

**The 26<sup>th</sup> Asian Export Control Seminar**  
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**EXPORT CONTROL SYSTEM**  
**in**  
**INDIA**

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# Indian Export Control System



- Law based
- Licensing Process: coordinated approach
- Emphasis on outreach
- Effective Enforcement
- MTCR in 2016 , WA in 2017 and AG in 2018
- Export Control list is aligned with all 4 regimes
- Balance between security and trade interests



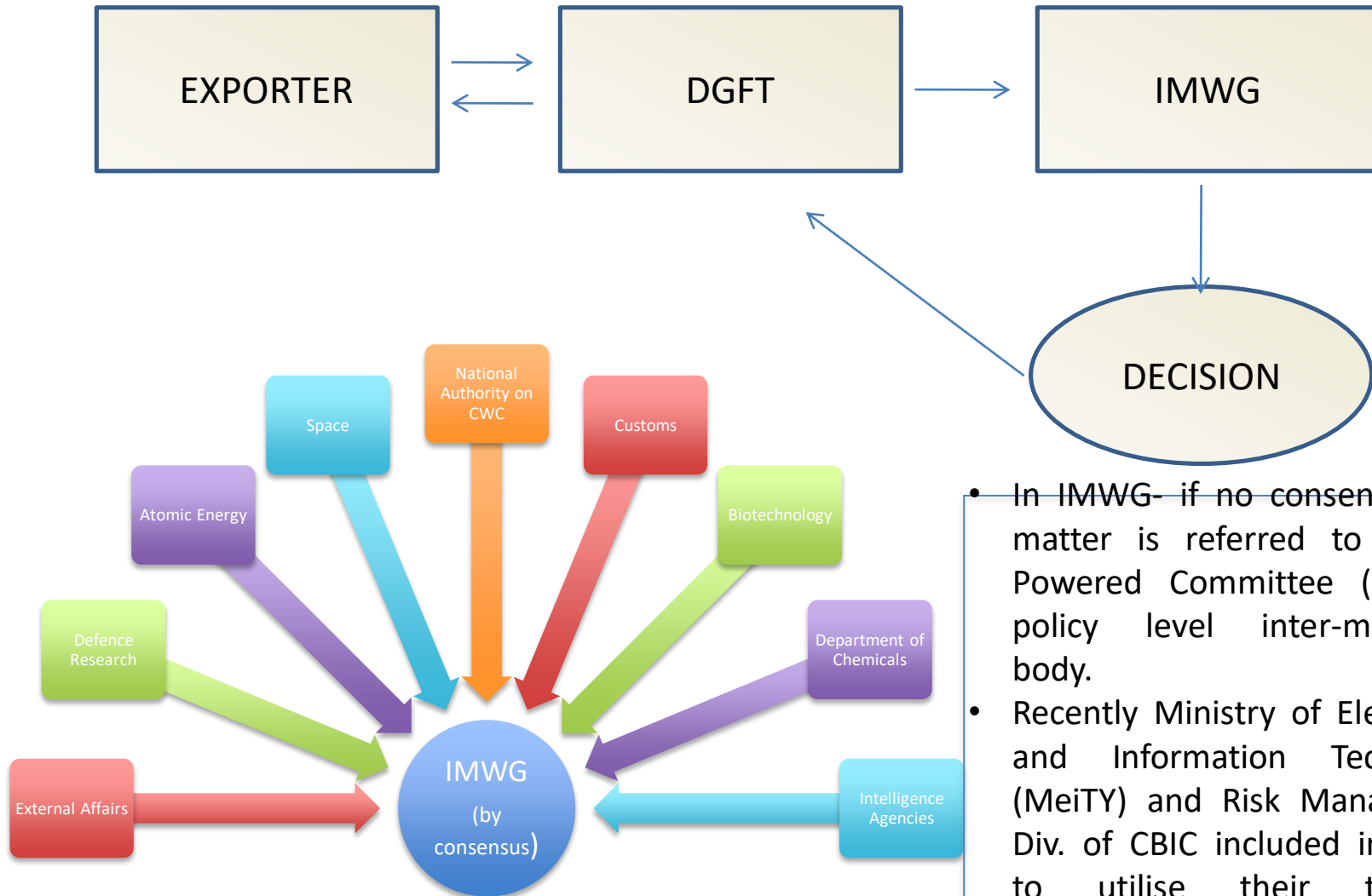
# Indian Export Control System

- Core Group of Experts for participation in regime meeting
- Timely reporting to WA
- Factored in intra-agency pre-license screening
  - Sensitive and Very Sensitive List of WA
  - AG/ MTCR undercuts
- AG Warning list shared with industry
- Enforcement agency made part of IMWG
- From 2015 to-date, 3 cases of WMD proliferation found.
  - All cases investigated, seizure/ penalties/ profile under RMS/ watch list

**Number of applications enhanced from 500 in 2016-17 to about 1000 (estimated) in 2018-19**



# Export Control: Coordinated Licensing Process



- In IMWG- if no consensus, the matter is referred to a High Powered Committee (HPC), a policy level inter-ministerial body.
- Recently Ministry of Electronics and Information Technology (MeiTY) and Risk Management Div. of CBIC included in IMWG to utilise their technical expertise.



# Export control: Outreach and Enforcement

## Institutionalized Outreach:

- **Regular calendar with budget**
- Sector specific 20 national outreach events in 2018
- Outreach in collaboration with international agencies
  - India-Wiesbaden Conference in April 2018
  - Advanced Licensing and Enforcement Exchange in October 2018
  - India hosted UN Disarmament Fellowship in January 2019
- **ICP prepared in Collaboration with CISTEC**

## Robust Legal Framework for enforcement:

- Power to search, seize, interrogate, arrest
- **Fiscal Penalty up to 5 times of the value of Export**
- **Imprisonment- six months to life imprisonment**
- **Catch-all control, Brokering control**



## Case Study 1 (AG relevant)

- Application for Tetanus Toxin- 2F15 of SCOMET
- Buyer-semi Government entity, Stated Use- Research
- Inter Ministerial Consultation revealed:
  - item capable for use in bio-terrorism
  - bulk quantity not commensurate for research
  - an unknown intermediary
- License Denied: strong suspicion of misuse/ diversion of item for WMD
- Both buyer and seller have been kept in watch list under RMS

**Strong Inter-agency cooperation in approval of license**

# Challenges



- ✓ Reduction in turnaround time for licenses
- ✓ Benchmarking of Internal Compliance Programs
- ✓ Tools to control Intangible Technology Transfers
- ✓ Commodity identification tools for licensing

***Thank you***



# Case Study 2 (UNSC sanction)



- A consignment of “ Fire and Gas Control Panels” -Not under MTCR
- Being exported to a country under UNSC sanctions
- Suspected to be deployed in ballistic missile production facility-confirmed by DRDO
- DRI detained the consignment (risk assessment)
- Case adjudicated
- Item confiscated
- Indian Company/ Foreign Buyer under watch under RMS



## Case Study 3 (WA item)

- part of UAV (*a dual use item under WA*) to a foreign entity without license
- DRI searched the premises, seized documents and did investigation
- The goods were given generic declaration, whereas it was to be used in UAV in knowledge of exporter
- DRDO confirmed possible use in UAV and for proliferation of WMD
- Show Cause Notice issued to the exporter.
- The case is yet to be adjudicated
- The company, the buyer and item have been included in RMS

**Effective screening at the border**

# Recent Policy initiatives

- Simplified procedure for easier and faster approvals for following :
  - repeat orders (now permitted to multiple end users / countries)
  - repair / return of imported SCOMET items;
  - re-export/return of imported SCOMET items
  - temporary exports for display/exhibition/ tenders/RFP/RFQ/NIT purposes [Done away requirement of EUC]
  - "Stock and Sale" policy amended to allow re-transfer / re-export of SCOMET items to the end users in pre-approved countries on post reporting basis.
  - Revision of SOP on Munitions list

# Recent Policy initiatives

- SCOMET licenses centrally from DGFT(Hqrs).
- Strengthening SCOMET Cell of DGFT
- Engaging technical consultants
- Sector specific industry outreach programmes (Chemical, Aero-space, Technology, Aviation etc.)
- Developing data base of export licenses to facilitate faster approvals
- Encouraging industry for adoption of ICP (Internal Compliance Programme)
- Working to do away the present system of physical printing of export / import authorisation on security paper

# Industry Outreach events in 2017

Workshop on Implications of Adherence to the Wassenaar Arrangement New Delhi (FICCI)	<b>March 15, 2017</b>	<b>New Delhi</b>
National Workshop for SCOMET Update: Implications for the Dual-use and Defence Industry (FICCI)	<b>May 19, 2017</b>	<b>New Delhi</b>
Awareness programme for chemical industry on CWC and SCOMET (ICC)	<b>June 13, 2017</b>	<b>Ankhleshwar, Gujarat</b>
NASSCOM Workshop for IT industry	<b>July 28, 2017</b>	<b>Bengaluru, Karnataka</b>
Awareness Programme on CWC and SCOMET Regulations (ICC)	<b>October 12, 2017</b>	<b>Vapi, Gujarat</b>

# Industry Outreach events 2018

Defexpo India 2018	<b>April, 11-14, 2018</b>	<b>Bengaluru</b>
India-Wisbaden Conference 2018 on 'Securing Global Supply Chain through Government Industry Partnership towards Effective Implementation of UNSC Resolution 1540'	<b>April, 16-17, 2018</b>	<b>Delhi</b>
3 <sup>rd</sup> National Conference on Export Control by FICCI in partnership with MEA	<b>April, 18, 2018</b>	<b>Delhi</b>
Industry Outreach programme with leading exporters of dual use items by DGFT	<b>May, 30, 2018</b>	<b>Delhi</b>
Trading in Strategic and Dangerous Chemicals jointly by STIMSON, FICCI and ICC	<b>Aug., 24, 2018</b>	<b>Mumbai</b>
Role of Customs in Enforcing India's Strategic Trade Regulations	<b>Aug., 25, 2018</b>	<b>Mumbai</b>
Industry Outreach with dual use exporters by DGFT	<b>Sep., 5, 2018</b>	<b>Delhi</b>
Sector specific four outreach events proposed by DGFT	<b>Nov., to</b>	<b>Bengaluru</b>

# Industry Outreach events 2019

<b>Industry Interaction with Amb. Phillip Griffiths, Head of Secretariat of the Wassenaar Arrangement</b>	<b>January 31, 2019</b>	<b>Delhi</b>
<b>India's Export Control Framework in the context of Aerospace and Defence Industry</b>	<b>February 23, 2019</b>	<b>Bangalore</b>
<b>Industry Interaction on Intangible Technology Transfer (ITT)</b>	<b>March 05, 2019</b>	<b>Bangalore</b>
<b>Awareness programme for chemical industry on CWC and SCOMET (ICC) - Proposed</b>	<b>March, 2019</b>	<b>Surat</b>
<b>4rd National Conference on Export Control by FICCI in partnership with MEA – Proposed</b>	<b>May, 2019</b>	<b>Delhi</b>
<b>National Workshop on Chem – Bio by FICCI in partnership with MEA – Proposed</b>	<b>June 24-28, 2019</b>	<b>Mumbai</b>

# Long Standing Commitment to Non-Proliferation



“ This is not merely a financial matter. It has international implications.....It is desirable for the Government of India to control the export of certain items from India....  
.This would mean that any export would be in accordance with the explicit permission of the Government of India and subject to the conditions laid down.”

**First Prime Minister Jawaharlal Nehru in 1947**



# Licensing Authorities



Category	SCOMET Items	Licensing Jurisdiction
0	Nuclear materials, nuclear-related other materials, equipment and technology	Department of Atomic Energy(DAE)
1	Toxic chemical agents and other chemicals	Directorate General 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	DGFT
6 (NEW)	Munitions List	Department of Defence Production (DDP)
7	Reserved	DGFT
8 (NEW)	Special Materials And Related Equipment, Material Processing, Electronics, Computers, Telecommunications, Information Security, Sensors And Lasers, Navigation And Avionics, Marine, Aerospace And Propulsion.	DGFT

# **INTERNATIONAL BEST PRACTICES COVERED UNDER WMD ACT**

## **Regulation of export, re-export, transit and transshipment**

Section 5 of the WMD Act empowers the Government to identify, designate, categorise or regulate the export, transfer, re-transfer, transshipment, or transit of any relevant item. Section 13(1) provides for regulating export, re-export, transit and transshipment

## **Catch-all control**

Section 11 of the WMD Act “ No person shall export any material, equipment or technology knowing that such material, equipment or technology is intended to be used in the design or manufacture of a biological weapon , chemical weapon, nuclear weapon or other nuclear explosive device, or in their missile delivery system”. Para

2.72(b)

## **Brokering control**

Section 12 of the WMD Act provides a brokering control. No person resident in India shall knowingly facilitate a transaction that is prohibited under the Act. However, mere carriage or provision of certain services in relation to such transaction, without knowledge would not constitute an offence.

# Export of Dual Use and Munitions items: An overview

- **Dual use items**

	2016-17	2017-18	2018-19 (upto Dec 2018)
Total Export (in USD Million)	131.75	215.98	399.25
No. of Export Authorisation Issued	244	321	354

- **Munitions**

	2016-17	2017-18	2018-19 (upto Dec 2018)
Total Export (in USD Million)	2143.53	6594.87	10053.68
No. of Export Authorisation Issued	254	288	399