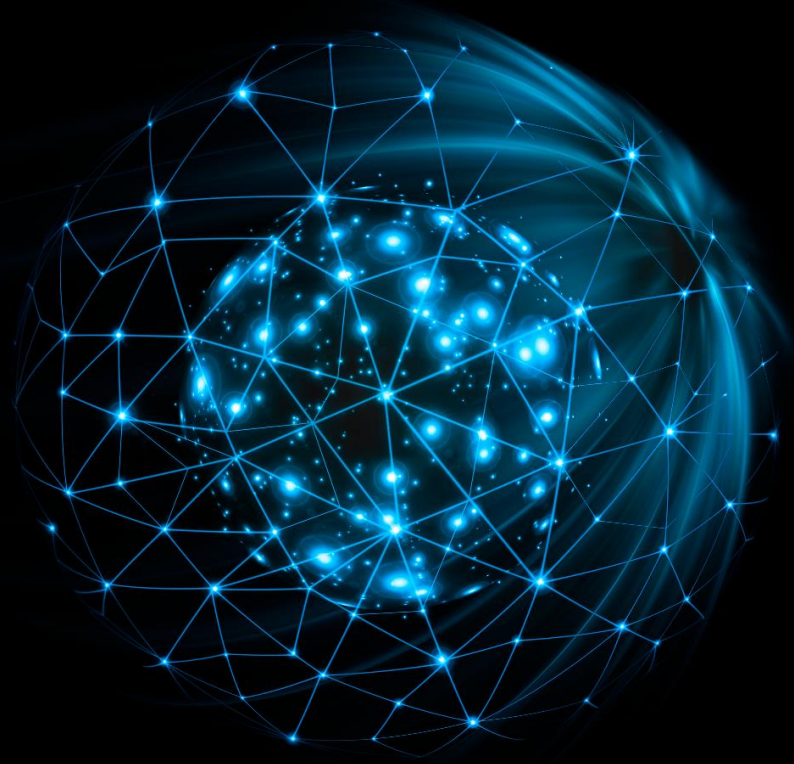






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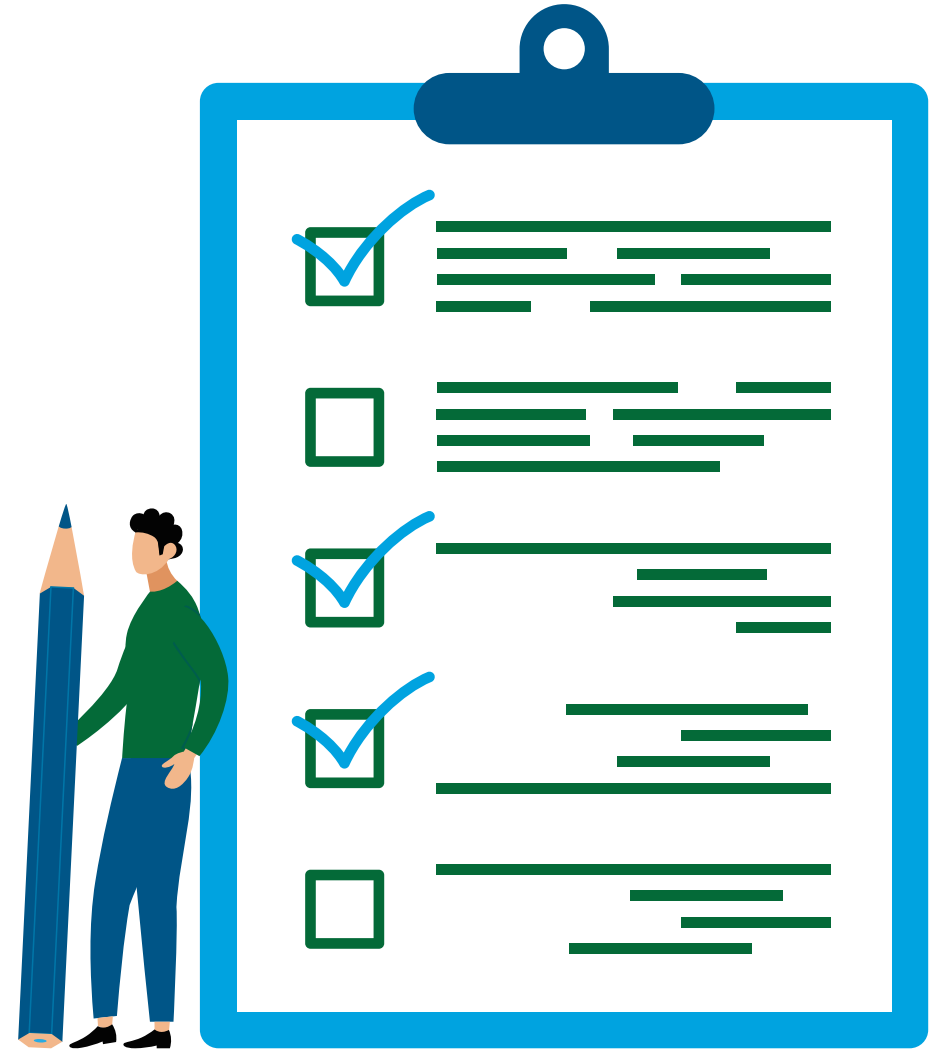


Special Chemicals,
Organism, Materials,
Equipment and
Technologies (SCOMET)

January 2024

Contents

-  **Background and overview**
-  **Different types of SCOMET authorizations**
-  **Process for obtaining a SCOMET license**
-  **Impact on businesses and way forward**



Background




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

Overview of the SCOMET List

SCOMET Category	SCOMET items	Jurisdictional Licensing Authorities
0	Nuclear materials, nuclear-related other materials, equipment and technology	Department of Atomic Energy (DAE)
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
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)

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

Case Study : Export of inertial guidance systems

Company ABC Systems - India

Company Sweden



Export of inertial guidance systems

Appendix 3 – SCOMET List

Facts

A company based in India, ABC systems, exports inertial guidance systems to Sweden.

Action

- On review of SCOMET List, we observed that export of such products is covered under Category 5. Now, we will look for the coverage of these products exported by Company ABC under the category 5.
- In terms of Sub-Category 5A102, Export of guidance systems and their components such as gyros and inertial reference units is listed in 5A1.

Result

- We identified that the products being exported fell under the SCOMET list. ABC systems need to promptly apply for the necessary export license from the DGFT before proceeding with the shipment.

5 **Aerospace systems, equipment including production and test equipment, related technology, and specially designed components and accessories therefor.**

5A Rocket Systems (including ballistic missiles, space launch vehicles and sounding rockets)

Note: Ballistic missiles (regardless of their end use) and their related systems will be classified under sub-category 6A004 (Munitions List)

5A1 Systems

5A102 Subsystems and components usable in missiles and rockets including:

- rocket motor cases, interior lining, insulation and nozzles;
- rocket staging mechanisms, separation mechanisms and inter-stages;
- Liquid, slurry and gel propellant (including oxidisers) control systems, and specially designed components therefor, usable in missiles and rockets, designed or modified to operate in vibration environments greater than 10 g rms between 20 Hz and 2 kHz.

Notes

- The only servo valves, pumps and gas turbines specified in 5A102.c are the following:
 - Servo valves designed for flow rates equal to or greater than 24 litres per minute, at an absolute pressure equal to or greater than 7 MPa, that have an actuator response time of less than 100ms.
 - Pumps, for liquid propellants, with shaft speeds equal to or greater than 8,000 rpm at the maximum operating mode or with discharge pressures equal to or greater than 7 MPa
 - Gas turbines, for liquid propellant turbopumps, with shaft speeds equal to or greater than 8,000 rpm at the maximum operating mode.
- Systems and components specified in this clause may be exported as part of a satellite;

- re-entry vehicles and equipment including
 - Heat-shields, and components thereof, fabricated of ceramic or ablative materials;
 - Heat sinks and components thereof, fabricated of light weight, high heat capacity materials;
 - Electronic equipment specially designed for re-entry vehicles.
- guidance systems and their components such as gyros and inertial reference units;
- thrust-vector control subsystems including methods of achieving thrust vector control such as flexible nozzle, fluid or secondary gas injection, movable engine or nozzle, deflection of exhaust

Different types of SCOMET authorizations

Direct export to ultimate end user

Export for repeat orders of same SCOMET items

Export for Stock and Sale purpose

Export of spare parts along with main item/ equipment under stock and sale

Temporary export of SCOMET items for demo/display/exhibition/tenders abroad

Export for repair / replacement of defective SCOMET items

Re-export of imported items to its OEM or foreign supplier on cancellation of order, or for the purpose of calibration, testing, etc

Global Authorization for Intra-Company Transfers of SCOMET Items including Software/ Technology

General Authorization for export of Chemicals and related equipments (GAEC) except software and technology

General Authorization for export after repair in India(GAER)

General Authorization for export of Chemicals and related equipments (GAEC) except software and technology



Scope and eligibility

- A GAEC is valid for a period of five years from the date of issuance -
 - For export and/or re-export of SCOMET items (Excluding Software and Technology) covered under
 - Category 1, such as toxic chemicals, precursors, etc.; and
 - Category 3D001 and 3D004, which covers reaction vessels, reactors, toxic gas monitors and monitoring systems, etc.
 - Approval is valid for chemicals specified in the application for the listed countries.
 - Goods are used as per the End User Certificate (EUC) and not changed, modified or replicated without the prior consent of the Government of India



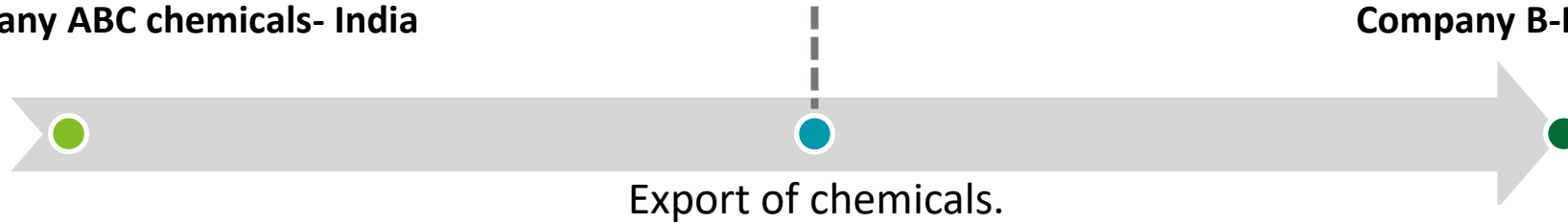
Other key aspects

- Exporter to fulfill the following conditions:
 - Submit an undertaking to allow on-site inspection at any time
 - Notify DGFT and provide a copy of the BoE within 30 days of delivery at destination point
 - Possess an agreement or a purchase order, excerpt of contract from entity receiving the items which states the end use;
 - Possess documents include the name, contact number and email id of the authority signing the EUC.
 - Undertake subsequent post export reporting(s) on quarterly basis

Case Study : Export of chemicals

Company ABC chemicals- India

Company B-Netherlands



Facts

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

Action

- 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 GAEC issued by DGFT.

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 DGFT.

Appendix 3 – SCOMET List

1C⁸ Export of chemicals (Excluding Software and Technology) listed in 1C below is allowed to the countries specified in Table 1 on the basis of a one time General authorization for export of Chemicals and related equipments (GAEC) issued by DGFT, subject to the following conditions(including those below) and the procedure as prescribed from time to time:

- The exporter is required to register and obtain General authorization for export of Chemicals and related equipments only once during the validity period. Subsequent export/re-export is subject to post reporting(s) on quarterly basis to relevant Govt. authorities;
- General authorization for export of Chemicals and related equipments issued for export / re-export of SCOMET items under the above Categories / Sub Categories (excluding software and technology) shall be valid for a period of five years from the date of issue of General authorization for export of Chemicals and related equipments subject to subsequent post reporting(s) on quarterly basis to be reported within 30 days from the last quarter;

Table 1

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States.

List of 1C chemicals:


9	1C009	Triethyl Phosphite	3B09	122-52-1	29202400
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Global Authorization for Intra-Company Transfers (GAICT) of SCOMET items including/ Software/Technology




Scope and eligibility

- A GAICT is valid for a period of three years from the date of issuance -
 - For company transfers, i.e., export and/or re-export of SCOMET items including software.
 - For recurring exports to same set of group companies, no need for repeated licenses.
 - For master service agreement for services such as design, encryption, research, development.
 - For goods that are exported to specific countries with no change in classification



Other key aspects

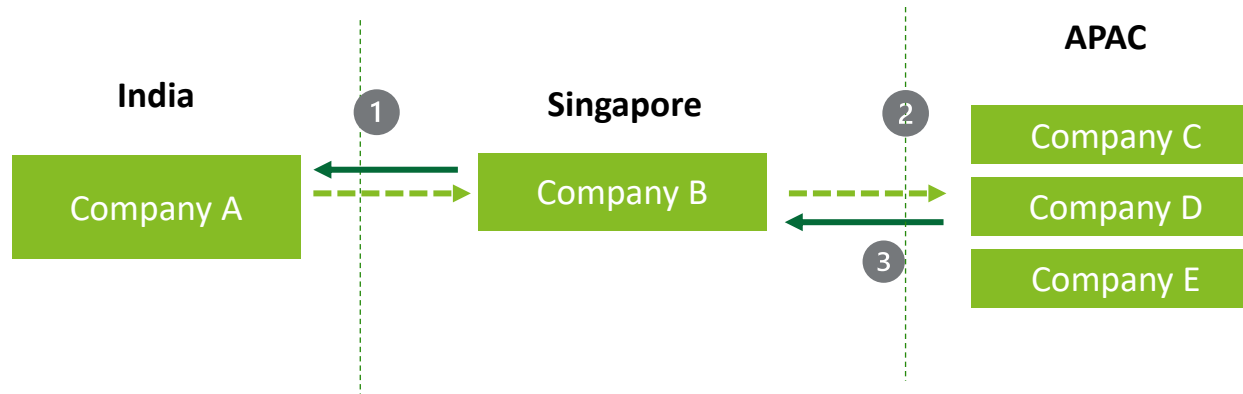
- Authorization shall be issued online along with physical submission of the original End User Certificate
- Key conditions for the authorization:
 - Demonstrate in the application that strong internal controls are in place for SCOMET compliance through a certified/approved ICP
 - Preparedness for an on-site verification at the associated entity (foreign counterpart)
 - Quarterly reporting of each SCOMET transaction along with End User Certificate
 - Record keeping for 5 years



Scenarios for submission of EUCs

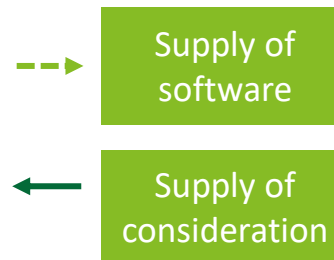
- Restricted software is exported by Indian entity to its parent company, which undertakes any of the following:
 - Exports software to its another subsidiary in a different territory – EUC submission is required
 - Develops a derivative of the Licensed software and supplies it to a third party
 - Exports software to a customer in a different territory
- In the last two cases, Indian entity to seek clarity from DGFT on whether EUC from Foreign parent or its customer required?

Case study - Export of a cloud-based software programme



Transaction modalities

- 1 Company A is the developer & IPR owner of a controlled software programme, i.e. an information security software used for satellite navigation system. The said software is licensed on cloud-based** storefront to Company B in Singapore.
- 2 Company A has granted the sole right to sub license it to Company B in the APAC region on a revenue sharing/percentage of license fee.
- 3 Depending upon the number of sub-licensees using the software each month, Company A and Company B shall share the revenue in a 60% - 40% ratio, respectively.



Applicability of SCOMET License

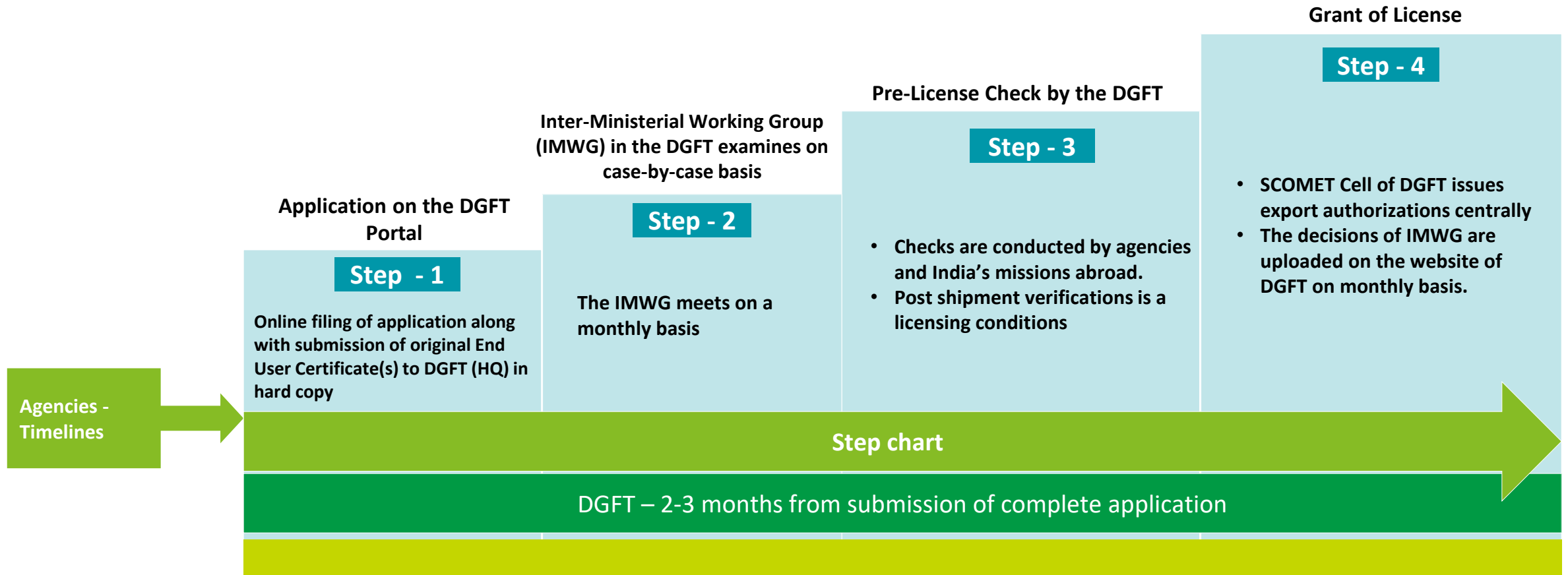
- Type of SCOMET licence authorization:
 - Global Authorization for Intra-Company Transfers incase of transfer between related companies
- Type of SCOMET license – Stock and Sale for transfer between unrelated companies.

Points for consideration

- End users/ sub-licensees cannot be identified upfront – how will the license tracking and reporting be undertaken?
- Quarterly reporting by Company A post export/sub-licensing by Company B
- Need for submission of end user certificates from all the sub-licensees in the APAC region?

**Cloud based usage of software allows customers to use the software at any location without having to download it

Application process for SCOMET license from the DGFT



Notes:

A SCOMET license is valid for 24 months. However, in some cases licenses may be granted for a shorter / longer duration to meet contractual obligations/delivery schedule or on specific recommendation of the concerned Technical / Administrative Ministry / Department / or any other agency

IMWG includes members from the Ministry of External Affairs, Department of Defence Production, Department of Space (through ISRO), Defence Research and Development Organization, Department of Chemicals and Petrochemicals, National Authority of Chemical Weapon Convention and Cabinet Secretariat

Impact on businesses and way forward



Impact on business and way forward

- Identify coverage of Company's products under the correct category of the SCOMET List
- Identify the concerned line ministry basis the product being exported to know the export restrictions. Evaluate the option of obtaining waiver from SCOMET applicability before the Policy relaxation committee
- Develop an Internal Compliance Programme (ICPs), i.e. a set of internal policies and procedures to help organizations identify and minimize risks associated with export/transfer of dual-use items
- Have triggers in place for all new transactions /contracts, incase there is a requirement of SCOMET License.
- Periodically review the requirements under the applicable regulations
- Ensure record keeping post export and timely reporting of each SCOMET transaction along with EUC.
- Non-adherence to SCOMET Licensing requirements may lead to confiscation of goods, fine and penalty. There are provisions for imprisonment of the exporter which can also be invoked

Thank you!

Kindly spare a minute to help us with your feedback for today's session...

For any queries, please feel free to write to us at intax@deloitte.com



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