i.e., Free, restricted and prohibited exports
- India is a signatory to multiple international conventions on
- disarmament and non-proliferation.

SCOMET

- Government of India has regulated export of dual use items, nuclear related items, including software and Technology pursuant to its commitment under several international agreements.
- **SCOMET** list** covers goods that are capable of dual use in civilian as well as military application

Key Takeaway:

An exporter must review its export related activities to evaluate whether it's covered under the SCOMET List and requires SCOMET Licensing

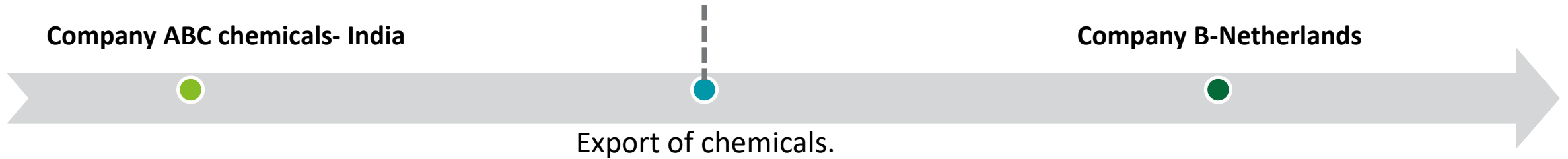
SCOMET Category	SCOMET items	Licensing Authorities	Remark
0	Nuclear materials, nuclear-related other materials, equipment and technology	Department of Atomic Energy(DAE)	Including items of mentioned in Note 2 of CIN of SCOMET List
1	Toxic chemical agents and other chemicals	DGFT	
2	Micro-organisms, Toxins	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	Deptt. of Defense Production (DDP)/ Ministry of Defense	Excluding those covered under Note 2 and 3 of CIN and Sub-category of 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
- The DDP, Ministry of Defense issues export authorizations/NOCs as per the Standard Operating Procedure (SOP)

Illustrative list of product/services for which SCOMET may be relevant

Sector	Product/Services	Category
Equipments	Manufacturing heat exchangers and thermal systems for aerospace, defence, transportation, energy and oil & gas applications	0
Chemical	Sulphur Dichloride, Sulphur Monochloride, Methyldiethanolamine, etc.	1
Special Materials	Germanium, Aluminum alloy products, Industrial Valves, Ball Valve, Titanium products	3
Sensors	Transducer & Measurement system, Assembly line automation and test solution, research solutions, Force/load measuring system, Vibration machines, Dynamometers	4
Equipments	Filament winding machines, Accessories, Hydraulic extractors	4
Equipments	High Frequency X-Ray generators, High voltage power suppliers	4
Drone technology	Liquid propellant tanks, Aerostructures, software, rocket systems, engines, Avionics, Spares and services	5
Defence	Hand Grenade, Transmission Automobile Castings, Gun Barrels	6
Telecommunication	Telecommunication service provider and mobile network operator	8
Technology	Consulting, cybersecurity, cloud, business solutions, infrastructures, Information security, microcomputer microcircuit	8
Technology, Defense	Automotives, energy, construction and mining, railways, marine, aerospace and defence industries	8

Case Study : Export of chemicals



Facts:

A company based in India, ABC chemicals, exports Triethyl Phosphite to Netherlands.

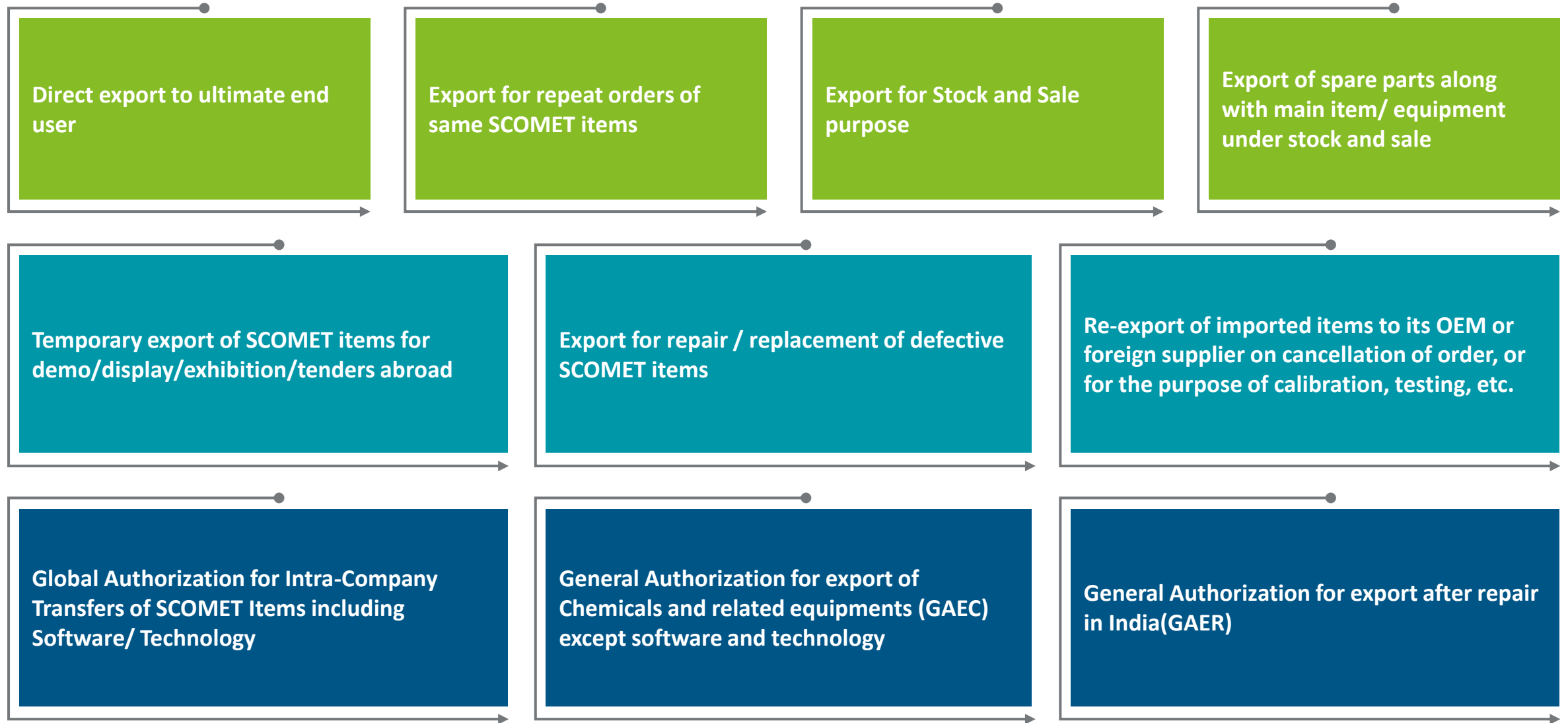
Action:

- To check whether there is a requirement of export license on export of such chemicals, we need to look out whether this chemical is covered under the SCOMET list issued by the DGFT.
- On review of SCOMET List, we observed that the export of Chemicals is covered under Category 1. Now, we will look for the coverage of chemicals exported by Company ABC under the category 1.
- In terms of Sub-Category 1C009, Export of “Triethyl Phosphite” chemicals (Excluding Software and Technology) listed in 1C is allowed to the countries specified in Table 1 on the basis of a one-time General authorization for export of Chemicals and related equipment's (GAEC) issued by DGFT.
- Table 1 on the list of countries allow export to Netherlands

Result:

- We identified that the chemical being exported fell under the SCOMET list. ABC Chemicals need to promptly apply for the necessary export license from the Directorate General of Foreign Trade (DGFT) before proceeding with the shipment to avoid potential legal penalties and contributed to national security efforts.
- They should also conduct internal training for employees on SCOMET regulations to prevent future compliance breaches.

Different types of export authorizations for SCOMET items



EU Carbon Border Adjustment Mechanism

What is EU Carbon Border Adjustment Mechanism (CBAM) ?



Background

- **EU Emission Trading System (ETS)** aims to lower emissions by investing in innovative technologies, alternative and efficient energy sources
 - covers most of industrial sectors for emission reduction;
 - The EU-ETS sets a cap on the quantity of greenhouse gas emissions;
 - At the end of each compliance cycle, if the emissions of an EU-ETS participant exceed the allowance, they must buy Emission allowance;
 - Firms that have reduced their emissions have surplus Emission allowance
- **Carbon leakage led to introduction of CBAM:**
 - Companies based in the EU started relocating carbon-intensive production to countries where weaker climate policies or implementation exist leading to carbon leakage;
- **CBAM is aligned with EU's climate goals:**
 - The EU seeks to achieve 55% lower carbon emissions by 2030 compared to 1990 levels
 - Target is to be carbon-neutral by 2050



Aim

- CBAM seeks to protect EU imports from carbon leakage by putting a price on the carbon emitted during the production of carbon intensive goods imported into the EU;
- Carbon price of imports into the EU is equivalent to the carbon price of domestic production
- Help in cleaner industrial production using low-carbon technologies such as renewable power sources in the non-EU countries.

Phased Implementation of CBAM

1st October 2023 to December 2025

- No Carbon Border tax
- **Only report the carbon content** on below products –
 - Iron, steel and aluminum
 - Fertilizers
 - Electricity
 - Cement
 - Hydrogen

January 2026 to December 2034

- **January 2026** - Carbon tax on aluminium, steel and other covered products; and
- **2026 to 2034** - new products also to be taxed under CBAM

January 2034

By 2034 - all the products and materials imported into the EU to be taxed under CBAM.

What Indian exporters must be prepared for?

Collaborate with your EU importer on reporting requirements for your export product



Preparedness of technology infrastructure for tracking and reporting carbon-emission embedded in the supply chain



- Gather emission-related details of the production process for each product
- Identify credible energy auditor to verify production process and emission values



Consider energy-efficient production process to save on carbon border tax in future;

- EU importers may sustain business only with efficient emission compliant manufacturers – may reduce business dependency with non-compliant Indian exporters



Cost benefit analysis between adopting alternative/ efficient energy production process v. extra financial cost of carbon border tax



Summary – What you need to do ?



Import Licensing

- Identify the correct HS classification of the goods
- Check the ITC(HS) Import policy basis the HS Code
- Identify the concerned line ministry basis the product being imported
- Identify the licensing/certification/registration requirement as per the laws of the relevant line ministry e.g. BIS, EPR etc.
- Pre-plan if the import of goods attract any license and ensure proper compliance in obtaining approvals from the participating government agencies
- Periodically review the requirements under the applicable regulations



Export Licensing

- Identify the correct HS classification of the goods
- Check the ITC(HS) Export policy basis the HS Code
- Identify the concerned line ministry basis the product being exported to know the export restrictions
- Stay informed about the regulations of the destination country in order to understand the limitations imposed there. E.g. EU CBAM
- Identify the licensing/certification/registration requirement as per the laws of the relevant line ministry or the destination country e.g. SCOMET, CBAM etc.
- Pre-plan if the export of goods attract any license and ensure proper compliance in obtaining approvals from the participating government agencies
- Periodically review the requirements under the applicable regulations



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