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DGFT

Merchanting trade is allowed, except for SCOMET and CITES goods

Para 2.39 of the Foreign Trade Policy 2023 allows merchanting trade by an Indian intermediary under RBI guidelines, except for CITES and SCOMET goods.

CHAPTER 2 OF THE FOREIGN Trade Policy 2023, "General Provisions Regarding Imports and Exports", deals with the general provisions governing the import and export of goods and services. Para 2.01 sets the starting rule: exports and imports are "Free" except when regulated by way of

"Prohibition", "Restriction" or "Exclusive trading through State Trading Enterprises (STEs)" as laid down in the ITC (HS) classification. Some items that are "Free" for import or export remain subject to conditions stipulated in other Acts or in law for the time being in force.

KEY FACTS

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Para 2.39, "Merchanting Trade", reads in full: "Merchanting trade involving shipment of goods from one foreign country to another foreign country without touching Indian ports, or shipment of goods within one specific foreign country, involving an Indian intermediary is allowed subject to compliance with RBI guidelines, except for goods in the CITES, or under SCOMET." The permission covers two shipment patterns involving an Indian intermediary: goods moving from one foreign country to another without touching Indian ports, and goods moving within one specific foreign country.

The paragraph attaches one condition and two exclusions. The condition is compliance with RBI guidelines, which the chapter does not reproduce. The exclusions are goods in the CITES and goods under SCOMET, which the permission in para 2.39 does not cover. The paragraph sits under the heading "Other Provisions Related to Imports", directly after para 2.38, which says the sale of goods on high seas for import into India may be made subject to the FTP or any other law in force.

Elsewhere in Chapter 2, SCOMET goods are also kept out of a re-export provision. Under para 2.46 (Import for Export), clause 1(d), goods that are freely importable may be re-exported in the same or substantially the same form, even if they are on the "Restricted list" for export, except items in the Prohibited or SCOMET List of exports. Four conditions apply: the goods are not of Indian origin, are kept in a bonded warehouse under the supervision of Customs, have never been cleared for home consumption, and are exported subject to Section 69 of the Customs Act, 1962.

Para 2.47 deals with replacement goods. When exported goods are found defective, damaged or otherwise unfit for use, they may be imported for replacement free of charge by the exporter in accordance with the relevant Customs Notification, and the replacement goods are allowed for export by Customs provided they are not restricted or SCOMET items for export in ITC (HS). If the export item is "Restricted" or on the SCOMET list, the exporter needs an authorization to export the replacement goods.

Source	Foreign Trade Policy 2023, Chapter 2 (General Provisions Regarding Imports and Exports)
Published by	Directorate General of Foreign Trade
Provision	Para 2.39, Merchanting Trade
Allowed	Shipment of goods from one foreign country to another without touching Indian ports, or within one specific foreign country, involving an Indian intermediary
Condition	Compliance with RBI guidelines
Excluded	Goods in the CITES, or under SCOMET
Related SCOMET provisions	Para 2.46 (re-export of freely importable goods excludes the Prohibited and SCOMET List); para 2.47 (Restricted or SCOMET replacement goods need an authorization)

[The foreign trade policy chapter](#) (PDF, 873 KB)

Source: [DGFT's own copy](#).

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IndusDesk

hello@indusdesk.com · +91 98917 60000

9th Floor, Hemkunt House, Rajendra Place, New Delhi, Delhi 110008, India

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