Block 5

INTERNATIONAL TRADE

Ref. No. IF-SLM-IFHE – 022023 B5

For any clarification regarding this book, the students may please write to The ICFAI Foundation for Higher Education (IFHE), Hyderabad specifying the unit and page number.

While every possible care has been taken in type-setting and printing this book, The ICFAI Foundation for Higher Education (IFHE), Hyderabad welcomes suggestions from students for improvement in future editions.

Our E-mail id: cwfeedback@icfaiuniversity.in

Centre for Distance and Online Education (CDOE)
The ICFAI Foundation for Higher Education
(Deemed-to-be-University Under Section 3 of UGC Act, 1956)
Donthanapally, Shankarapalli Road, Hyderabad- 501203

BLOCK 5: INTERNATIONAL TRADE

This block introduces the readers to international trade. After World War – II, the economies of different regions showed greater interest in forming regional groups to enhance international trade in their regions. To boost cross border trade, institutions such as the World Trade Organization (WTO) were set up. In addition to this, international cartels were formed and multinational and bilateral treaties were concluded. This block highlights the significance of export-import policies that are being formulated by the Indian government to promote international trade in the country. This unit discusses the importance of documentary credits, the various parties involved, and the types of letters of credit. This block also covers regulations related to export and import finance.

Unit 16 deals with *Trade Blocs*. It discusses the need and interests of various regional group formations to promote international trade, mostly post-World War-II. This unit focuses on the structure of WTO and explains the bilateral and multinational treaties and policies.

Unit 17 deals with *Foreign Trade Policy*. It outlines the historical perspective and rationale behind trade regulations in India. The Export Import Policy formulated by the government includes regulatory framework. Besides, it defines the objectives to promote various sectors for exports and imports.

Unit 18 deals with *Documentary Credits*. It signifies the importance of various documents required in international trade. This unit highlights the Uniform Customs and Practice for Documentary Credits (UCPDC) guidelines which govern the operations of Letters of Credit (LC). Further, this unit covers various parties to LC, the mechanism of LC operation, and the various kinds of LCs.

Unit 19 deals with *Export Finance and Exchange Control Regulations Governing Exports*. It speaks about the incentives available to exporters and the exchange control regulations guiding exports.

Unit 20 deals with *Import Finance and Exchange Control Regulations relating to Import Finance*. It outlines import finance and various exchange control regulations guiding importers. Further, the prerequisites for opening LCs and customs procedure for clearance of imports in India have been discussed extensively.

Unit 16

Trade Blocks

Structure

"Free trade is not based on utility but on justice."

- Edmund Burke, Anglo-Irish statesman,
economist, and philosopher.

16.1 Introduction

The quote about free trade based on justice is a justification for trade blocks which have justice as foundation for free trade.

In the previous unit international accounting and taxation we have briefly discussed on basics on international accounting standards and operational issues on foreign currency transactions; methods used for translation of financial statements of a foreign entity; and on international taxation. This unit deals with Trade blocs.

The post-World War II period has seen a growing interest in integrating national economies at regional levels. Efforts to create regional groupings, trade bloc and treaties have often floundered due to political differences and unforeseen economic hurdles. The motivation for these efforts arises out of the realization of the limitations imposed by national frontiers and the expected benefits of a wider market, comprising several national economies. This has resulted in increased trade, investment and economic efficiency.

We begin this unit by discussing World Trade Organization (WTO), which was created to replace the GATT. The WTO is working on the lines of GATT by limiting harmful trade practices.

16.2 Objectives

After studying this unit, you should be able to:

- Discuss genesis of World Trade Organization (WTO)
- Assess the results of Multilateral Trade Negotiations
- State the necessity on formation of international cartels
- Explain the provisions and functioning of the Organization of Petroleum Exporting Countries (OPEC)
- Discuss the contractual agreement notations on bilateral and multilateral treaties
- Describe the significance on formation of the 'European Committee'
- Enumerate the scope and functions of NAFTA and UNCTAD
- Ascertain the need and relevance of trade, aid and development

16.3 Historic Perspective of GATT (General Agreement on Tariffs and Trade

GATT was a multi-lateral treaty that came into force in January 1948. Its basic objective was to lay down the rules for conducting international trade. It also provided a forum in which countries could discuss their trade problems and can enhance their international trading opportunities.

Trade Negotiations under the GATT

Eight major trade negotiations took place under the GATT auspices. They are:

- The first round in 1947 (Geneva)

  This round saw the creation of GATT with 23 countries.

- The second round in 1949 (Annecy, France)

  This round was attended by GATT 13 countries. The principal emphasis of this round was tariff reduction.

- The third round in 1951 (Torkquay, England)

  This round was attended by GATT 38 countries. The tariff reduction negotiations were continued in this round.

- The fourth round in 1956 (Geneva)

  This round was attended by GATT 26 countries. Tariff reductions and strategies were set for future GATT policy toward developing countries. This helped these countries for improving their positions as treaty participants.

- The fifth round in 1960-61 (Geneva, Dillon Round)

  This round was attended by GATT 26 countries and laid emphasis onTariff reductions. The conference was named after C. Douglas Dillon, the then US Secretary of State.

- The sixth round in 1964-67 (Geneva, Kennedy Round)

  This round was attended by GATT 62 countries. Tariff reductions called for an across-the board reduction rather than a by-product specification, for the first time. The anti-dumping agreement was rejected by the US Congress.

- The seventh round in 1973-79 (Geneva, Tokyo Round).

  This round was attended by 102 countries. Reduced non-tariff trade barriers and tariffs on manufactured goods. Here, the anti-dumping agreement was rejected by the US Congress.

- The eighth round in 1986-94 (Uruguay Round).

  This round was attended by 123 countries. This lead to the creation of World Trade Organization (WTO) to replace the GATT treaty.

16.4 World Trade Organization (WTO)

The World Trade Organization (WTO), which began its operations in 1995, is a successor of General Agreement on Trade and Tariffs (GATT). The GATT was a forum where the member countries used to meet from time to time to discuss and solve world trade problems. The WTO differs from GATT in the sense that it is a chartered trade organization. The WTO has a legal status and enjoys privileges or immunities on the same footing as the International Monetary Fund (IMF) and the World Bank. The number of governments that became members of the WTO on its first day was 76. The membership of WTO increased to 148 by February 2005 and as on January 1, 2023, the number of members is 164 and these countries represent 98% of the world trade. India is one of the founder members of the WTO. The WTO is based in Geneva, Switzerland.

Its main functions are to:

- Administer trade agreements
- Limit harmful trade practices

- Act as a forum for trade negotiations
- Cooperate with other international institutes working in global policy-making
- Oversee national trade policies
- Administer the understanding on rules and procedures governing the settlement of disputes under ‘Dispute Settlement Understanding’ (DSU)
- Building trade capacity of developing nations
- Outreach through regular dialogue with NGOs, Parliamentarians, other international organizations, media and general public on the various activities of WTO

16.4.1 Structure of WTO

The World Trade Organization (WTO) is headed by the ministerial conference which meets at least once in every two years. The ministerial conference works for greater coherence in economic policy-making at the global level. The ministerial conference is the supreme authority of the WTO. WTO is the authority to take decisions on all matters under any of the ‘Multi-lateral Trade Agreements’.

There is a ‘General Council’ constituting representatives of all the members to oversee the operations of the WTO agreement and ministerial decisions on a regular basis. It also acts as a ‘Dispute Settlement Body’ (DSB) and a ‘Trade Policy Review Body’ (TPRB), each having its own chairman. There is a ‘Council for Trade in Goods’, the ‘Council for Trade in Services’ and the ‘Council for Trade Related Aspects of Intellectual Property Rights’ (TRIPs). These councils are headed by the ‘General Council’ and they can have their subsidiary bodies. The secretariat of the WTO, based in Geneva is headed by the Director General, who is appointed by the ministerial conference. The Secretariat does not have a decision-making role. One of the main duties is to support technical aspects of the various councils and committees and ministerial conferences to analyze world trade and explain the WTO affairs to the public and the media.

The World Trade Organization (WTO) is a watchdog of international trade. It regularly examines the trade regimes of individual members. It is also a management consultant for world trade. WTO economists keep a close watch on the pulse of the global economy. It is a system that promotes fair and undistorted competition. By lowering trade barriers, the WTO’s system also breaks down other barriers between the peoples and nations. The rules on non-discrimination are designed to secure the fair conditions of trade. WTO encourages development and economic reforms as three-quarters of its members are developing countries and countries in the process of economic reforms. Thus, it can be said that the WTO has helped in creating a strong and prosperous trading system contributing to unprecedented growth. It also helped in binding the governments to keep their trade policies within agreed limits to help producers of goods and services and exporters and importers in conducting their businesses.

16.4.2 WTO Agreements

The WTO operates through the various trade agreements, known as the multi lateral trading agreements, entered into by the member countries through their official representatives. All types of trade disputes are channeled through the WTO dispute settlement process.

The WTO Agreements are the result of negotiations between members. The agreements are mostly the outcome of the Uruguay Round negotiations of 1986 – 1994. While the traditional agreements included major revision to the original GATT, later the WTO added agreements related to trade in services, intellectual property etc. As of 2023 January the current body of trade agreements comprising the WTO consists of 16 different multilateral agreements (to which all WTO members are parties) and two different plurilateral agreements (to which only some WTO members are parties). Let's discuss the main agreements.

I. Multilateral Agreement on Trade in Goods

From 1947 to 1994, the GATT formed the basis for trade negotiations. However, in 1995 the Marakesh Agreement paved the way for WTO's trade agreement. The Marakesh agreement has annexures dealing with specific sectors relating to goods, such as agriculture, and with specific issues such as product standards, subsidies and actions taken against dumping. A significant addition was the Trade Facilitation Agreement, which entered into force in 2017.

The different agreements dealing with various aspects related to trade in goods are:

1. **Understanding on Balance of Payment Provisions of GATT**

   The members imposing restrictions for correcting balance of payments deficits should give preference to price-based measures. The various price-based measures can be import surcharges, import deposits or measures which affect the price of imported goods.

2. **Agreement on Agriculture**

   The agreement on agriculture seeks to open national markets to international competition by replacing non-tariff measures with normal customs duties. The agreement also seeks to check overproduction by progressively reducing government aids. Moreover, it seeks new disciplines on reduction in subsidies along with the volume of subsidized exports.

   WTO's Agreement on Agriculture (AoA) classifies domestic support or subsidies given by the government to farmers into different categories. An important type of subsidies or supports is Aggregate Measurement of Support (AMS). The AMS represents trade distorting domestic support and is referred as the "amber box".

The AMS means annual level of support (subsidies) expressed in monetary terms, provided for an agricultural product in favour of the producers (product specific) of the basic agricultural product and non-product specific support provided in favour of agricultural producers in general.

The agreement on agriculture relates to the following:

i. *Domestic Subsidies:* Domestic subsidies fall into two categories viz. the non-product specific subsidies (given for all crops) and product specific subsidies (given for specific crops). For the purpose of calculating total subsidies, both types of subsidies mentioned above must be totalled. The total subsidies should not exceed 5% of the value of total agricultural production during that relevant year. For developing countries, the minimum percentage requirement should not exceed 10% of the total agricultural production.

ii. *Export Subsidies:* The right to use export subsidies is limited to four situations: (i) export subsidies subject to product-specific reduction commitments within the limits specified in the schedule of the WTO member concerned; (ii) any excess of budgetary outlays for export subsidies or subsidized export volume over the limits specified in the schedule which is covered by the "downstream flexibility" provision; (iii) export subsidies consistent with the special and differential treatment provision for developing country members; and (iv) export subsidies other than those subject to reduction commitments provided that they are in conformity with the anti-circumvention disciplines of Article 10 of the Agreement on Agriculture. In all other cases, the use of export subsidies for agricultural products is prohibited.

iii. *Sanitary and Phytosanitary Measures:* The Agreement on the Application of Sanitary and Phytosanitary Measures sets out the basic rules for food safety and animal and plant health standards. These measures include: all relevant laws, decrees and regulations. It also includes the requisitesand procedures concerningend product criteria like processes and production methods; testing, inspection, certification and approval procedures. The quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport, provisions on relevant statistical methods and sampling procedures directly related to food safety, also are part of the above said measures. The agreement also lays down procedures and criteria for the assessment of risk of phytosanitary or sanitary protection.

   These measures specify control at the level of production, in whose territory the production takes place, providing the necessary assistance to facilitate such control and the work of the controlling authorities.

3. [1]The Agreement on Textiles and Clothing (ATC) was there continued from GATT and all restrictions thereunder terminated on January 1, 2005. After the expiry of the ten-year transition period of ATC implementation it is controlled by the general rules and disciplines embodied in the multilateral trading system.

4. **Agreement on Trade Related Aspects of Investment Measures (TRIMs)**

   Trade Related Aspects of Investment Measures (TRIMs) calls for the removal of all trade related investment measures within a period of five years. It requires foreign investment companies to be considered at par with national companies. The agreement recognizes that certain investment measures restrict and distort trade. Thus, it requires mandatory notification of all non-conforming TRIMs and their removal within two years for developed countries, five years for developing countries and seven years for least developed countries. The WTO has established a committee on TRIMs which will monitor the implementation of these commitments and report to the council of trade in goods annually.

   The multi-national agreement on trade in goods has strengthened several rules and disciplines. The most vital of these relate to anti-dumping, subsidies and countervailing measures, safeguards and dispute settlement. Rules for dispute settlement have been made time-bound, automotive and judicial in approach.

5. **General Agreement on Trade in Services (GATS)**

   GATS is the first multi-lateral agreement to provide legally enforceable rights to trade in all services. It has a built-in commitment to continuous liberalization through periodic negotiations. And it is the world's first multi-lateral agreement on investment, since it covers not just cross-border trade but every possible means of supplying a service. GATS has a right to set up a commercial presence in the export market.

   [2]The GATS applies in principle to all service sectors, with two exceptions.

   Article I (3) of the GATS excludes "services supplied in the exercise of governmental authority". These are services that are supplied neither on a commercial basis nor in competition with other suppliers. Cases in point are social security schemes and any other public service, such as health or education that is provided at non-market conditions.

   Furthermore, the Annex on Air Transport Services exempts from coverage measures affecting air traffic rights and services directly related to the exercise of such rights.

[1] https://www.wto.org/english/docs_e/legal_e/16-tex_e.htm
[2] https://www.wto.org/english/tratop_e/serv_e/gatsqa_e.htm

Another importatant aspect of GATS how it distinguishes services. GATS identify four modes of supplying services: cross-border trade, consumption abroad, commercial presence, and presence of natural persons.

GATS cover three basic principles.

Firstly, it covers all services except those provided in the exercise of governmental authority; secondly, there should be no discrimination in favor of national providers (the national treatment principle); and thirdly, there should be no discrimination between other members of the agreement (the Most Favored Nation (MFN) principle). These are very powerful principles.

No tariff or other generalized protection mechanism is applied in services, but the agreement does provide for important exceptions. First, governments can select the services in which they make market access and national treatment commitments; second, they can restrict the degree of market access they provide; and third, they can take exceptions even from the MFN obligation. In principle, the members exempted from its obligations shall not exceed a period of 10 years. They shall be subject to negotiation in subsequent trade liberalizing rounds to give more favorable treatment to some countries than to WTO members in general.

6. **WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs)**

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is the most comprehensive multilateral agreement on intellectual property (IP). The Agreement is a legal recognition of the significance of links between IP and trade and the need for a balanced IP system.

The TRIPs agreement covers seven types of intellectual property. They are:

i. C*opyright and Related Rights:* The rights of authors of literary and artistic works (such as books and other writings, musical compositions, paintings, sculpture, computer programs and films) are protected by copyright for a minimum period of 50 years from the end of the calendar year of the authorized making or publication. Also protected through copyright and related (sometimes referred to as "neighboring") rights are the rights of performers (example: actors, singers and musicians), producers of phonograms (sound recordings) and broadcasting organizations. In case of broadcasting organizations, the term of protection shall last for at least 20 years from the end of the calendar year in which the broadcast took place. The main social purpose of protection of copyright and related rights is to encourage and reward creative work.

ii. *Trademarks:* Any sign or combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings constitute a 'trademark'. The owner of a registered trademark has the executive right to prevent third parties from using identical or similar signs for goods or services. The protection of trademarks stimulates and ensures fair competition. The protection may last indefinitely, provided the sign in question continues to be distinctive, whereas the initial registration, and each renewal of registration of a trademark shall be for a period of not less than seven years.

iii. *Geographical Indications:* This refers to the identity of a 'good' originating in the territory of a member/region/locality where a given quality or reputation is essentially attributed to its geographical origin. Members are required to provide the legal means for interested parties to prevent the use of any indication which misleads the consumer as to the origin of goods.

iv. *Industrial Designs:* Industrial designs are protected for a period of 10 years. The social purpose is to provide protection for the outcome of investment in the development of new technology. Hence, giving the incentive and means to finance research and development (R & D) activities.

v. *Patents:* Patents are given for inventions. This is given irrespective of products or processes in respect of all fields of technology. The invention should be new and capable of industrial application. The patent owners can transfer the patent rights to conclude the licensing contracts. The protection for patents is given for a period of 20 years from the filing date.

vi. *Integrated Circuits:* The agreement provides protection to layout designs/topo graphics of integrated circuits for a period of 10 years from the date of its first commercial exploitation. The protection shall lapse up to 15 years after creation of the layout design.

vii. *Trade Secrets:* Trade secrets having commercial value shall be safeguarded against breach of confidence. The test data submitted to governments to obtain marketing approval for pharmaceuticals and agricultural chemicals. This shall be protected against the unfair commercial use.

Thus, it can be noted that the intellectual property rights are the rights given to persons over the creations of their minds. It is understood that it does not create any obligation to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general. They give the creator an exclusive right over the use of a person's creation for a certain period.

II. Dispute Settlement System

Resolving trade disputes is one of the core activities of the WTO.

The WTO's procedure for resolving trade quarrels under the 'Dispute Settlement Understanding' is vital for enforcing the rules and procedures for ensuring that trade flows smoothly. Countries bring disputes to the WTO if they think their rights under the agreements are being infringed. Judgement by specially appointed independent experts is based on interpretations of the agreements and individual countries' commitments.

The dispute settlement system encourages countries to settle their differences through consultation. Failing that, they can adopt a carefully mapped out, stage-by-stage procedure. This includes the possibility of a ruling by an expert panel, and the chance to appeal the ruling on legal grounds. Confidence in the dispute settlement system is borne out by the number of cases brought to the WTO.

Example: WTO Settles Turkey's Pharma Dispute with EU

In its meeting held on 29th August, 2022 WTO's Dispute Settlement Body (DSB) settled Turkey's pharmaceutical dispute with EU. Turkey put a clause that for reimbursement under the Turkish social security scheme, the foreign pharma companies needed to move their production to Turkey. The EU found this discriminatory and approached WTO's DSB. After due deliberations, Turkey agreed to implement the recommendations of the WTO Arbitrators and Panel.

Source: https://www.wto.org/english/news_e/news22_e/dsb_29aug22_e.htm Accessed on September 2, 2022.

III. Plurilateral Trade Agreement (PTA)

There are essentially two types of plurilateral trade agreements (PTAs) among WTO members. The first one is an exclusive agreement where the benefits of the agreements are shared among participants only. The second one is an open variant which is implemented on an MFN-basis, thus profiting non-signatories as well.

Some of the 'Plurilateral Trade Agreements' are given below.

- Agreement on Trade in Civil Aircraft – This agreement has 33 signatories. The agreement eliminates import duties on all aircraft, other than military aircraft, as well as on all other products covered by the agreement — civil aircraft engines and their parts and components, all components and sub-assemblies of civil aircraft, and flight simulators and their parts and components.
- Agreement on Government Procurement – Its purpose is to open up as much of this business as possible to international competition. It is designed to

make laws, regulations, procedures and practices regarding government procurement more transparent and to ensure they do not discriminate against foreign products or suppliers.

IV. Trade Facilitation Agreement

Trade Facilitation Agreement came into force on February 22, 2017. It was outcome of WTO's 9th Bali Ministerial Package of 2013. This agreement contains provisions for expediting the movement, release and clearance of goods, including goods in transit. Reductions in time and costs to trade can thus make the difference between a country seamlessly linking up to an integrated global production chain or being left on the margins of a big part of world trade. Moreover, amid a global slowdown in trade, easing trade processes can provide a critical boost to international trade and the global economy.

The full implementation of the TFA is estimated to reduce global trade costs by an average of 14.3%, with African countries and least-developed countries (LDCs) forecast to enjoy the biggest average reduction in trade costs.

Now let us understand the concept of "cartel" in international trade.

16.5 International Cartels

[3]According to OECD, a cartel is a formal agreement among firms in an oligopolistic industry. Cartel members may agree on such matters as prices, total industry output, market shares, allocation of customers, allocation of territories, bid-rigging, establishment of common sales agencies, and the division of profits or combination of these.

The formation of an international cartel means that the private or government corporations located in various countries, agree to effectively restrict competition among themselves in an effort to exploit their joint monopoly power. The example for an international cartel is 'Organization of Petroleum Exporting Countries' (OPEC).

It is an attempt to reap higher profits by acting as a single profit maximizing monopolist. In this, the cartel members as a group agree to supply/export to the rest of the world alternative quantities of the cartelized commodity (like oil) at alternative prices.

Example: Beer Cartel Busted in India

In September 2021, Competition Commission of India (CCI) imposed a fine of ₹ 7.5 billion on Dutch's Heineken controlled United Breweries and ₹ 1.2 billion on Denmark's Carlsberg for fixing prices, 'restricting supplies' and 'dividing markets' in India.

Contd….

[3] https://stats.oecd.org/glossary/detail.asp?ID=3157

Another brewer AB InBev (Belgium Based) was let off for being whistle blower. These three brewers accounted for 88% of India's $7 billion beer market. CCI directed the parties not to indulge in such activities again.

Source: https://www.reuters.com/world/india/india-antitrust-body-fines-united-breweries-carlsberg-price-fixing-case-2021-09-24/ & https://www.morganlewis.com/-/media/files/publication/morgan-lewis-title/white-paper/2022/global-cartel-enforcement-report-2021.pdf Accessed on September 2, 2022.

The conditions requisite for a successful cartel are:

1. The elasticity of demand for imports by the rest of the world must be low in the appropriate price range.
2. The cartel members should comply the official set of policies voted by the cartel members.

The first condition is usually a combination of the following three conditions:

- The elasticity of demand for total consumption by the rest of the world must be low.
- The cartel should control a large share of the world market for the cartelized commodity.
- The elasticity of supply of the cartelized commodity by the rest of the world should be low.

It can maintain a high monopoly price provided the individual cartel members do not selfishly attempt to capture more profits for themselves by behaving competitively. Here, each cartel member faces such a temptation because at the monopoly equilibrium (i.e., the marginal cost is much lower than the price), each member has the illusion that it can increase its own profits by raising its own output. When greedy cartel members behave in this manner, the cartel is not able to effectively restrict output and raise the price. This is the main reason for the eventual collapse of a cartel. Hence, the member countries must work in unison for the success of its cartel.

16.5.1 Organization of Petroleum Exporting Countries (OPEC)

The Organization of Petroleum Exporting Countries (OPEC) is a permanent inter-governmental organization, created at the Baghdad conference on September 10-14, 1960. OPEC was created by Iran, Iraq, Kuwait, Saudi Arabia and Venezuela. OPEC is dedicated to the stability and prosperity of the petroleum market as enshrined by the OPEC statute. OPEC membership is open to any country which is a substantial net exporter of oil and which shares the ideas of the organization.

The five founding members of the OPEC were later joined by nine other members.

There is a total of 13 nations that are members of OPEC as at the end of 2022. These nations are:

1. Algeria	6. Iran	11. Saudi Arabia
2. Angola	7. Iraq	12. United Arab Emirates
3. Congo	8. Kuwait	13. Venezuela
4. Equatorial Guinea	9. Libya	
5. Gabon	10. Nigeria	

The headquarters of the OPEC is at Vienna, Austria. According to current estimates, 80.4% (1,241.82 billion barrels) of the world's proven oil reserves are located in OPEC member countries, with the bulk of OPEC oil reserves in the Middle East, amounting to 67.1% of the OPEC total[4].

The OPEC ministers meet twice a year. The meet is to review the status of the international oil market. The ministers also review the future forecasts in order to agree upon appropriate actions which promotes stability in the oil market. They also conduct the meetings and establish committees in order to address environmental affairs. It conducts research on energy studies, energy finance, economics and technology. OPEC conducts regular meetings to set production quotas and discuss oil prices.

The objectives of OPEC are:

- To coordinate and unify petroleum policies among member countries to secure fair and stable prices for petroleum producers
- To provide efficient, economic and regular supply of petroleum to consuming nations
- To provide a fair return of capital to those investing in the industry.

Functioning of the OPEC

OPEC provides statistical data of its member countries. This can be found in its publications. Its publications include:

- OPEC monthly bulletin
- OPEC quarterly review
- Annual report
- Annual statistical review

[4] https://www.opec.org/opec_web/en/data_graphs/330.htm

Check Your Progress - 1

1. In which of the following years, was the World Trade Organization (WTO) established?
   a. 1991
   b. 1992
   c. 1993
   d. 1994
   e. 1995
2. The WTO has a legal status and enjoys privileges or immunities on the same footing as which of the following organizations?
   a. IMF and World Bank
   b. GATT
   c. WHO
   d. NAFTA
   e. OPEC
3. Which of the following outfit of WTO meets at least once in every two years?
   a. General council
   b. Ministerial conference
   c. Director General
   d. Secretariat
   e. Trade policy review body
4. Which of the following elements does not come under the purview of Trade Related Aspects of Intellectual Property Rights?
   a. Copyright
   b. Trademark
   c. Sanitary and phytosanitary
   d. Geographical indications
   e. Trade secrets
5. Identify the plurilateral trade agreements that got terminated in the year 1997.
   a. International dairy agreement
   b. International bovine meat agreement
   c. International dairy and bovine meat agreement
   d. Agreement on trade in civil aircraft
   e. Agreement on government procurement

16.6 Economic Integration & Multi-National and Bilateral Treaties

Economic Integration

Economic integration is a process of eliminating restrictions on international trade, payments and factor mobility. It facilitates to achieve a more efficient production structure by exploiting economies of scale and strengthening the political ties among the member nations of Regional Trade Blocks. It is also estimated that the economic integration would improve member's collective bargaining strength in bilateral and multilateral trade negotiations. It results in the uniting of two or more national economies in regional trading agreements. Economic integration varies in degrees or levels among the world economies. They are Free Trade Area, Customs Union, Common Market, Economic Union.

Free Trade Area: It is an association of trading nations to facilitate free trade between them. Each member nation will have its own set of trade restrictions against outsiders. All member nations will agree to remove all trade barriers i.e., all tariff and non-tariff barriers among themselves. An example of Free Trade Area stage of economic integration is the NAFTA, India-Sri Lanka Free Trade Agreement and India-Thailand Free Trade Agreement etc.

Preferential Trade Agreement (PTA): In a PTA, two or more partners agree to reduce tariffs on agreed number of tariff lines. The list of products on which the partners agree to reduce duty is called positive list. India MERCOSUR PTA is such an example. However, in general PTAs do not cover substantially all trade.

The key difference between an FTA and a PTA is that while in a PTA there is a positive list of products on which duty is to be reduced; in an FTA there is a negative list on which duty is not reduced or eliminated. Thus, compared to a PTA, FTAs are generally more ambitious in coverage of tariff lines (products) on which duty is to be reduced.

Customs Union: Customs Union is a step ahead of the Free Trade Area. It is an agreement between two or more countries that permits free trade among the member nations and uniform external commercial policy against non-members.

Common Market: It is a group of trading nations that permits (1) Free trade among the member nations (2) Uniform eternal commercial policy against non-members (3) Free movement of capital and labour within the market.

Economic Union: It is a group of trading nations that permits (1) Free Trade among the member nations (2) Uniform external commercial policy (3) Free movement of capital and labour within the market (4) Harmonized national economic policies through a common central bank, fiscal and monetary policy. In 1992 European Union has achieved the status of a common market.

Comprehensive Economic Cooperation Agreement (CECA) and Comprehensive Economic Partnership Agreement (CEPA): These terms describe agreements which consist of an integrated package on goods, services and investment along with other areas including IPR, competition etc. The India Korea CEPA is one such example and it covers a broad range of other areas like trade facilitation and customs cooperation, investment, competition, IPR etc.

A bilateral treaty is a written agreement concluded between two parties usually referring to matters of peace, aviation and trade. India has bilateral agreements with US, European Nations, Malaysia, Australia etc. One form of bilateral treaties is the Bilateral Investment Treaties (BITs) which are reciprocal agreements between two countries on the promotion and protection of foreign private investments in each other country.

According to a press release by PIB in the month of April 2022, India had signed 13 Free Trade Agreements (FTAs) with its trading partners, including the 3 agreements, namely India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement (CECPA), India-UAE Comprehensive Partnership Agreement (CEPA) and India-Australia Economic Cooperation and Trade Agreement (IndAus ECTA) signed during the last five years.

The list of FTAs signed by India is as under:

1. India-Sri Lanka Free Trade Agreement (FTA)
2. Agreement on South Asian Free Trade Area (SAFTA) (India, Pakistan, Nepal, Sri Lanka, Bangladesh, Bhutan, the Maldives and Afghanistan)
3. India-Nepal Treaty of Trade
4. India-Bhutan Agreement on Trade, Commerce and Transit
5. India-Thailand FTA - Early Harvest Scheme (EHS)
6. India-Singapore Comprehensive Economic Cooperation Agreement (CECA)
7. India-ASEAN CECA - Trade in Goods, Services and Investment Agreement (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam)
8. India-South Korea Comprehensive Economic Partnership Agreement (CEPA)
9. India-Japan CEPA
10. India-Malaysia CECA
11. India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement (CECPA)
12. India-UAE CEPA
13. India-Australia Economic Cooperation and Trade Agreement (ECTA)

In addition, India has signed the following 6 limited coverage Preferential Trade Agreements (PTAs):

1. Asia Pacific Trade Agreement (APTA)
2. Global System of Trade Preferences (GSTP)

3. SAARC Preferential Trading Agreement (SAPTA)
4. India-Afghanistan PTA
5. India-MERCOSUR PTA
6. India-Chile PTA

Example: Australia and UK Sign Free Trade Deal

In December 2021, Australia and United Kingdom (UK) signed a free trade deal removing all tariffs for export and import between the two nations. This had immediate benefit to a number of Australian exports covering meat, sugar and dairy sectors and $200 million tax costs waived on UK exports of cars, breweries, cosmetic and brewery industries.

Sources: https://www.abc.net.au/news/2021-12-17/australia-signs-free-trade-agreement-united-kingdom/100706992 Accessed on September 5, 2022

A multi-national treaty is an agreement between more than two parties (many countries). The multi-lateral treaties play an important role in international trade. For example, the GATT agreement established the rules of conduct in international trade and provided for a resolution process for trade disputes. Regional cooperation and economic integration are generally based upon a multi-lateral treaty. For example, the Treaty of Rome in the case of the European Community (EC).

16.7 European Community (EC)

The European Economic Community (EEC) or European Common Market (ECM) was founded in 1958. The EEC was formed under the 'Treaty of Rome' by six countries viz. France, West Germany, Italy, Belgium, Luxembourg and Netherlands. On January 1, 1973, Ireland, Denmark and United Kingdom had become members of the community. The community was further enlarged as Greece became its member in 1981, followed by Portugal and Spain in 1986. The former East Germany was admitted as a part of reunified Germany in 1990. In the process, it represented the most far-reaching attempt at economic integration among the sovereign countries and its founding treaty stands as the model, in whole or part, for all subsequent attempts at economic integration.

The objectives of the community were:

- The elimination of customs duties and quantitative restrictions on exports and imports, including other measures having equivalent effect.
- Development of common customs tariff and common commercial policy.
- Abolition of obstacles to freedom of movement for persons, services and capital.
- Establishment of a common policy in the sphere of agriculture.

- Formation of a system ensuring that competition in the common market is not distorted.
- Adoption of common policy in the sphere of transport.
- Application of procedures so that the disequilibrium in the balance of payments of member states can be remedied.
- The establishment of a European Investment Bank to facilitate the economic expansion of community.
- The association of overseas countries and territories with a view to increase trade and to promote jointly economic and social development.

In 2009, this community ceased to exist and its activities and institutions were absorbed into the European Union (EU).

European Monetary Union (EMU)

The European Council decided in 1978 to establish the European Monetary System (EMS), which started functioning in March 1979.

The objectives of EMU include:

- Coordination of economic policy-making between member states
- Coordination of fiscal policies, notably through limits on government debt and deficit
- An independent monetary policy run by the European Central Bank (ECB)
- Single rules and supervision of financial institutions within the euro area
- The single currency and the euro area

As a consequence, the EMS has created an EC currency zone to unify their economies to stimulate growth. It established an Exchange Rate Mechanism (ERM) under which each country works to prevent wide shifts in the value of its currency.

The ECU was the weighted basket of all EC currencies and was calculated daily by the European Commission. The EMS member countries extend credit facilities to each other to help deficit countries defend their exchange rate parities.

In 1995, the European Council, which consists of the heads of states of the EC's 12 members, renamed the ECU the "Euro." In 1998, the European Central Bank (ECB) was formed whose prime responsibility was to institute a single monetary policy and interest rate working with national central banks including the 'Euro' common currency. This central bank became responsible for controlling inflation and by the end of 1998, most of the European Union nations unanimously cut their interest rates in order to promote economic growth and prepare for the implementation of the Euro. The European Monetary Union (EMU) was then established, succeeding the EMS as the new name for the common monetary and economic policy of the EU. Euro currency got fully adopted and was brought into circulation by the EU member states, with Greece joining last, by 2002. As more countries subsequently joined the EU, many have adopted the Euro.

As on January 2023, the Euro is the official currency of 20 European Union countries which collectively make up the euro zone. It is the 2nd most important currency in the world. It is also the currency for some non-EU countries such as Andorra and Kosovo.

Factor Mobility

One of the aims of the European Community (EC) was the free movement of persons, services and capital. As such, workers and their families can move from one-member country to another member country without a permit. They have the same rights to work and are subject to the same taxation as nationals of the respective country. The capital mobility is obstructed by international monetary disturbances.

Regional Development Policy

The regional development policy aims at reducing the differences between the various regions and mitigating the backwardness of the less favored. The European Community (EC) aimed at the promotion of balanced expansion by providing financial help to the backward areas of its member countries. The EC provides the regional aid through the European Social Fund (ESF), European Regional Development Fund (ERDF) and the European Investment Bank (EIB). Despite these measures taken, the EC's regional development policy has failed to iron out the income disparities.

Common Transport Policy

It had three objectives as follows:

- Elimination of obstacles which transport may put in the way of the formation of common market.
- Free movement of transport services within the member countries.
- General organization of the transport system with the European Community.

Only the first objective has been attained by the European Community. The failure of the other two objectives has been due to the problems involved in infrastructure pricing, entry/rate controls of the individual member states relating to the hauling of goods by rail and road transport.

India and the EC

India has entered into a commercial and economic cooperation agreement with the European Community (EC). The European Community's share in the Indian foreign trade has not changed over the years. India first signed a cooperation agreement with EU in 1994. In July, 2020[5] the 15th India–EU Summit was held that provided a roadmap for promoting the partnership over the next five years. Bilateral trade between India and EU accounted for $116 billion in 2021-22. The EU is the 2nd largest trading partner for India and also the 2nd largest destination for Indian exports.

Example: Indian and EC Launched Trade and Technology Council

In April, 2022, India and European Community (EC) agreed to launch Trade and Technology Council. This made the bodies come together to devise a strategic mechanism to address the issues of trade, trusted technology and security covering 5G, AI, quantum computing, climate modelling and health-related technology. This agreement assumed significance in view of changed geo-political environment marked by Russian aggression on Ukraine and Chinese incursions into Indian borders.

Sources: https://www.hindustantimes.com/india-news/india-eu-launch-new-body-to-tackle-challenges-in-trade-tech-101650870156077.html Date: April 25, 2022, Accessed on September 5, 2022

There are two elements in the community's relations with India. They are:

- *Trade Cooperation:* The community has entered into a commercial agreement with India for the import of textiles under the Multi Fibre Agreement (MFA). Under this, India exports textiles and clothing to the community.
- *Development Aid:* This includes cooperation in science and technology, energy and human resources. The objective of the community is to help the Indian industry to improve its technology, reduce production costs, produce to standards acceptable to European buyers and acquire greater familiarity with European business center. For this, the community has funded several training programs, and programs for trade promotion of Indian products.

Critical Appraisal

The European Community (EC) has attained its objectives relating to the removal of obstacles to the free movement of goods, services, capital and labor between the member countries.

The EC has been successful in creating ECU as a bulwark against the hegemony of the dollar. The EC has also signed special "association" agreements with the East European countries.

As per the Article 50 of the Treaty on European Union (EU), any member state may decide to withdraw from the EU. The member state that is ready to exit, must

[5] https://www.mea.gov.in/bilateral-documents.htm?dtl/32828/IndiaEU_Strategic_Partnership_A_Roadmap_to_2025

notify the European Council of its intent, while the EU must negotiate an agreement with the member state, setting out the arrangements for its withdrawal, considering the framework for its future relationship with the EU. The agreement is negotiated in line with the Article 218(3) of the EU Treaty on the functioning of the EU.

On 23 June 2016, the United Kingdom (UK) voted to leave the EU. The UK leaving the EU is known as 'Brexit' (short form for 'Britain' and 'exit').

Activity 16.1 The European Union is a unique economic and political union between 28 European countries that together cover much of the continent. Discuss the prime objectives of establishment of the European community and its policy measures. **Answer:**

16.8 Central American Common Market (CACM)

Central American Common Market (CACM) was formed to facilitate regional economic development through free trade and economic integration. It is an association of five Central American nations initially established by Guatemala, Honduras, El Salvador, and Nicaragua in December 1960. There was a strong need for member countries to cooperate with each other to attract industrial capital and diversify their economies.

Protocol to the Charter of the Organization of Central American States (ODECA) was signed by the five Central American countries and Panama. This establishes and consolidates the Central American Integration System (SICA) as the region's institutional framework, which aims "to bring about the integration of Central America as a region of peace, freedom, democracy and development". The Protocol to the General Treaty on Central American Economic Integration (1993) establishes and consolidates the Economic Integration Subsystem, adapting it to the new SICA institutional framework and the new needs of the region's countries.

In 1991, SICA's institutional framework included Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica and Panama. Belize joined in 1998 as a full member, while the Dominican Republic became an associated state in 2004 and a full member in 2013. Mexico, Chile and Brazil became part of the organization as regional observers, and the Republic of China, Spain, Germany and Japan became extra-regional observers. SICA has a standing invitation to participate as observers in sessions of the United Nations General Assembly, and maintains offices at UN Headquarters.

The main instruments adopted to strengthen the CACM include the following:

- Regulations on the International Customs Transit Regime,
- Central American Uniform Customs Code (CAUCA III) and its regulations,
- Central American Regulations on the Valuation of Goods for Customs Purposes,
- Mechanism for the Settlement of Trade Disputes in Central America.

Example: 10 Years for CACM and EU Trade Association Agreement

In June, 2022 CACM and EU celebrated 10^{th} anniversary of their Association Agreement. The Association Agreement enabled political dialogue, cooperation and trade between CACM and EU. This agreement helped build the economies of CACM countries as they became an important supplier of the most sought after climate-specific, agricultural goods such as bananas, coffee and sugar to EU. CACM exports increased to 4 billion Euros in 2021, a 44% increase compared to 2012.

Source: https://policy.trade.ec.europa.eu/news/eu-central-america-agreement-celebrates-10th-anniversary-2022-06-23_en Accessed on September 5, 2022

16.9 North American Free Trade Area (NAFTA)

A Canadian-U.S. free-trade agreement was concluded in 1988, and North American Free Trade Area (NAFTA) basically extended that agreement's provisions to Mexico. Subsequently, NAFTA was negotiated by the administrations of U.S. President George H.W. Bush, Canadian Prime Minister Brian Mulroney, and Mexican President Carlos Salinas de Gortari and the preliminary agreement on the pact was reached in August 1992. It was signed by the three leaders on December 17, 1992. NAFTA was ratified by the three countries' national legislatures in the year 1993. It came into effect on January 1, 1994.

North American Free Trade Agreement, the trade pact gradually eliminated most tariffs and other trade barriers on products and services passing between the United States, Canada, and Mexico. The pact effectively established a free-trade bloc among the three largest countries of North America.

It is fundamentally a trade and investment agreement. It was created with a view to reduce barriers in the flow of goods, services and people among these three (3) countries. The agreement includes goods and services that are either produced in North America or that meet certain local content requirements. For example, a German company manufacturing its products in North America and meeting these standards will qualify for the same benefits as any American company.

The following are the areas covered by NAFTA:

- Tariff reduction
- Free movement of professionals among the 3 countries
- Financial and direct investment matters
- Consumer safety
- Specific issues relating to protection of labor, and
- Specific issues relating to protection of the natural environment.

Objectives of NAFTA

The objectives of NAFTA were:

i. To protect the investment in the way that no investment can be expropriated without full compensation.

ii. The creation of a special fund for the worker retraining and to their financial support in industries that adversely affected by the passage of NAFTA.

iii. The set-up of US-Mexico border environmental commission that could spend up to USD 8 billion to address water and air pollution and clean up toxic waste dumps.

iv. Substantial tariff reductions over a 10-year period. For example, the US will eliminate tariffs on automobiles assembled in Mexico and Mexico will reduce its tariffs on US-built cars and trucks.

v. Lowering barriers for easier movement of goods across borders.

vi. More access to financial services.

vii. The establishment of the North American Development Bank to assist in environmental clean-ups and to provide trade adjustment assistance to communities that adversely affected by NAFTA.

viii. The formation of special offices to investigate environmental abuses and labor abuses in Canada and the US respectively. Both the offices can impose fines/trade restrictions for countries/industries that fail to enforce their own laws.

In summary, NAFTA was an attempt to move the North American economies towards a scenario whereby a company that is based in any one of the three countries can freely carry on its business across all the three borders, so far as the basic standards are complied. The long-term objective of the NAFTA was to bring into its fold, the countries of North and South America.

NAFTA's terms, which were implemented gradually through January 2008, provided for the elimination of most tariffs on products traded among the three countries. Liberalization of trade in agriculture, textiles, and automobile manufacturing was a major focus. The deal also sought to protect intellectual property, establish dispute-resolution mechanisms, and, through side agreements, implement labor and environmental safeguards.

Impact of NAFTA on Canada

In the last three decades since the formation of NAFTA, Canada has so far experienced significant benefit from:

- United States of America investment in automotive production;
- Increases in oil exports to the USA and to the rest of the world;
- Increases in shipment of beef, agricultural, wood and paper products to the USA;
- Export of mineral and mining products, which have fared well in the USA markets.

Canada has, however, experienced some losses in narrow sectors such as specialty steel production and processed foods due to the US imports. Cities such as Windsor, Ontario, profited from being close to Detroit, where automotive parts and assembly facilities developed on either sides of the border. ‘NAFTA re-export’ became advantageous for both the eastern and the western parts of Canada. The increased traffic through their ports also gave significant benefits to it. The United States investment provided higher-paying jobs in the automotive, agri-business, energy, aerospace and transportation sectors, among others. It helped Canadian middle class to raise their standard of living and in providing secondary education for improvement

Example: US Tariffs Removed on Canadian Solar Imports

In July, 2022, the US lifted its trade tariffs on Canadian solar imports following a dispute resolution. Earlier, Canada argued that the tariffs violated the terms of the latest U.S. – Mexico – Canada Agreement (USMCA) which became effective in July 2020 in the place of North American Free Trade Area (NAFTA). The lifting of tariffs were expected to stabilise the renewable energy sector in North America.

Source: https://www.reuters.com/world/americas/us-lift-tariffs-canadian-solar-products-minister-says-2022-07-07/ Accessed on September 5, 2022

Impact of NAFTA on the Mexican Economy- A Perspective

NAFTA gave a major boost to the Mexican farm exports to the USA. This has tripled since NAFTA's implementation. Hundreds of thousands of auto manufacturing jobs have also been created in the country. In fact, most studies have found that the pact had a positive impact on the Mexican’s productivity and consumer prices.

The pact was the continuation of a decade of economic liberalization that saw the country's transition from one of the world's most protectionist economies to one of the most open economies to trade. Mexico had reduced many of its trade barriers upon joining the GATT, the precursor to the WTO, in 1986, but still had a pre-NAFTA average tariff level of 10 percent.

Mexican policy-makers saw NAFTA as an opportunity to both accelerate and "lock-in" these hard-won reforms to the Mexican economy. In addition to liberalizing trade, Mexico's leaders reduced public debt, introduced a balanced budget rule, stabilized inflation, and built up the country's foreign reserves. Hence, while Mexico was hard hit by the 2008 USA recession owing to its dependence on exports to the USA market in the year 2009 Mexican exports to the United States fell 17 percent while its economy contracted by over 6 percent. The Mexican economy was able to bounce back relatively quick. Mexico returned to growth in 2010. Its Gross Domestic Product (GDP) expanded over five percent, and subsequently fell to around 2 percent in 2014 and 2015.

But Mexico's NAFTA experience has suffered from a disconnect between the promises of some of its supporters that the pact would deliver rapid growth, raise wages, and reduce emigration and the deal's more mixed outcomes.

Mexican unemployment also rose, on which some economists have blamed NAFTA for exposing Mexican farmers, especially corn producers, to competition from heavily subsidized USA agriculture. A study led by CEPR (Centre for Economic Policy Research) economist Mark Weisbrot estimates that NAFTA put almost two million small-scale Mexican farmers out of work, in turn driving illegal migration to the USA. The migration to USA, both legal and illegal, was more than doubled after 1994, peaking in the year 2007. However, the flow reversed after 2008 as more Mexican-born immigrants began leaving the country than arriving. Experts attribute this to stricter border enforcement, changing demographics in Mexico, and the combination of fewer available jobs in the United States along with more in Mexico.

Developments in NAFTA subsequent to 2017 after President Trump became the president of USA.

When U.S. President Donald Trump came into office in January 2017, it was suggested to renegotiate NAFTA. Representatives from Canada, Mexico, and the United States began re-negotiating the agreement in August 2017.

At the end of August 2018, Mexico and the United States of America announced that they had come to terms on a new trade agreement. The agreement preserved much of NAFTA and introduced a number of significant changes. Canada on September 30, 2017, also agreed to join the new trade accord. This was branded as the United States-Mexico-Canada Agreement (USMCA). Most of the agreement, which still required approval from the countries' legislatures, was not set to go into effect until the year 2020.

Some of the most important terms of the new agreement related to automobile manufacture. Under the USMCA, for a car or truck to be exempt from tariffs, 75 percent of its components would have to be manufactured in North America. Under NAFTA, the corresponding requirement had been only 62.5 percent. The agreement also needed at least 30 per centof work on tariff-exempt vehicles to have been done by workers earning at least $ 16 per hour. This is significantly more than what the Mexican laborers received. Canada reluctantly made concessions that opened access to its market for dairy products. However, it won the preservation of a special dispute process (Chapter 19) that U.S. negotiators had sought to remove.

16.10 United Nations Conference on Trade and Development (UNCTAD)

The UNCTAD was set up in 1964. This is to provide a forum where the developing countries could discuss the problems relating to their economic development. The primary aim of UNCTAD is to formulate policies relating to developmental aspects that include:

- Trade
- Aid
- Transport
- Finance
- Technology

The Conference ordinarily meets once in four years. The UNCTAD was held at Geneva in 1964. Since then, such conferences are being held every four years.

The conference has its permanent secretariat at Geneva, Switzerland. The UNCTAD has the following functions that laid down by the United Nations (UN) General Assembly:

- To promote international trade between countries, especially for accelerating the economic development of Least Developed Countries (LDCs);
- To formulate principles and policies of international trade;
- To facilitate the coordination of activities of other international bodies within the United Nations system in the area of international trade and related problems of economic development;
- To make proposals for implementing the said principles and policies into effect;
- To act as a center for harmonious trade related development policies of governments and regional economic groupings.

UNCTAD worked on the following in its meetings.

Trade in Manufactured Goods (Generalized System of Preferences)

Under Generalized System of Preferences (GSP), the exports of manufacturers, semi manufacturers and some agricultural items from the developing countries enter duty-free or at reduced rates in the developed countries. Initially, the GSP scheme was introduced for a period of 10 years and subsequently continued on permanent basis.

There are 13 national GSP schemes in operation. The following countries grant GSP preferences namely: Austria, Bulgaria, Belarus, Estonia, the European Union, Japan, Switzerland, Norway, New Zealand, Russia, Turkey and the USA. The three major importing areas – the EU, Japan and the US, account for more than 90% of total preferential imports. Even after two decades of operation of GSP schemes, the preferential imports account for less than one-fourth of the durable imports of the OECD countries.

Trade in Primary Commodities

The prices of primary products undergo high levels of fluctuations in the international markets. This led to hardship to several developing countries as their total foreign exchange realization from the export of primary products becomes uncertain. UNCTAD has suggested the creation of a common fund in order to stabilize the prices of primary products through buffer stocks. By this, the exporters of primary products will be able to realize higher prices and the importance of such primary products will not be subjected to the uncertainty of price fluctuations (which sometimes are the result of speculative activity).

Development Finance

UNCTAD, through its Debt and Development Finance Branch (DDFB), works on technical assistance, primarily in the areas of external and domestic debt.

UNCTAD began working on debt issues from the 1970s. As the debt situation of developing countries has evolved over the following three decades, DDFB has provided up-to-date analysis of the most important developments and emerging issues in international debt and adapted its technical assistance to the changing needs of developing countries.

UNCTAD through its Debt Management and Financial Analysis System (DMFAS) is established as one of the leading international organizations in the field of debt management capacity-building.

Objectives of the DMFAS Programme:

- Help developing countries and countries with economies in transition develop appropriate administrative, institutional and legal structures for effective debt management.
- Provide direct assistance to debt offices with its products and services, including capacity-building.

- Maintain and improve state-of-the-art debt analysis and management systems.
- Provide or serve as a focal point for discussion and exchange of experience about debt management.

Economic Cooperation among LDCs

UNCTAD II conference held at New Delhi emphasized the need for promoting international cooperation and self-reliance among the LDCs. The first step towards economic cooperation among LDCs was taken at the ministerial meeting of G-77 (held in New York) where it decided to launch the Global System of Tariff Preferences (GSTP). The UNCTAD VI recommended the initiation of several cooperative measures like:

- Harmonization of Least Developed Countries (LDCs) policies, rules, regulations and practices governing technology in all areas
- Training and exchange of personnel
- Establishment of preferential agreements for the transfer and development of technology
- Technological cooperation in specific areas and sectors of critical importance

There are several factors, which stand in the way of economic cooperation among the LDCs. Their economies are highly competitive in nature, but their problems can be overcome by mutual help and trust among themselves. The LDCs need to work in close cooperation among themselves. UNCTAD is a forum where they can meet, discuss and formulate plans for regional economic cooperation.

The growing recognition of international community over the years of Least Developed Countries has drawn special needs that had led to the establishment of a number of 'International Support Measures' (ISMs) favored to offer continued relevancy to LDCs than 'Other Developing Countries' (ODCs).

The related international support measures have reaffirmed repeatedly in the key international agreements, including the 2030 Agenda for Sustainable Development (2030 Agenda) and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development (Addis Ababa Action Agenda). The 'Support Measures Portal for Least Developed Countries' established and maintained by the 'Committee for Development Policy' (CDP) secretariat had listed out 136 such measures across the fields of development, finance, trade, technology and technical assistance. In general, however, access to development finance and trade preferences are regarded as the most significant and readily accessed ISMs. The limitations and shortcomings of existing ISMs have been compounded by the ambitious targets agreed upon by the international community in the context of the 'Istanbul Programme of Action' (IPoA) and the 2030 Agenda. The potential contribution of ISMs to graduation highlights the importance of institutional capacities and of countries' ownership of their development strategies. Hence, the UNCTAD's focus on the LDCs continues to engage on LDC graduation and the technical assistance provided in support of this purpose.

Example: 15th Session of UNCTAD Held

The latest session i.e. the 15th session of the UN Conference on Trade and Development, UNCTAD 15 was held online from October 3-7, 2021 on the theme ‘From Inequality and Vulnerability to Prosperity for All’. The session consisted of a three day World Leaders Summit and five ministerial roundtables. They later discussed about scaling up of development finance and ‘reshaping of global and regional value chains’ among others.

Sources: https://sdg.iisd.org/news/unctad-conference-calls-for-new-approaches-to-achieve-prosperity-for-all/ Date: October 11, 2021. Accessed on September 5, 2022

Check Your Progress – 2

6. Which of the following is a treaty, a written agreement concluded between two parties usually referring to matters of peace, aviation and trade?
    a. Unilateral agreement
    b. Multilateral agreement
    c. Plurilateral agreement
    d. Bilateral agreement
    e. Trade negotiation agreement
7. Which of the following is a multilateral treaty that came into force in January 1948, which laid down a rule for conducting international trade?
    a. GATT
    b. NAFTA
    c. UNCTAD
    d. WTO
    e. EU
8. Identify the element that is not covered in the North American Free Trade Area (NAFTA) agreement that had come into effect under the Clinton administration.
    a. Tariff reduction
    b. Consumer safety
    c. Protection of labor
    d. Protection of natural environment
    e. Protection against food and food products

9. How many countries under NAFTA agreed to eliminate tariffs over a period of 15 years?
   a. One
   b. Two
   c. Three
   d. Four
   e. Five
10. On which of the following dates the reform of the new European Union Generalized System Preferences (GSP), got commemorated?
    a. 1st January 2014
    b. 1st July 1997
    c. 1st January 1995
    d. 1st January 2017
    e. 1st April 1994

16.11 India-Germany Relations[6]

India and Germany have a 'Strategic Partnership' since 2001, which has been further strengthened with the Intergovernmental Consultations (IGC) at the level of Head of Governments which allows for a comprehensive review of cooperation and identification of fresh areas of engagement. India is amongst a select group of countries with which Germany has such a dialogue mechanism. The 5th IGC was held in Berlin on Nov 1, 2019 wherein 22 Joint Declaration of Intents (JDIs) were signed between India and Germany. These were in a diverse range of areas, including:

(i) Cooperation in Strategic Projects (Railways)

(ii) Green Urban Mobility

(iii) Artificial Intelligence

(iv) Prevention of Marine Litter

(v) Start-ups

(vi) Ayurveda

(vii) Football and

(viii) Higher Education.

[6] https://www.mea.gov.in/Portal/ForeignRelation/IndiaGermany21.pdf

Institutional Cooperation Arrangements:

Bilateral Arrangements: Several institutionalized arrangements exist between India and Germany to discuss bilateral and global issues of interest, namely, Foreign Office Consultations, High Defence Committee, Indo-German Energy Forum, Indo-German Environment Forum, S&T Committee, and Joint Working Groups in various fields, including skill development, automotive, agriculture, coal, tourism, water and waste management.

Multilateral Arrangements: Both countries consult each other and coordinate positions in multilateral fora including G-20 and in the UN on global issues such as climate change and sustainable development. There have been consultations between the two countries on regional and international issues such as UN issues, International Cyber Issues, Disarmament & Nonproliferation, Export Control, Asia, and Africa.

Germany is the 7th largest FDI source for India. The cumulative FDI from Germany to India since April 2000 is over US$ 12.9 billion. In 2018-19, German FDI in India was US$ 886 million and in FY 2019-20, it was US$ 488 million. For FY 2020-21, German FDI in India has been US$ 667 million.

Example: €10 Billion German Assistance to India

In May, 2022 India and Germany signed a bilateral deal where Germany agreed to provide € 10 billion assistance to India until 2030 to support the use of clean energy projects. This was part of broader push to sustainable development policy by both the countries and also reache the climate change target of keeping ‘within 1.5 degree limit’.

Source: https://abcnews.go.com/International/wireStory/germany-india-sign-105b-green-development-deal-84442328 Date: May 3, 2022, Accessed on September 5, 2022

16.12 Trade, Aid and Development

The term aid is read to encompass military aid, commercial transactions, food aid and developmental assistance. The five main objectives of such aid are:

- Humanitarian – relieving human suffering;
- Development – promoting economic growth;
- Security – stabilizing societies;
- Military – improving the defense capabilities of allied governments;
- Political – buying influence for the donor government.

There has also been the development of external sources of financing. For example: World Bank, IMF, Bank for European Reconstruction, Bank for International Settlements and Eurodollar market. Development has also progressed through the active agencies of the United Nations viz. UNCTAD, UNIDD, GATT, UNICEF, ILO, etc.

These organizations have been responsible for establishing management development centers and programs in many parts of the developing world. As development advances, there would be lesser (fewer) contracts for infrastructure development (like highways) and more for higher technology and manufacturing, production know-how. It has also been indicated that the trade between developed and developing countries is only a smaller percentage of total world trade. The bulk of world trade takes place between the developed industrialized nations. For example, the combined exports of the USA, Canada and Germany are higher than the total for all the developing countries taken together. In order to initiate development in the developing countries, as mentioned earlier in this unit, the United Nations (UN) formed the Generalized System of Preferences (GSP) in 1977. The Generalized System of Preferences was set to allow developing countries certain benefits from trade preference, enabling them to attain economic self-sufficiency through trade liberalization. The GSP involved certain restrictions like:

- Not all developing countries receive preferential treatment;
- Not all industrial products subjected to tariffs are included in the GSP;
- With several products, the individual developing countries may be excluded or the supply that is tariff free may be restricted.

There is a growing international awareness that "poverty anywhere is a danger to prosperity everywhere and prosperity anywhere must be shared everywhere." The developed countries should consider it as their moral duty to help their less fortunate brethren in underdeveloped countries. But this realization on the part of the developed countries has never been spontaneous.

Aid or Trade?

Of late, the idea has been gaining importance among the LDCs that trade and not aid is a requirement for their rapid development. It is argued that the developed countries have failed to meet the aid requirements of the developing countries. An UNCTAD resolution made obligatory for the developed countries to contribute to LDCs, at least one percent (1%) of their national income. But they failed to contribute even 0.5% of their national income. Foreign aid has provided crucial support to the development plans of LDCs, but the developed countries are not prepared to supply aid to the extent needed by them. Also, LDCs do not require tied aid because of the strict conditions laid down by the donors. Thus, the LDCs and the developing countries should make efforts to increase their exports in order to have a trade surplus. Larger exports are required to pay for increasing imports and for direct service payments.

A policy that favors trade and not aid can be successful only if there is a rise in the domestic savings equal to the increase in export earnings. Developing countries like India, Brazil, etc., can utilize their export earnings for additional capital formation but no developed country would be prepared to buy at prices higher than the world market. Trade can substitute aid remarkably when the price levels in the developing economies are stabilized. Countries that are in the early stage of development should not think of substituting trade for aid because they can develop only through aid over the long run. Thus, development needs both trade and aid.

Example: $400 Million World Bank Aid to Develop Mozambique Roads

In August, 2022, World Bank approved an aid of $400 million for development of road infrastructure in Mozambique. This was part of World Bank's Project Development Objective in Eastern and Southern Africa. Road connectivity was seen as one of the means of social inclusion in the socially and environmentally high risk nation of Mozambique. The aid would be given in regular instalments until 2030.

Source: https://projects.worldbank.org/en/projects-operations/project-detail/P174639 Date: September 19. 2022 (Dynamic Update), Accessed on September 5, 2022

Activity 16.2

A Generalized System of Preference (GSP) scheme may differ in terms of country and product coverage. How does it improvise the trade pact between India and the EU? Examine the results that will become effective for exporters under a GSP scheme considering India as a beneficiary country.

Answer:

16.13 WTO Conferences Since 2001

Many strategic decisions have been taken in various WTO conferences. Some of the important events that have taken place since 2001 were summarized in the following paragraphs.

16.13.1 DOHA Conference 2001

The 4th WTO ministerial conference was held in Doha, Qatar from 9th to 14th November 2001. During this ministerial conference, 142 governments participated to shape the future of the global trading system in the 21st century. The agenda of the conference was the negotiations on agriculture and services that began in the year 2000. Later on, other issues were also added.

Some of the issues under negotiation can be summarized as follows:

- Agriculture
- Market access for non-agricultural products
- Trade-related Aspects of Intellectual Property Rights (TRIPS)
- Transparency in government procurement
- Trade facilitation
- Trade and investment
- Disputes Settlement System
- Trade and environment
- Electronic commerce
- Trade, debt and finance, etc.

Agriculture

The WTO committee recognizes the work already undertaken in the negotiations initiated in early 2000 including the large number of negotiating proposals submitted on behalf of a total of 121 members. It recalls the long-term objective referred to in the agreement to establish a fair and market-oriented trading system. Building on the work carried out to date and without prejudging the outcome of the negotiations it ensures improvements in market access, reductions of all forms of export subsidies; and substantial reductions in trade-distorting domestic support. It considers the non-trade concerns reflected in the negotiating proposals submitted by members and confirmed that non-trade concerns will be considered in the negotiations as provided for in the agreement on agriculture.

Market Access for Non-Agricultural Products

It agrees to negotiations, which shall aim to reduce or eliminate tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, on products having export potential in the developing countries. The negotiations shall fully consider the special needs and interests of developing and least-developed countries' participants in accordance with the relevant provisions of GATT. Thus, the agreement includes appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.

Trade Related Aspects of Intellectual Property Rights (TRIPS)

It stresses the significance to implement the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement) by promoting access to both existing medicines and research and development into new medicines. It agrees to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the fifth session of the ministerial conference.

Transparency in Government Procurement

The agreement recognizes the need of a multilateral agreement on transparency in government procurement. The negotiations will develop on the progress made in the working group on transparency in government procurement by the time and consider participants' development priorities, particularly those of least-developed countries. Negotiations shall be restricted to the transparency element and hence will not restrict the countries to give preferences to domestic supplies and suppliers. It also ensures adequate technical assistance and support for competence both during the negotiations and implementation thereafter.

Trade Facilitation

It recognizes the need for release and clearance of goods, including goods in transit, and the need for increased technical assistance in this area. It agrees that negotiations will take place after the fifth session of the ministerial conference. In the period until the fifth session, the council for trade in goods shall review, clarify and improve relevant aspects of the GATT and identify the trade facilitation needs and priorities of developing and least-developed countries.

Trade and Investment

It recognizes the case for a multilateral framework to secure transparent and stable conditions for long-term cross-border investment, particularly foreign direct investment that will contribute to the expansion of trade and the need for increased technical assistance in this area. It also recognizes the needs of developing and least-developed countries for development.

Dispute Settlement System

It agrees to negotiations on improvement and clarification of the 'Dispute Settlement Understanding'. The negotiations should be based on the work done so far as well as any additional proposals by members and aim to agree on improvements before May 2003 so that it will take steps to ensure that the results enter into force soon after.

Trade and Environment

With a view to increase the mutual supportiveness of trade and environment, it agrees to:

i. The relationship between existing WTO rules and specific trade obligations set out in Multilateral Environmental Agreements (MEAs).

ii. Procedures for regular information exchange between MEA secretariats and the relevant WTO committees, and the criteria for the granting of observer status.

iii. The reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

Electronic Commerce

It takes note of the work that has been done in the 'General Council' and other relevant bodies and agrees to continue the work program on electronic commerce. The work to date demonstrates that electronic commerce creates new challenges and opportunities for trade for members at all stages of development, and it recognizes the importance of creating and maintaining an environment which is favorable to the future development of electronic commerce. It declares that members will maintain their current practice of not imposing customs duties on electronic transmissions until the fifth session.

Trade, Debt and Finance

It agrees to examine the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the consent and competence of the WTO in order to boost the capacity of the multilateral trading system. Moreover, it also looks ahead to contribute a long-term solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the rationality of international trade and financial policies, with a view to protect the multilateral trading system from the effects of financial and monetary instability.

16.13.2 Cancun Conference 2003

The conference at Cancun, Mexico from 10th to 14th in September 2003 marks the 5th ministerial meet of the WTO. The main objective was to take stock of progress in negotiations and other work under the 'Doha Development Agenda'. Moreover, the issues proposed to be included in the agenda were poverty reduction and sectoral initiative in favor of cotton. It confirmed the declarations and the decisions made at Doha. It also noted the progress that has been made while carrying out the work program agreed at Doha and ensured its completion.

Insight to Cancun 2003

Agreement on Agriculture (AOA)

- Was a part of GATT
- Market access
- Domestic support
- Export subsidy

Market Access

- Objective is to reduce the tariff barriers.
- 36% slash in the import duties of developed nations.
- 24% slash in that of developing nations.
- Time limit for developed nations is over and for the developing nations it is 2004.

Export Subsidy

- To ensure fair competition in the international agri-market.
- Developed countries – to reduce export subsidy expenditure by 36% and volume by 21% in six years, in equal installments.
- Developing countries - the percentage cuts are 24% and 14% respectively in equal installments over 10 years.

Domestic Support

- Domestic support for farmers falls under three categories.
- Green box – subsidy for research, training, pest and disease control, internal food security, internal food aids, natural calamities and environment conservation etc.
- Blue box – those subsidies provided when production restrictions are imposed and aids for conserving rural environment, it is applicable only to developed nations.
- Amber box – includes two types of aids
    - Aids given to the agriculture product.
    - Aids given to agriculture inputs viz. seeds, fertilizers, irrigation, electricity.
- The above two categories together form the aggregate measure of support.
- Only the amber box subsidies must be reduced.
- 'Total Aggregate Measure of Support' (total AMS), should be reduced by 20% in developed countries in six years.
- For developing countries, AMS should come down by 13.3%.
- In absolute terms, developed nations can give up to 5% of its agriculture GDP and developing nations up to 10% as domestic support.

Status at the time of Cancun Conference

- The developed countries have not fulfilled the commitment. Subsidies remain static.
- The recent 'US Farm Bill 2002' and 'Common Agricultural Policy' (CAP) review in the EU supports high subsidy regime.
- They are trying to move the amber box subsidies to green and blue boxes.
- Many developed countries including India keep their subsidies within the limit.

Proposal of the Developing Countries

- Take five years balancing period from 2005.
- Steep tariff cuts using the Swiss (higher cuts for high tariffs) rather than the linear (proportionate) formula.

- Completely remove export subsidy, blue and amber box subsidy.
- 5% of the total agri-production can be given as green box subsidy.

What did Rich Nations Offer?

- Ready to phase out export subsidy selectively for certain products.
- Not to cut in domestic subsidies.
- Adamant in tariff barriers.

India & AOA

- Except in rice market, India is a negligible force in international agricultural market because of flawed domestic policies.
- So, the domestic subsidies of the rich nations will not affect India.
- Many Indian agricultural produce is cost effective in the domestic market.
- So, there is no fear of cheap imports from developed nations flooding the country.

The View from Other Side

- Domestic subsidies are politically sensitive in both the USA and Europe.
- Europe – Since the cost of production is very high, agreeing to subsidy cut will lead to flooding of food product imports.
- USA – Only 3% of the population is employed in agriculture. Removal of subsidy cut will lead to demise of the agriculture sector.

Where does it go from here?

- Draft declaration to be prepared before January 2005. Deadline may be missed.
- The free trade zones will get momentum. But, India will be at a disadvantage as SAFTA is a non-starter.
- Developing countries have proved their ability to fight together.
- The third world nations have ensured that they cannot be taken for granted.

Highlights

Singapore Issues

The Singapore issues are trade and investments, trade and competition policy, and transparency in government procurement; and trade facilitation. After seven years of the Singapore conference these issues were taken up to arrive at some consensus, but the attempt proved to be futile. There were lots of controversies among the member countries since, two of them strongly supported all the four negotiations but several other countries proposed to take up only trade facilitation and transparency in government procurement. Thus, the mindset of all the member countries could not focus on a single decision and despite substantial efforts the issue remained unresolved till the last day of the conference.

The Cotton Proposal

This issue was raised in the General Council and 'Agriculture Committee' by Benin, Burkina Faso, Chad and Mali. It explains the harm that the four believe has been caused to them by cotton subsidies in richer countries, calls for the subsidies to be eliminated, and for compensation to be paid to the four while the subsidies are being paid out to cover economic losses caused by the subsidies. The proposal received support from Canada, Australia, Argentina, Cameroon, Guinea, South Africa, Bangladesh, Senegal and India. The US was of the view that industrial policies that support production of synthetic fiber are also responsible for falling cotton and hence it proposed discussions how to deal with problems throughout the production process. At last the committee decided that the issue would be discussed in the informal meetings of ministers over the coming days.

End without Consensus

Most of the ministers criticized the points they disliked for bridging some of the gaps. For example, they found the agriculture text either too ambitious or not motivated enough. They differed over whether to launch negotiations on the Singapore issues or whether there is no agreement to do so. They had comments on the non-agricultural market access text, including the description of the tariff cutting formula and whether sectoral deals should be compulsory for all members. Several said the text on the cotton initiative did not reflect the proposal to cut subsidies and for subsidizing countries to compensate the African producers in the interim. And several African and Caribbean countries in particular said the draft does too little on special and differential treatment for developing countries. A few countries expressed concern that the negative sentiments would wipe out what they described as possible significant results in areas such as agriculture. Thus, the chairperson - Mr. Derbez - asked the ministers to arrive at an agreement in order to boost the world economy. He also warned that if Cancun fails, the negotiations might take a long time to recover.

Though there was no consensus, there was high level of convergence on texts of the conference.

Despite this setback, it confirmed all the Doha Declarations and Decisions towards their implementation.

16.13.3 Hong Kong Conference 2005

Hong Kong Conference attended by 149 trade ministers was held between 13 and 18 December 2005. It was the sixth WTO Conference and could have been the final step of the Doha trade talks.

Highlights

Agriculture

Agriculture became the focus of much of the negotiations and members agreed that all agricultural export subsidies would be phased out by the end of 2013.

Cotton

Cotton subsidies were creating artificially low prices destroying the otherwise competitive African cotton industries on which millions of their farmers rely. Members agreed to terminate export subsidies on cotton by 2006.

Services

The most contentious issue at Hong Kong was services. Many developing countries felt that liberalization in the services sector would seriously erode their competitiveness and it is not in line with their national development objectives.

Development Package

The agreement to introduce duty-free, tariff-free access to goods from Least Developed Countries (LDCs) was diluted because of a caveat that enables the developed countries to provide access for only 97 per cent of the tariff lines to protect their domestic industry.

Vietnam and Tonga Membership

The membership agreements of Vietnam and Tonga were approved by the ministers in a formal session on 15th December 2005. These two countries joined the WTO as the 149th and 150th members.

16.13.4 Geneva Conference 2009

The seventh WTO ministerial conference took place between 30 November and 2 December 2009 in Geneva, Switzerland. Although the ministerial conferences in principle are to be held every two years, it was four years since the last meet was held in Hong Kong in 2005. This conference was only a platform for the trade ministers to review the functioning of the house and was not a negotiating session. The general theme of the discussion was “The WTO, the Multilateral Trading System and the Current Global Economic Environment”. The trade ministers reviewed WTO activities, including the Doha Work Programme on Day 1, and discussed the WTO’s contribution to recovery, growth and development on Day 2.

16.13.5 Geneva Conference 2011

The eighth ministerial conference was held in Geneva, Switzerland between 15 and 17 December 2011. Three major themes of this conference were “Importance of the Multilateral Trading System and the WTO”, “Trade and Development” and

"Doha Development Agenda". The conference approved the accessions of Russia, Samoa and Montenegro. The consent of Russia's membership was important because it was the largest economy outside the WTO since the accession of China in 2001.

16.13.6 Bali Conference 2013

Trade ministers in the ninth ministerial conference held in Bali, Indonesia between 3-7 December 2013, made a series of decisions concerning streamlining trade, providing vulnerable developing countries different options aiming food security, boosting Least Developed Countries (LDCs) trade and generally helping development. This was named as "Bali package". Yemen was accepted as the 160^{th} member of WTO.

16.13.7 Nairobi Conference 2015

Trade ministers in the 10th ministerial conference met at Nairobi, Kenya between 15 and 18 December 2015. The core Doha Development Agenda (DDA) issues were in the negotiating agenda, viz. agriculture, market access and services. While there seems to be consensus on this, there is no agreement on how to take the negotiations forward, either under the present Doha network or under some other new architecture.

[7]The 'Nairobi Package' contains a series of six ministerial decisions on agriculture, cotton and issues related to least-developed countries.

The decision to fully eliminate any form of agricultural export subsidies is an historic decision and constitutes a significant step in the reform of agricultural trade. It ensures that countries will not resort to trade-distorting export subsidies and thereby levels the playing field for agriculture exporters. It is particularly meaningful for farmers in poor countries who cannot afford to compete with rich countries which artificially boost their exports through subsidization.

Due to the high commodity prices in recent years, many countries have significantly reduced their export subsidies and only a handful of WTO members still use export subsidies, according to a WTO survey in 2015. In times of low prices, however, countries often resort to export subsidies — and history has shown that once one country does so, others would quickly follow suit. Now WTO members will not resort to such action in the future.

Under the decision, developed members have agreed to remove export subsidies immediately, except for a handful of agricultural products, and developing countries by 2018. Developing members will maintain the flexibility to include marketing and transport costs for agriculture exports until the end of 2023, and the poorest and food-importing countries would enjoy additional time to cut export subsidies.

---

[7] https://www.wto.org/english/thewto_e/minist_e/mc10_e/briefing_notes_e/brief_agriculture_e.htm

Other export policies, such as on export finance, international food aid and operations of agricultural exporting state trading enterprises, can also be used to support agriculture exports and circumvent the provisions on export subsidies. The Nairobi decision contains rules to minimize the possible distorting impact of such policies on international trade. These include maximum repayment terms for export financing programmes for agriculture exporters supported by the government, provisions on state trading enterprises engaging in agriculture trade, and disciplines to ensure that food aid does not displace trade and does not cause adverse effects on domestic production. The Nairobi decision represents a major step forward in agricultural trade by fully eliminating any form of agricultural export subsidies.

Decisions were also made regarding preferential treatment for LDCs in the area of services and the criteria for deciding whether exports from LDCs may benefit from trade preferences.

Decisions of benefit to LDCs

The 'Nairobi Package' also constitutes decisions of specific benefit to LDCs, including enhanced preferential rules of origin for LDCs and preferential treatment for LDC services providers.

LDC trade in services

The ministerial decision on implementation of preferential treatment in favour of services and service suppliers of 'LDCs' and increasing LDC participation in services trade extends the current waiver period under which non-LDC WTO members may sanction preferential treatment to LDC services and service suppliers. The waiver, adopted in December 2011, runs for 15 years. The ministerial decision extends this an additional four years, or until 31st December 2030.

The waiver permits WTO members to deviate from their Most-Favoured Nation (MFN) obligation under the General Agreement on Trade in Services (GATS).

16.13.8 Buenos Aires Conference (2017)

The WTO held its 11th Ministerial Conference (MC11) at Buenos Aires, Argentina on December 10-13, 2017 to discuss key outstanding issues dominated by agriculture. The trade ministers and other senior officials of the 164-member WTO met to debate on major themes such as: agriculture domestic support, disciplines applicable to public stockholding programs, cotton initiatives, export prohibitions/restrictions, market access, and a special and differential treatment for developing countries.

The proceedings were conducted with a high degree of openness and transparency where the representatives of all the member countries had equal opportunity to express their views. The Conference could not take any decision on issues related to agriculture. According to the existing mandate and rules of the WTO, there is a fixed subsidy of 10% for procurement of food from farmers in order to feed the needy and the poor. In the developing countries, this restriction of 10% constrains the government in food procurement and implementation of food aid programs. The methodology used for determining the subsidy is based on 1986-88 base price and ignores inflation. All the developing countries including India were against this because nearly half of their population depends on agriculture. However, the position of the developed countries led by the USA on a commitment to give a permanent solution to public stockholding for developing nations led to a collapse of agricultural negotiations. However, members would continue to work on the existing mandates and decisions on issues such as: agricultural domestic support, permanent solution on public stockholding, and a special safeguard mechanism. Other decisions that were made included a work program related to disciplines on fisheries subsidies with the objective of arriving at a decision in the next ministerial conference. Also, it was decided that the non-negotiating mandate of the existing work program on e-commerce would continue.

Ministerial decisions on new issues such as: investment facilitation, MSMEs, and gender equality could not gain traction as they lacked consensus or a mandate. Ministers couldn't arrive at an agreed ministerial declaration because of no convergence among members. Few members failed to acknowledge and reiterate key principles guiding the multilateral organization and did not support various agreed mandates. India held on to its tough stand on the emerging issues such as e-commerce and investment facilitation. In the end, the conference was wrapped up with a Chair's summary of the Ministerial Conference 11 proceedings but there was no consensus on any ministerial declaration.

16.13.9 The 12th Ministerial Conference at Geneva 2022

The 12th Ministerial Conference (MC12) held in Geneva in June 2022. The Conference reached certain conclusion on fisheries subsidies, food insecurity, e-commerce and other issues.

Fisheries subsidies

WTO members arrived to an Agreement on Fisheries Subsidies and it sets new global rules to curb harmful subsidies and protect global fish stocks keeping the needs of fishers in developing and least-developed countries (LDCs). This is the first WTO agreement to place environmental sustainability at its core. The agreement prohibits support for illegal, unreported and unregulated (IUU) fishing. It bans support for fishing in overfished stocks. The agreement curbs the subsidies for overcapacity and overfishing on the unregulated high seas. According to Director-General WTO the MC12 brought the positive impact for 260 million people who depend on marine fisheries for their livelihood.

Another important aspect in MC12 was waiver on Trade-Related Aspects of Intellectual Property Rights (TRIPS) concerning the use of compulsory licences to produce COVID-19 vaccines.

Food insecurity

The MC12 made a Ministerial Declaration on the food insecurity. The Declaration expressed the strong commitment by WTO members to take concrete steps to facilitate trade, which plays a vital role in improving global food security, and improve the functioning and resilience of global food markets. It also reaffirms the importance of not imposing export prohibitions or restrictions on agri-food trade in a WTO-inconsistent manner.

Another important decision is continuing the e-commerce work programme by WTO members. The MC12 agreed to maintain the current practice of not imposing customs duties on electronic transmissions and continue discussions among members on this topic. The moratorium will remain in effect until MC13.

Ministers also agreed to talks on addressing concerns with respect to the WTO's dispute settlement system with the view to securing a fully functioning system by 2024.

Another important decision was on implementation of Sanitary and Phytosanitary (SPS) that will impact international trade in food, animals and plants.

Activity 1.3

Dumping affects both the exporting and importing counties. China dump its steel production into the foreign markets in order to clear the domestic surplus production. Examine the impact of dumping by China on Indian steel industry. What are the anti-dumping measures taken up by India to protect the domestic steel industry?

Answer:

16.14 Summary

- GATT was a multi-lateral treaty that came into force in January 1948. Its basic objective was to lay down the rules for conducting international trade. It was concluded in 1995 and WTO emerged as new organization.
- WTO (erstwhile GATT) discusses the decisions relating to international business and their implications to the world economy.

- WTO acts as a watchdog of international trade as it regularly examines the trade regimes of individual members.
- The formation of international cartels in general, and OPEC in particular, is also discussed. The OPEC is dedicated to the stability and prosperity of the international petroleum market.
- There are essentially two types of plurilateral trade agreements (PAs) among WTO members.
- Economic Integration & Multi-National and Bilateral Treaties have beome the order of the day to improve international trade.
- According to a press release by PIB in the month of April 2022, India had signed 13 Free Trade Agreements (FTAs) with its trading partners, including the 3 agreements; and 6 limited coverage Preferential Trade Agreements (PTAs).
- The multilateral and the bilateral treaties such as GATT and India-Germany bilateral investment treaty stay focused on creating favorable conditions in order to boost investments by individuals and companies of either country in the other country.
- EU and NAFTA were important trade blocks. NAFTA was signed between USA, Canada and Mexico and subsequently a separate agreement between USA and Mexico was arrived at in 2017.
- The United Nations Conference on Trade and Development (UNCTAD) was established in order to provide a forum where the developing countries could discuss the problems relating to their economic development and formulate policies relating to the developmental aspects.
- The European Community (EC) was established with the objective of creation of customs union, and this objective has been achieved to a certain extent.
- The discussion on trade, aid and development is given immense importance as there has been growing international awareness that "poverty anywhere is a danger to prosperity everywhere and prosperity anywhere must be shared everywhere." The developed countries require consideration as their moral duty is to help their less fortunate brethren in underdeveloped countries.
- WTO conducts ministerial conferences at regular frequencies since its inception. The latest MC12 was conducted in June 2022 at Geneva.

16.15 Glossary

Bilateral Investment Treaty (BIT) is an agreement establishing the terms and conditions for private investment by nationals and companies of one state in another state.

Free Trade Area is an area designated by the government of a country to which goods may be imported for processing and subsequent export on duty-free basis.

GATT is the 'General Agreement on Tariffs and Trade'. It is a legal agreement among many countries, whose overall purpose was to promote international trade by reducing or eliminating trade barriers like tariffs or quotas.

Least Developed Countries (LDC) suffer from conditions of extreme poverty, ongoing and widespread conflict, extensive political corruption, and lack of political and social stability.

Most Favored Nation (MFN) is a status or level of treatment accorded by one country to another country in international trade. Members of WTO agree to accord MFN status to member countries.

Organization of Petroleum Exporting Countries (OPEC) is a cartel consisting of world's major oil exporting countries. It aims to manage the supply of oil by setting up prices in the world market, so that producers and consumers are insulated from large price fluctuations.

Subsidy is a sum of money granted by the state or a public body to help an industry or business keep the price of a commodity or service low.

Tariff is a form of regulation of foreign trade and a policy that taxes foreign products to encourage or safeguard domestic industry.

World Bank is a supranational body which extends loans at concessional rates to member countries for projects having high economic priority.

WTO is the World Trade Organization. It is an intergovernmental organization that is concerned with the regulation of international trade between nations.

16.16 Self-Assessment Test

1. Briefly explain the nature, scope and the statute of the inception of World Trade Organization (WTO).
2. Discuss in detail the effect of Multilateral Trade Negotiations.
3. What are International Cartels? Explain the necessary requirements for initiating international cartels.
4. Enumerate on the provisions and functioning of Organization of Petroleum Exporting Countries (OPEC).
5. "GATT was a multilateral treaty that came into force in January 1948. Its basic aim was to lay down rules for conducting international trade." - Elucidate.
6. Describe in detail the need, objectives, background and the significance of formation of the European Committee.

7. Explain the impact of NAFTA on Canada and the Mexican economy.
8. "The United Nations Conference on Trade and Development (UNCTAD) was established in 1964 in order to provide a forum where the developing countries could discuss the problems relating to their economic development." - Discuss.
9. Explain the determinants of the need and relevance of trade, aid and development.

16.17 Suggested Readings/Reference Materials

1. Francis Cherunilam, International Business - Text and Cases, 6th Edition, PHI Learning.
2. P G Apte (2020), International Financial Management, McGraw Hill Education (India) Private Limited.
3. Madhu Vij (2021). International Financial Management – Text and Cases. 4th edition. Taxmann
4. Charles W. L. Hill, G. Tomas M. Hult (2021). International Business. 12th edition. McGraw Hill Education (India) Private Limited.
5. Choel S. Eun & Bruce G. Resnick (2022). International Financial Management. 8th edition. McGraw Hill Education (India) Private Limited.
6. K. Aswathappa (2020). International Business. 7th edition. McGraw Hill Education (India) Private Limited.

16.18 Answers to Check Your Progress Questions

1. (e) 1995

The WTO, which began its operations in 1995, is a successor of General Agreement on Trade and Tariffs (GATT).

2. (a) IMF and World Bank

The WTO has a legal status and enjoys privileges and / or immunities on the same footing as the International Monetary Fund (IMF) and the World Bank. The WTO is based in Geneva, Switzerland.The WTO works on the lines of GATT by limiting harmful trade practices.

3. (b) Ministerial Conference

The structure of the WTO is headed by the ministerial conference which meets at least once every two years. The ministerial conference works towards greater coherence in economic policy making at the global level.

4. (c) Sanitary and Phytosanitary

These are concerns over human, food safety, and animal and plant health measures. The agreement lays down the procedures and criteria for the assessment of risk and determination of appropriate levels of phytosanitary or sanitary protection which is not an element of the trade related aspects of intellectual property rights.

5. (c) International Dairy and Bovine Meat agreement

Several agreements exist under the WTO, which are mostly annexed to the agreement establishing the World Trade Organization. Two plurilateral agreements the 'International Dairy Agreement' and the 'International Bovine Meat Agreement' were terminated in the year 1997.

6. (d) Bilateral Agreement

A bilateral treaty is a written agreement concluded between two parties usually referring to matters of peace, aviation and trade. For example, the United States and Britain have signed a treaty aimed at increasing cooperation to regulate the global markets in commodities and securities.

7. (a) GATT

General Agreement on Tariffs and Trade (GATT) was a multi-lateral treaty that came into force in January 1948. Its basic aim was to lay down rules for conducting international trade. GATT also provided a forum in which countries could discuss their trade problems and thus enhance their international trading opportunities.

8. (e) Protection against food and food products

All others being the areas covered below the NAFTA pact, protection against food and food products is not an element under the above stated agreement.

9. (c) Three

It consists of three countries, the USA, Canada and Mexico which agreed to eliminate tariffs over a period of 15 years.

10. (a) 1st January 2014

The reform of the new European Union Generalized System Preferences (GSP) was commemorated on 1st January 2014. GSP was applicable for a period of 10 years.

Unit 17

Foreign Trade Policy

Structure

"For the only way in which a durable peace can be created is by world-wide restoration of economic activity and international trade."

- James Forrestal, Former United States Secretary of Defense

17.1 Introduction

The quote underscores the importance of foreign trade.

In the previous unit, we dealt with various issues related nature and scope of World Trade Organization (WTO), some of the important Multilateral Trade Negotiations, the formation of international cartels / trade bodies like OPEC, EC and UNCTAD.

In this unit we deal with the genesis of the trade policy important features of trade policy and its impact on foreign exchange earnings. As foreign trade constitutes 45% of India's economy, the foreign trade policy deserves a special focus and dedicated attention as a key constituent of India's economic policies.

Trade is not an end, but it is a means to economic growth and national development. The main objective is not the mere earning of foreign exchange, but the stimulation of greater economic activity. For India, to become a major player in world trade, an all-encompassing, comprehensive view needs to be taken for the overall development of the country's foreign trade. While increase in exports is of greater importance, we have also to facilitate those imports, which are needed to stimulate our economy. Coherence and consistency among trade and other economic policies is important for maximizing the contribution of such policies to economic development.

Hence, trade facilitation is a priority of the government for cutting down the transaction cost and time, thereby rendering Indian exports more competitive. Director General of Foreign Trade (DGFT), Ministry of Commerce, GOI is the facilitator of exports and imports. Its focus is on good governance, which depends on efficient, transparent and accountable delivery systems. In order to facilitate the international trade, DGFT consults various export promotion councils as well as trade and industry bodies from time to time.

17.2 Objectives

After studying this unit, you should be able to:

- Appreciate the historical perspective and the rationale behind trade regulations in India
- Analyse how one free trade policy is significant from the other, and how they led to trade liberalization in India
- Discuss the latest 'Foreign Trade Policy' (2015-2020) from different scenarios like objectives, features, schemes, categorization, etc.
- Describe regulatory aspects to handle basic transactions in international trade

17.3 Historical Perspective

Export-import trade guidelines in India have evolved over a period. An overview of these events would provide a newer perspective on the paradigm shift that has taken place in the export-import policy of the country.

Historically, India ran a trade surplus for centuries together through export of spices, handicrafts, textiles etc. No restrictions on imports or exports were officially maintained. But, the situation changed after the British took over power.

Control on import trade in India was visible for the first time during the World War II when limitations were placed under 'Defence of India Rules' (DIR). However, at that time the main aim was to reduce the pressure on the limited available shipping space. Starting with consumer goods, the restrictions were gradually extended to cover unmanufactured as well as semi-finished goods. From September 1946 onwards, import control was taken over by Emergency Provisions (Continuance) Ordinance, 1946.

The ordinance was replaced by the Import and Export (Control) Act, 1947. This Act was replaced by Foreign Trade (Development and Regulation) Act, 1992.

For many years, the accent of trade policies was on maintaining the level of imports within the available foreign exchange. This was done with the intention of protecting domestic industry and achieving price stability. However, these measures were not successful in containing the trade deficit. It was then that the Government of India realized the importance of export promotion.

The export - import policy of 1985 can be considered as the first bold and dynamic policy initiative in this direction. Keeping in mind the importance of exports, the 1985 policy was announced incorporating the objectives of export promotion, import substitution and technological upgradation.

In the years 1990-1991, drastic measures (like pledging of gold by the RBI to borrow foreign exchange) were introduced to tide over the severe balance of payments crisis, which had reached dangerous levels because of the gulf crisis. In 1991, India's foreign exchange reserves had depleted substantially. Foreign exchange reserves came down to less than 1 billion US dollar which was only able to meet 7 days of India's imports. It was in this context that India gradually started dismantling its quantitative restrictions, partially liberalized its exchange rate and reduced the peak rate of customs duties. The average duty on all products stands reduced from over 70% in 1991-92 to 12% in 2008-09. Even though the crisis was resolved, a need was felt to be better equipped for any such future recurrences. As a corollary, the 'Liberalized Exchange Rate Management System' (LERMS) was introduced. The scheme came into effect on 1st March 1992. As per this scheme, 40% of current account receipts were required to be converted / surrendered to the RBI at the official rate prescribed by the RBI and the balance at market determined exchange rates. The success of this scheme led to the introduction of 'Unified Exchange Rate System' that came into effect from 1st March 1993. Since then, all foreign exchange transactions are being put through by 'Authorized Dealers' at market-determined rates.

The other notable fallout of this crisis was the launching of economic and financial reforms by the Government of India. The main objective of the liberalization process was to increase the wealth of the nation by higher economic growth that would bring about better income and living standards to the population. In the interdependent world of the 90s, it was felt that economic growth could only be achieved by integrating the Indian economy with global economy in terms of free movement of goods, services and capital.

The liberalization process was aimed at:

- Freeing industry from licences, permits and government control.
- Reforming fiscal and monetary policies.
- Reforms in BFSI sector (Banking, Insurance, Financial Services) and the capital market.
- Strengthening strong infrastructure facilities such as telecommunication, power and transport like roads and railways to facilitate fast track economic growth.

- Liberalizing exchange rate management system by removing exchange control restrictions.
- Removing quantitative and tariff barriers on international trade and rationalizing tariffs.

The Export and Import Policy, FTP 1992-97 was a significant landmark in India's economic history. For the first time, conscious effort was made to dismantle various protectionist and regulatory policies and accelerate the country's transition towards a globally oriented economy. This policy coincided with the 8th Five Year Plan and has yielded impressive growth in exports. While India's total exports during 1991-92 were US$ 17.86 billion, India's overall exports (Merchandise and Services combined) in April-December 2022 is estimated to exhibit a positive growth of 16.11 per cent over the same period last year (April-December 2021). As India's domestic demand has remained steady amidst the global slump, overall imports in April-December 2022 is estimated to exhibit a growth of 25.55 per cent over the same period last year. India's overall export (Merchandise and Services combined) of USD 61.82 billion in December 2022. The exports exhibited a negative growth of (-) 5.26 per cent over the same period last year. Overall import in December 2022* is estimated to be USD 73.80 billion, exhibiting a negative growth of (-) 1.95 per cent over the same period last year. (Source: PIB press release 16th January, 2023).

FTP 2004-09 attempted to integrate the trade policy with the country's economic growth. In the year 2004, when the Government of India announced its foreign trade policy 2004-09, India's exports stood at only US $ 63 billion. The objectives of 2004-09 foreign trade policy are: (i) To double India's percentage share of global merchandise trade within the next five years; and (ii) To act as an effective instrument of economic growth by giving a thrust to employment generation.

The foreign trade policy 2015-20 determines India's foreign policies concerning commerce, business, and trade. The foreign trade policy (2015-2020) provides a framework for increasing exports of goods and services as well as generation of employment and increasing value addition in the country, in keeping with the "Make in India" vision of our Hon'ble Prime Minister. The focus of the government is to support both the manufacturing and service sectors, with a special emphasis on improving the 'ease of doing business' (Foreign trade policy report, 2015-20, Government of India, Ministry of Commerce and Industry). In new trade policy, the major focus areas are trade facilitation and enhancing ease of doing business and commitment to move towards paper less processing. Due to which, the number of mandatory documents required for exports and imports of goods from/into India have come down to three, which is comparable with international benchmark. Foreign trade policy does not allow exporting the goods that are scarce and needed within the country.

Foreign trade policy 2015-20 introduces two new schemes - "Merchandise Exports from India Scheme" (MEIS) for exports of specified goods to specified markets and "Services Exports from India Scheme" (SEIS) for increasing exports of notified services. There would be no conditionality attached to any scrips issued under these schemes. Duty credit scrips issued under MEIS and SEIS and the goods imported against these scrips are fully transferable (Foreign trade policy report, 2015-20, Government of India, Ministry of Commerce and Industry). This will promote the domestic capital goods manufacturing industry. Such flexibility will help exporters to develop their productive capacities for both local, global consumptions. Measures have been taken to give a boost to exports of defense and hi-tech items.

The foreign trade policy (2015-2020) is made product wise and location wise and tried to maximize the foreign trade from the country. It has been designed by including long-term and medium-term strategy to boost overall growth of India's foreign trade by enhancing trade competitiveness. By implementing the new foreign trade policy (2015-2020), the India's share in world trade is expected to double from the present level of 3% by the year 2020. Foreign trade policy aim is to boost India's participation in global trade by improving India's export and import services. It focuses on improving India's market share in existing markets and products as well as exploring new products and new markets. India's foreign trade policy also envisages helping exporters leverage benefits of GST, closely monitoring export performances, improving ease of trading across borders, increasing realization from India's agriculture-based exports and promoting exports from MSMEs and labour intensive sectors.

FTP 2015-2020 rolled out measures required not just for export promotion but also for enhancement of the international trade ecosystem. Broadly, they can be categorized into the three themes:

1. **Ease of Doing Business**

   World Bank looks at three factors to assess the 'ease of doing business': number of documents required, cost and time taken for exports and imports.

   'Electronic Format' EDI (Electronic Data Interchange) format is now fully operationalized but an assessee still has an option to file an application manually.

   The limited list of three compulsory documents for imports to and exports from India became a reality.

   Mandatory documents required for exportsand imports reduced to three each[8].

[8] Press Information Bureau; Government of India; Ministry of Commerce & Industry; 12-March-2015.

India took a leap forward in improving 'Ease of Doing Business' by reducing the mandatory documents required for import and export of goods to three documents each. As per the Foreign Trade Policy (1st April 2015 to 31st March 2020), issued by the Directorate General of Foreign Trade (DGFT) and its updation as on 5th December 2017, the following are the mandatory documents for export and import for India.

Mandatory Documents for Export & Import		
S. No.	Exports	Imports
1	Bill of Lading/Airway Bill/Lorry Receipt/Railway Receipt/Postal Receipt	Bill of Lading/Airway Bill/ Lorry Receipt/RailwayReceipt/Postal Receipt in Form CN-22 or CN 23 as the case may be
2	Commercial Invoice cum Packing List	Commercial Invoice cum Packing List
3	Shipping Bill/Bill of Export/Postal Bill of Export	Bill of Entry

Source: https://dgft.gov.in/sites/default/files/ft17-051217.pdf

The above three documents each would be mandatory for export and import.

Packing List and Commercial Invoice (a combined document) required by Customs whereas one document is required by RBI (Foreign Exchange Control Forms - SDF for exports and A-1 for imports).

The reduction in the number of mandatory documents would also lead to corresponding reduction in transaction cost and time. It is expected that this step would not only facilitate the 'Ease of Doing Business' in respect of 'Trading across Borders' but also improve India's ranking on this parameter.

2. Trade Facilitation

DGFT already provides for online filing of documents / applications by exporters and importers such as IEC.

Forms that are physically filled in currently such as certificates issued by Chartered Accountants / Company Secretaries / Cost Accountants will also take the electronic route as procedures will be developed to facilitate digital signature.

Exporters can upload digitally signed landing documents as proofs for notified market.

Facility of 24*7 customs clearance for specified imports is available at 18 seaports.

3. Trade Restrictions

Validity of SCOMET items (Special Chemicals, Organisms, Materials, Equipment, and Technologies) has been stretched from the present 12 months to 24 months.

SCOMET items exported under 'Defence Offset Export Policy' will now go through a simple verification of end user certificate.

'Indian Trade Classification' 'Harmonization Code System' (ITC HS) will be created for defence and security items warranting 'No Objection Certificate' as is the case with military stores.

Activity 17.1 Correlate the concept of 'Ease of Doing Business' with the performance of Indian economy in the current FY.

17.3.1 Role of Director General of Foreign Trade in International Trade

Director General of Foreign Trade (DGFT) is responsible for implementing the 'Foreign Trade Policy' (or EXIM policy) with the main objective of promoting Indian exports.

Directorate General of Foreign Trade (DGFT) is a government organization in India responsible for the formulation of EXIM guidelines and principles for Indian importers. Before 1991, DGFT was known as the Chief Controller of Imports & Exports (CCI&E).

Functions of DGFT:

Some of the major functions of DGFT and its regional offices are:

- DGFT has its regional offices at various state capitals. Through these offices, DGFT performs its functions in coordination with state governments and all other departments of the Ministry of Commerce and Industry, Government of India.
- DGFT grants 'Exporter Importer Code Number' to Indian exporters and importers. IEC Number is a unique 10-digit code required by the traders or manufacturers for the purpose of imports and exports in India. DGFT IEC Codes are mandatory for carrying out import-export trade operations. They enable the companies to acquire benefits on their imports / exports, Indian customs, export promotion councils council etc., in India.
- DGFT permits or regulates transit of goods from India or to countries adjacent to India in accordance with the bilateral treaties between India and other countries.
- To promote trade with neighboring countries.
- To grant permission of free export in export policy Schedule 2.

- DGFT plays an important role in controlling the Duty Entitlement Passbook (DEPB) rates.
- DGFT sets SION (Standard Input Output Norms).
- Any changes or formulation or addition of new codes in ITC-HS codes are also carried out by DGFT.

DGFT also acts as a trade facilitator. It also deals with the quality complaints of the foreign buyers. Officials of DGFT work in close coordination with other related economic offices like Customs Commissionerates, Central Excise authorities, DRI authorities and Enforcement Directorate.

17.4 Objectives of Foreign Trade Policy (2015-2020)

The vision underpinning the Foreign Trade Policy for 2015-2020 is to make India a significant participant in world trade. It enables the country to assume a leadership position in the international trade discourse.

While Government of India is responsible for policy on foreign trade, much of the activity at ground level takes place in States. State Governments can play a vital role in promoting exports and rationalizing non-essential imports. Steps have, therefore, been taken to mainstream states in the process of international trade.

One of the functions of DGFT (as we have seen above) is to announce Foreign Trade Policy.

Details of the Foreign Trade Policy 2015-2020

The main objectives of this policy are:

- To increase India’s share in world exports from 2% to 3.5% by 2020.
- To provide a stable and sustained policy environment for export of merchandise and services.
- To connect varied policies, procedures, and guidelines of foreign trade with other major initiatives such as “Make in India”, “Digital India”, “Skill India” to create an “Export Promotion Mission” for India.
- To widen export product basket by identifying new sectors that have potential.
- To provide a mechanism for regular appraisal for rationalizing imports and reducing trade imbalance.
- Trade facilitation: Trade facilitation is a priority of the Government for cutting down the transaction cost and time, thereby rendering Indian exports more competitive;
- To promote the diversification of India’s export by helping various sectors of the Indian economy to gain global competitiveness with a view to promote exports;

- To create an architecture for India’s global trade engagement with a view to expanding its markets and better integrating with major regions, thereby increasing the demand for India’s product and contributing to the government’s flagship "Make in India" initiative.

The success of a trade policy is critically dependent on the coordinated efforts of the Government of India with State Governments, Ministries / Departments and Institutions.

On 31st March 2022, validity of the Foreign Trade Policy (FTP) 2015-2020 along with Hand Book of Procedures (HBP) has been further extended up to 30/09/2022 by the DGFT.

Example: FTP (2015-2020) and TMA for Specified Agri Products

As part of export promotion drive, the Foreign Trade Policy (FTP) - 2015-2020 had the objective of increasing merchandise export with an equal focus on encouraging agricultural product exports. Thus, a special Transport and Marketing Assistance (TMA) was announced for the export of specified agricultural products including marine and plantation products to specific destinations. This update was in accordance with Department of Commerce, Govt. of India notification No. 17/3/2018-EP.

Source: https://pib.gov.in/Pressreleaseshare.aspx?PRID=1567543 PIB Website: 2022 Accessed on August 18, 2022.

Check Your Progress – 1

1. Which of the following is not a mandatory document for exports, according to the DGFT?
   a. Bill of lading
   b. Airway bill
   c. Commercial invoice-cum-packing list
   d. Shipping bill
   e. Bill of entry
2. What was the frequency of the Foreign Trade Policy review prior to FTP 2015-2020?
   a. 1 year
   b. 2 years
   c. 3 years
   d. 4 years
   e. 6 years

3. Which of the following is not a mandatory document for imports, according to the DGFT?
   a. Airway bill
   b. Bill of lading
   c. Bill of export
   d. Bill of entry
   e. Commercial invoice-cum-packing list
4. Which document is issued by shipping line to the importer that is not mandatory but is a commercial document?
   a. Certified engineers report
   b. Cargo release order
   c. Technical standard certificate
   d. Inspection report
   e. Product manual
5. Which of the following two documents required by customs authorities had been merged into a single document?
   a. Cargo release order & inspection report
   b. Product manual & cargo release order
   c. Packing list & commercial invoice
   d. Commercial invoice & product manual
   e. Cargo release order and commercial invoice

17.5 Highlights of Foreign Trade Policy (2015-2020)

DGFT started providing five-year export-import policy for the last one decade and the new policy in vogue (as on August 2017) is the policy issued for the period 2015-2020. Providing long-term guidance helps exporters / importers / the policy makers and other stake-holders to plan on a long-term basis.

The details of export trade policy will be available in policy 'Handbook Volumes 1 and 2'. Throughout the unit at many places, we referred to these references of 'Handbook Volumes'.

Foreign Trade Policy (2015-2020) aims at enhancing the country's exports and use trade expansion as an effective instrument of economic growth and employment generation.

The guidelines cover a 5-year period and enable the exporters / importers to take a long-term perspective on their business.

Due to Coronavirus in the year 2020, the DGFT extended the policy for one year period and went on extending, the policy will be valid till March 31, 2023 according to DGFT.

17.5.1 Key Highlights of Foreign Trade Policy (2015-2020) valid up to March 31st 2023

The following are the key highlights of this policy:

a. Merchandize Exports from India Scheme (MEIS):

Merchandize Exports from India Scheme (MEIS) has been introduced in the Foreign Trade Policy 2015-20. Objective of Merchandise Exports from India Scheme (MEIS) is to offset infrastructural inefficiencies and associated costs involved in export of goods/products, which are produced /manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India's export competitiveness.

Exports of notified goods/products shall be rewarded under MEIS. The basis of calculation of reward would be on realised FOB value of exports in free foreign exchange, or on FOB value of exports as given in the shipping bills in free foreign exchange, whichever is less, unless otherwise specified.

However, the US had challenged India's key export subsidy schemes in the World Trade Organisation (WTO), claiming them to harm the American workers. A dispute panel in the WTO ruled against India, stating that the export subsidy programmes that were provided by the Indian government, violated the provisions of the trade body's norms. The panel thereby recommended that the export subsidy programmes be withdrawn. Therefore, RoDTEP scheme had been introduced in place of MEIS to ensure that India stays WTO-compliant.

RoDTEP stands for Remission of Duties and Taxes on Export Products. It is a new scheme that is applicable with effect from January 1st, 2021. RoDTEP scheme will ensure that the exporters receive the refunds on the embedded taxes and duties previously non-recoverable. The scheme was brought about with the intention to boost exports. The scheme facilitates exporters to make Indian products cost-competitive and thereby create a level playing field for them in the global market.

Features of RoDTEP scheme:

a) Refund of the previously non-refundable duties and taxes:

Mandi tax, VAT, Coal cess, Central Excise duty on fuel etc., will now be refunded under this particular scheme. All the items under the MEIS are now under the purview of the RoDTEP Scheme.

b) Automated system of credit:

Refunds will be issued in the form of transferable electronic scrips. The duty credits will be maintained and tracked through an electronic ledger.

c) **Quick verification through digitisation:**

Through the introduction of the digital platform, the clearance happens at a much faster rate. Verification of the records of the exporters will be done with the help of an IT-based risk management system to ensure speed and accuracy of transaction processing.

d) **Multi-sector scheme:**

Under RoDTEP scheme, all sectors, including the textiles sector, are covered, so as to ensure uniformity across all areas.

Eligibility to obtain benefits under RoDTEP scheme:

- All sectors, including the textiles sector, may enjoy the benefits of the RoDTEP Scheme. Labour-intensive sectors that enjoy benefits under the MEIS Scheme will be given priority.
- Both manufacturer and merchant exporters are eligible for the benefits of this scheme.
- There is no particular turnover threshold to claim the RoDTEP.
- To be eligible to avail the benefits of this scheme, the exported products need to have the country of origin as India.
- Re-exported products are not eligible under this scheme.
- Special Economic Zone Units and Export Oriented Units are also eligible to claim the benefits under this scheme.
- Where goods have been exported via courier through e-commerce platforms, RoDTEP scheme applies.

How to avail benefits under RoDTEP Scheme?

The ICEGATE (Indian Customs Electronic Gateway) will contain the details regarding the credits availed by the exporter. At the port, the exporter must indicate in the shipping bill the details regarding the claim of the RoDTEP benefit with regard to a particular item of export and generate a credit scrip for it. These credit scrips are then used to pay basic customs duties, claim rebates or can be transferred to other importers.

Detailed process for the generation and claiming of scrips under the RoDTEP scheme -

- The exporter should make a declaration of the claim for RoDTEP in the shipping bill.
- Once the Export General Manifest (EGM) is filed, the claim will be processed by the Customs.
- After processing the claim, a scroll with all individual shipping bills for the admissible amount will be generated and available in the users account at ICEGATE portal.

- The exporter should log in to the ICEGATE portal and create a RoDTEP credit ledger account.
- After the RoDTEP credit ledger account is created, the exporters can log in to their accounts and generate scrips by selecting the relevant shipping bills.
- Once the scrips are generated, the refund will be credited and reflected in the exporter's ledger account and will be available for utilisation in the payment of the eligible duties and during imports or for transfer to any other importers.

Advantages and disadvantages of RoDTEP over MEIS:

Advantages of RoDTEP:

- The RoDTEP Scheme aims to refund all those taxes and levies which are presently disallowed.
- Tax assessment is set to become fully automatic for exporters.
- Exporters will enjoy lower rates of interest on capital loans, higher insurance cover, financial incentives on exports.
- Increased loan availability for exporters and provision of credit at reduced interest rates to MSMEs.
- Ministry of Finance will be working towards reducing the clearance time at airports and ports decrease delays in exports. Exporters will be able to monitor the clearance status real-time via a digital platform.

Disadvantages of RoDTEP:

Since the RoDTEP scheme will be strictly based on the input taxes paid by various sectors, including on fuel and electricity, the rates of refund for sectors where the incidence of such taxes is low, will be much less than what these sectors enjoy under the MEIS scheme.

Centre Notifies RoDTEP Scheme Guidelines and Rates

Export centric industries are being reformed and introduced to better mechanisms so as to increase their competitiveness, boost exports, generate employment and contribute to the overall economy. This will go a long way in achieving our vision of building an Atmanirbhar Bharat.

Remission of Duties and Taxes on Exported Products (RoDTEP) is one such reform, based on the globally accepted principle that taxes and duties should not be exported and taxes and levies borne on the exported products should be either exempted or remitted to exporters.

Centre has on 17th August 2021 notified RoDTEP Scheme Guidelines and Rates (Remission of Duties and Taxes on Exported Products).

The scheme for zero rating of exports will boost our exports & competitiveness in the global markets. The rates of RoDTEP will cover 8,555 tariff lines.

- RoDTEP scheme was introduced to boost our exports & competitiveness.
- Sectors like marine, agriculture, leather, gems & jewellery, automobile, plastics, electrical / electronics, machinery get the benefits of scheme.
- Rates of RoDTEP to cover 8,555 tariff lines.
- Scheme's objective is to refund, currently un-refunded.
- Duties/ taxes/ levies, at the central, state & local level, borne on the exported product, including prior stage cumulative indirect taxes on goods & services used in production of the exported product and such indirect duties/ taxes/ levies in respect of distribution of exported products.
- It may be noted that rebate under the scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.
- RoDTEP support will be available to eligible exporters at a notified rate as a percentage of Freight On Board (FOB) value. Rebate on certain export products will also be subject to value cap per unit of the exported product.
- Scheme is to be implemented by customs through a simplified IT system. Rebate will be issued in the form of a transferable duty credit/ electronic scrip (e-scrip) which will be maintained in an electronic ledger by the Central Board of Indirect Taxes & Customs (CBIC).
- Identified export sectors and rates under RoDTEP cover 8,555 tariff lines in addition to similar support being extended to apparel and made-ups exports under RoSCTL scheme of ministry of textiles.
- Assistant Director Employment Oriented Sectors like marine, agriculture, leather, gems & jewellery etc., are covered under the scheme. Other sectors like automobile, plastics, electrical / electronics, machinery etc., also get support. The entire value chain of textiles also gets covered through RoDTEP & RoSCTL.

b. Service Exports from India Scheme (SEIS):

This scheme facilitates service exports with certain incentives. The following are some of the important features:

- 'Served from India Scheme' is replaced by SEIS. However, all benefits related to duty exempted scrip of the previous scheme will be extended to service providers located in India and exporting notified services in a specified mode.
- Instead of 'Indian Service Providers', SEIS would be applicable to all the 'Service Providers located in India', irrespective of the constitution or profile of the service provider.

- Eligibility of such benefits to service providers requires minimum net foreign exchange earnings of $ 15,000 in the preceding financial year.
- Service providers will be issued SEIS scrip of 3% or 5% of net foreign exchange earned depending on the type of service.
- Benefits of SEIS like MEIS are extended to SEZ units also. SEIS benefits are similar to MEIS (including availment of CENVAT credit and drawback). These scrips and the goods imported or locally procured can be freely transferred.
- Exports until 31st March 2015 and scrips applied for or issued against them are governed by rules of SEIS.

c. Export Promotion Capital Goods (EPCG) Scheme:

Many manufacturing industries in India require imported machinery to enhance the capacity utilization or introduce new technology in the manufacturing of existing products. If export firms are importing machinery to manufacture the products they export subsequently, some incentives are provided to such export firms. This scheme facilitates an 'exports firm'with certain incentives if the firm imports capital goods. The following are some of the important features:

- Capital goods import under EPCG scheme carries six times export obligation of the duty saved. Reduced export obligation up to 25% has now been prescribed for domestic sourcing of capital goods.
- Exporters registered with the excise authorities subject to conditions now have the option to furnish installation certificate confirming receipt of capital goods by a certified engineer.
- Normally, installation certificate is to be furnished within six months of the completion of imports. However, licensing authority can now extend the period of submitting the installation certificate by another 12 months.
- In case of exit of an EOU or SEZ unit under the EPCG scheme, guidelines for maintenance of average export obligation and specified export obligation are notified.

d. Export Oriented Unit (EOU) / Software Technology Park (STP) Schemes:

Export Oriented Units (EOU) and Software Technology Park (STP) are two important measures taken by the government to incentivize the exports activity in India. The following are the details in EOU and STP schemes:

- Board of Approval (BoA) may grant one-year extension for achieving net foreign exchange earnings under special circumstances on a case to case basis.

- Letter of Permission (LoP) will now have initial validity of two years (earlier three years) for implementation of project and commencement of production. Extension of one year (earlier three years) may be considered on a case to case basis.
- Unit sharing of infrastructural facilities between EOUs/STPs may be permitted by 'Approval Committee' (UAC) / 'Inter Ministerial Standing Committee' (IMSC) on a case to case basis or on recommendations of BoA. However, such sharing is not permitted between EOUs/STPs and SEZs.
- STP unit can be set up for undertaking repairing, re-conditioning, remaking, testing, etc. for exports subject to the approval of IMSC and other conditions.
- Procedures are simplified for fast track de-bonding / exiting of STP units which have not availed duty exemption benefits.
- Facility to set up a warehouse outside the premises and near a port of export permitted subject to conditions.
- Fast track clearances on procurement are allowed to EOUs having a physical export turnover of ₹ 10 crore and above.

e. Others:

Apart from the schemes cited above, there are other measures taken up by the government to incentivize exports. The following are some of the measures taken up by the government:

- 'Duty Free Import Authorization Scheme' which exempted all customs duty is now restricted to only basic customs duty. However, on certain conditions, additional customs duty will be available as Central Value Added Tax (CENVAT) credit.
- Eligibility criteria for grant of 'status' to an exporter is revised. Deemed export will now be considered for 'export performance'. Self-certification, export promotion, etc. are extended as additional facilitation.
- 'Advance Authorization Scheme' which earlier provided 18 months for export obligation period for exports of defence, military stores, aerospace, COMET items, etc., has now been stretched to 24 months.
- Recovery and penal proceedings in case of mis-declaration and misrepresentation of facts to claim deemed export benefits notified.
- Measures were introduced to facilitate trade for slashing transaction costs and crashing documentation handling time in terms of on-line application filing, on-line inter-ministerial consultation, physical record maintance, submission of multiple documents, etc.

- Status holders (entities / persons who promote substantial export turnover or identified group who help export promotion) were encouraged with specific promotional measures such as:
  - Business leaders who excelled in international trade and contributed successfully to country's foreign trade were recognized as 'Status Holders' and given special treatment and privileges.
  - The nomenclature of 'Export House', 'Star Export House', 'Trading House', 'Star Trading House', 'Premier Trading House' certificate has been changed to 'One', 'Two', 'Three', 'Four', 'Five Star Export House'.
  - The criteria for export performance for recognition of status holder were changed from Rupees to US Dollar earnings.

Structure of Star Trading Houses

Depending on the turnover of exports and consistency of the export turnover, 'star status' will be given to the exports firms. The Star Houses get certain previlages. The following table depicts the details of how the status is given:

Status Category	Export Performance during Current and Previous Two Years in US$ mn
One Star Export House	3
Two Star Export House	25
Three Star Export House	100
Four Star Export House	500
Five Star Export House	2000

Source: https://www.fieo.org/view_section.php?lang=0&id=0,30,1700

Example: FTP, 2015-2020: 1344 Export Houses Star Rated Until 2020

Under the Foreign Trade Policy (FTP), 2015-2020, The Directorate General of Foreign Trade (DGFT), gave different star ratings to 1344 export houses valid upto 2020. However, only 8 companies got five star rating for achieving the export limit of USD 2000 million for the current and previous two years. The noted companies included Accenture, TCS, Reliance, JSW Steel among others. FTP, 2015-2020 gave star rating on a five-point scale (five being the highest rating) for exporters who would become eligible for export promotional measures.

Source: http://dgftcom.nic.in/dgftmumbai/html/StatusHolderList.htm DGFT Website: 2022, Accessed on August 26, 2022.

Privileges of Status Holders

A Status Holder shall be eligible for privileges as under:

Provision for self-declaration	Authorisation and Customs Clearances for both imports and exports may be granted on self-declaration basis;
Input-Output Norms	Input-Output norms may be fixed on priority within 60 days by the Norms Committee
Banking related provisions	Exemption from furnishing of bank guarantee for schemes under FTP, unless specified otherwise anywhere in FTP or HBP
	Exemption from compulsory negotiation of documents through banks. Remittance / receipts, however, would be received through banking channels
Two star and above	Two star and above export houses shall be permitted to establish export warehouses as per Department of Revenue guidelines.
Three star and above	Three Star and above export house shall be entitled to get benefit of Accredited Clients Programme (ACP) as per the guidelines of CBEC (website: http://cbec.gov.in).
Preferential treatment in handling of consignments	The status holders would be entitled preferential treatment and priority in handling of their consignments by the concerned agencies.
Provision for self certification of manufactured goods	Manufacturers who are also status holders (Three Star/Four Star/Five Star) will be enabled to self-certify their manufactured goods (as per their IEM/IL/LOI) as originating from India with a view to qualify for preferential treatment under different Preferential Trading Agreements (PTA), Free Trade Agreements (FTAs), Comprehensive Economic Cooperation Agreements (CECA) and Comprehensive Economic Partnership Agreements (CEPA). Subsequently, the scheme may be extended to remaining Status Holders.
	Manufacturer exporters who are also Status Holders shall be eligible to self-certify their goods as originating from India as per para 2.108 (d) of Hand Book of Procedures.

Freely exportable items	Status holders shall be entitled to export freely exportable items (excluding gems and jewellery, articles of gold and precious metals) on free of cost basis for export promotion subject to an annual limit of Rupees One Crore or 2% of average annual export realization during preceding three licensing years, whichever is lower.
Export of Pharma Products	For export of pharma products by pharmaceutical companies, the annual limit would be 2% of the average annual export realization during preceding three licensing years.
	In case of supplies of pharmaceutical products, vaccines and lifesaving drugs to health programmes of international agencies such as UN, WHO-PAHO and Government health programmes. The annual limit shall be upto 8% of the average annual export realisation during preceding three licensing years. Such free of cost supplies shall not be entitled to duty drawback or any other export incentive under any export promotion scheme.

Source: https://www.fieo.org/view_section.php?lang=0&id=0,30,1700

Software Technology Parks of India (STPI)

[9]STPI, under the Union Ministry of Electronics and Information Technology, is supporting IT companies and startups by providing space and plug-and-play infrastructure across the country. In September 2016, the Software Technology Parks of India (STPI) made its intentions clear of becoming a provider of structured incubation service to new entrepreneurs. Since 2014, STPI had metamorphosed from just being an agency for software exporters, provider of single-window clearance and creating software and hardware technology parks into offering value-added services.

At present, a total of 62 STPI centres/sub-centres are operational across the country, out of which 54 centres are in Tier II and Tier III cities. The overall exports done by STPI registered IT/ITES units increased from ₹ 4,74,183 crores in FY 2019-20 to ₹ 4,96,313 crores in FY 2020-21. During a Seminar on 2nd May 2022 STPI Director General said that Software Technology Parks of India was expecting a 10-12 per cent growth of IT exports from its existing 62 centres in the country the fiscal 2022-23.

STPI is in the process of adding 12 more centres, mostly in tier II and III cities. Of the 12 STPI centres that are under different stages of construction, five are expected to be complemented by March 2023 and five more by December (2023) and two by March 2024.

---

[9] https://stpi.in/en/news/stpi-sees-10-12-pc-it-export-growth-its-centres-fiscal# :~:text= The%20value%20of%20IT%20exports, Infocom%202022% 20 here % 20on%20Thursday.2nd May 2022

Activity 17.2
Is there any difference between MEIS, SEIS, STP and EPCG schemes? Discuss.
Answer:

17.6 Trade Regulations Governing Imports / Exports

The foreign trade policy lays down various trade regulations governing exports and imports. These regulations have to be mandatorily complied with by exporters, importers, authorized dealers and all other market players engaged in the business of exports / imports transactions. Hence, it is necessary for these players to familiarize themselves with the trade regulations. Furthermore, they are also required to keep a constant watch on any modifications / amendments to trade regulations effected by the concerned authorities from time to time in order to ensure strict compliance.

Given this fact, we shall now discuss trade regulations governing both exports and imports in detail.

17.6.1 Trade Regulations Governing Imports

a. FEMA defines 'import' as bringing into India, of any goods or services. Exports and Imports are 'Free'. This is not applicable when regulated by way of 'prohibition', 'restriction' or 'exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports.

b. **Freely Importable Items:** The items which are not under prohibited / restricted / exclusive trading through state trading agencies are freely importable, and do not require import licences.

   Negative List: Import of those items, which are not regulated by licence are divided into 3 categories. These categories of items are broadly grouped under 3 heads: 'Prohibited', 'Restricted' and 'Canalized':

   i. *Banned or prohibited items.* Some of the items are not permitted for import. They include tallow fat, animal rennet and unprocessed ivory.

   ii. Restricted items are generally those for which demand can be adequately satisfied, in normal circumstances, by local production in India. These are permitted to be imported only with a licence. It includes specific kinds of consumer goods, precious stones, seeds, animals, insecticides, certain electronic items, drugs and chemicals.

iii. Canalized items are those items, which are importable only by government trading monopolies. They are mostly commodity imports and any import of these items must be channeled through these agencies. Some of the canalized items include petroleum products to be imported only by the Indian Oil Corporation (IOC), nitrogenous phosphatic, potassic and complex chemical fertilizers by the Minerals and Metals Trading Corporation (MMTC) and cereals by the Food Corporation of India (FCI).

Import trade control is exercised by the Director General of Foreign Trade (DGFT) functioning under the Ministry of Commerce. Some of the trade regulations governing imports are discussed below.

Import Licences

'Import licence' means a licence granted specifically for import of goods. This is subject to import control. Items requiring a licence, can be imported only by an actual user, unless the actual user condition is specifically dispensed with by the licensing authority.

The Foreign Trade Policy defines "Actual User" as an actual user who may be either industrial or non-industrial user. "Actual User (Industrial)" is defined as "a person who utilizes the imported goods for manufacturing in his/her own unit or manufacturing for his own use in another unit including a jobbing unit." "Actual User (Non-Industrial)" is defined as "a person who utilizes the imported goods for his own use in (i) any commercial establishment carrying on any business, trade, or profession; or (ii) any laboratory, scientific or 'Research and Development' (R&D) institution, university of other educational institution or hospital; or (iii) any service industry."

Every licence has a validity period. It is specified in the licence. For example, the validity of the 'Export Promotion Capital Goods' licence (EPCG) is 24 months.

The following (Table 17.1) are the details as per EXIM Policy:

Table 17.1: Validity of Licences as per EXIM Policy

(i)	'Advance Licence' as per chapter-7 and replenishment licence for gem & jewellery as per chapter-8 of the policy	12 months
(ii)	EPCG licence	18 months
(iii)	Export Authorisation for restricted (Non SCOMET) goods	12 months
(iv)	Export Authorisation for SCOMET items	24 months
(v)	Import Authorisations for restricted items and CCP	18 months
(vi)	Advance Authorisations (AA) for Deemed Export	Contracted duration of project execution or 12 months, whichever is more.

Source: https://howtoexportimport.com/Validity-period-of-DGFT-Authorisation-Licence-Cert-1643.aspx#:~:text=%2D%2012%20months%20from%20issue%20date.

- Only the permitted items under the licence can be imported under that licence.
- A licence is always issued under the existing provisions of the policy applicable as on date of issue of the licence.
- Every licence bears the security seal of the office of issue as well as the signature of the issuing authority.

The value of the licence will be in Indian Rupees and in foreign currency at the exchange rate prevailing on the date of issue of the licence.

Categories of Licences

There are different categories of licences:

Regular Licence:

The regular licences are issued for the import of goods. This falls under the normal import policy. These can be granted to anybody entitled for issuance as per the policy provision.

Advance Licence:

An 'Advance Licence' is issued to allow duty free import of inputs, which are physically incorporated in the export product (making normal allowance for wastage). In addition, fuel, oil, energy, catalysts etc. which are consumed in the course of their use to obtain the export product, may also be allowed under the scheme.

Duty free import of mandatory spares upto 10% of the CIF value of the licence which are required to be exported / supplied with the resultant product may also be allowed under 'Advance Licence'.

'Advance Licences' are issued based on the inputs and export items given under SION (Standards of Input Output Norms). However, they can also be issued on the basis of adhoc norms or self declared norms as per 'Handbook Guidelines'.

Duty free import of mandatory spares upto 10% of the CIF value of the licence which are required to be exported / supplied with the resultant product may also be allowed under 'Advance Licence'.

'Advance Licence' can be issued for:

a) Physical exports: 'Advance Licence' may be issued for physical exports including exports to SEZ to a manufacturer exporter or merchant exporter tied to supporting manufacturer(s) for import of inputs required for the export product.

b) Intermediate supplies: 'Advance Licence' may be issued for intermediate supply to a manufacturer-exporter for the import of inputs required in the manufacture of goods to be supplied to the ultimate exporter/deemed exporter holding another 'Advance Licence'.

c) Deemed exports: ‘Advance Licence’ can be issued for deemed export to the main contractor for import of inputs required in the manufacture of goods to be supplied to the categories mentioned in paragraph 8.2 (b), (c), (d), (e), (f), (g), (i) and (j) of the policy.

Licences with Export Obligations

Certain licences are granted with a condition usually related to ‘export obligation’. Here, the importers of capital goods are needed to export a specific proportion of goods produced using the referred imported machinery. For importers rendering services, export obligation means receiving payments in freely convertible foreign currency for services rendered using such capital goods. Licence where export obligation is imposed, provides the value of export obligation both in free convertible currency and Indian Rupees equivalent thereof at the exchange rate prevailing on the date of issue of the licence. It also provides the exchange rate used for computing the Rupee value of licence. Value indicated on import licences is always for CIF (Cost, Insurance and Freight) value of goods authorized to be imported.

Special Import Licence (SIL)

Special Import Licence (SIL) may be used to import, among other items, certain consumer goods. It is like an import permit. It is traded in the market at a premium on its value. It is granted to Indian exporters as an export incentive, and its value is tied to export earnings. It is freely transferable and can be easily procured in the market by any prospective importer. It shall be valid for import of items appearing in the ITC (HS) classification of export and import items. ITC (HS) refers to ‘Indian Trade Classification’ (Harmonized System).

The classification contains 99 chapters and each chapter covers information in five columns: the 8-digit code i.e. the EXIM code, the item description, the applicable policy (prohibited, restricted, canalized or free); any conditions relating to the export and import policy (these conditions appear either provided with a specific item or in licensing notes at the end of the HS chapter or section thereof); and an indication of whether the product can be imported under a SIL. The eight (8) digit code can be interpreted as follows:

- The first two digits represent the chapter number,
- The next two digits the heading of goods in that chapter, and
- The last four digits refers to the subheading.

Each chapter is divided into various headings basing on different types of goods belonging to the same class of products. For example, raw cotton has a code of 5201, while soft cotton waste / hard cotton waste has a code of 5202 and cotton yarn has a code of 5205. This means, the said items are in chapter 52 and occupy the first, second and fifth place respectively in that particular group. Similarly, the code for exotic birds is 0106 indicating that it falls under chapter 1 and occupies the sixth place in that chapter. The policy applicable to exotic birds is "Prohibited" and the nature of restriction is "Not Permitted to be Exported". Another example would be calcium ammonium nitrate. The code for calcium ammonium nitrate is 31029009. The first two digits represent the chapter number, the next two digits the place it occupies in the chapter and the remaining four digits the sub classification under that chapter.

Import licences are issued in duplicate. One copy is marked for "Customs Purposes" and must be presented to the customs authorities at the time of clearance of goods. The other copy is marked for "Exchange Control Purposes" and must be presented by the importer to the authorized dealer while opening a Letter of Credit (LC) or making payment for import of goods.

Transferability of Licences

After the fulfillment of export obligation and other conditions laid down, the holder of a transferable licence may transfer it to a third party. However, a request for endorsement of transferability should be made to the licensing authority within 36 months of the date of issuance of licence. When the import licence is so endorsed, the licence holder may transfer the licence in full. This is applicable where he/she has not made any imports. In case the imports have already been made, then the licence may partially be transferred. This transfer is after excluding the value and quantity of imports already made or the materials or the balance already imported.

Issue of duplicate licence for increase in the C.I.F value or any other amendments will not be permitted once the endorsement of transferability is made on the licence.

The licence transferred will be valid for the balance period of its validity or six months from the date of endorsement whichever is later.

Endorsement of Import Licence

Where a licence is transferable, the fact of transferability will be indicated on the body of the licence. In such case, the licence-holder may affect part or full transfer of the licence to other eligible importers in conformation with the various provisions of the policy.

Duty Entitlement Pass-Book Scheme (DEPB)

The objective of Duty Entitlement Pass-Book Scheme (DEPB) is to neutralize the incidence of customs duty on the import content of the export product. The neutralization shall be provided by way of grant of duty credit against the export product.

Duty exemption schemes enable duty free import of inputs required for export production. An 'Advance Licence' is issued as a duty exemption scheme. A 'Duty Remission Scheme' enables post export replenishment/ remission of duty on inputs used in the export product. Duty remission schemes consist of (a) DFRC (Duty Free Replenishment Certificate) and (b) DEPB (Duty Entitlement Passbook Scheme).

DFRC permits duty free replenishment of inputs used in the export product. DEPB allows drawback of import charges on inputs used in the export product.

Goods exported under 'Advance Licence'/ DFRC/ DEPB may be re-imported in the same or substantially the same form subject to such conditions as may be specified by the Department of Revenue from time to time.

The holder of DEPB shall have the option to pay additional customs duty, if any, in cash as well.

The DEPB shall be valid for a period of 24 months from the date of issue.

Diamond, Gem and Jewelry Export Promotion Scheme

To give a boost to exports of diamonds, gems and jewelry for which India enjoys a special advantage of skilled labor, exporters under these sectors have been offered two special schemes viz:

- Replenishment (REP) licences, and
- Diamond Imprest Licences.

For importing their inputs like raw / cut and polished diamonds, gold, etc., a brief summary of the provisions under these schemes is discussed hereunder.

Scheme for Gem and Jewellery

Exporters of gem and jewellery are eligible to import their inputs by obtaining Replenishment (REP) licences from the licensing authorities in accordance with the procedure specified in this behalf.

Replenishment Licence

The exporters of gem and jewellery products listed in Appendix-26 of the Handbook (Vol.1) of DGFT shall be eligible for grant of 'Replenishment Licences' at the rate and for the items mentioned in the said Appendix to import and replenish their inputs. Replenishment licence may also be issued for import of consumables as per the details given in paragraph 4.80 of said Handbook (Vol.1).

Export of Cut & Polished Diamonds for Certification/Grading

Gems and jewellery exporters with a track record of at least three years and having an annual average turnover of ₹ 5 crore and above during the preceding three licensing years or the authorized offices/agencies in India of 'Gemological Institute of America' (GIA), may be permitted to export cut & polished diamonds each weighing 0.50 of a carat and above to the said laboratories/agencies, for the purpose of certification/grading reports by them with a condition that the same should be re-imported with the certificate/grading reports issued by them without any import duty at the time of re-import.

At the time of export of cut and polished diamonds for certification/grading, exporter should give an undertaking to the customs that the cut and polished diamonds will be re-imported within three months of exports for certification / grading. The export invoice should clearly indicate the estimated value, height, circumference, weight of each diamond to be exported for certification / grading so that at the time of their import, the above specification could be compared with the original ones to establish their identity. Subsequently, these cut and polished diamonds would be exported as per the provisions of the policy.

Schemes for Gold / Silver / Platinum Jewellery

Exporters of gold/silver/platinum jewellery and articles thereof may import their essential inputs such as gold, silver, platinum, mountings, findings, rough gems, precious and semi-precious stones, synthetic stones and unprocessed pearls etc. in accordance with the procedure specified in this behalf.

Nominated Agencies

The exporter availing the schemes of gold/silver/platinum jewellery and articles thereof may obtain gold/silver/platinum from the nominated agencies. The nominated agencies are MMTC Ltd., Handicraft and Handloom Export Corporation (HHEC), State Trading Corporation (STC), The Project and Equipment Corporation of India Ltd. (PEC) and any agency authorised by the Reserve Bank of India (RBI). A bank authorized by the RBI is allowed export of gold scrap for refining and import in the form of standard gold bars.

Items of Export

The following items, if exported, would be eligible for the facilities under these schemes:

(a) Gold jewellery, including partly processed jewellery and any articles including medallions and coins (excluding the coins of the nature of legal tender), whether plain or studded, containing gold of 8 carats and above;

(b) Silver jewellery including partly processed jewellery and any articles including medallions and coins (excluding the coins of the nature of legal tender and any engineering goods) containing more than 50% silver by weight;

(c) Platinum jewellery including partly processed jewellery and any articles including medallions and coins (excluding the coins of the nature of legal tender and any engineering goods) containing more than 50% platinum by weight.

Value Addition

The value addition will be as given in Handbook (Vol.1).

Wastage Norms

Under the schemes for gold/silver/platinum jewellery, the wastage or manufacturing loss shall be admissible as specified in the Handbook (Vol.1).

Export against Supply by Foreign Buyer

Where export orders are placed on the nominated agencies / status holder / exporters of three years standing having an annual average turnover of ₹ 5 crore during the preceding three licensing years, the foreign buyer may supply to the nominated agencies/status holder / exporter, in advance and free of charge, gold / silver / platinum, alloys, findings and mountings of gold/silver/platinum for manufacture and export. The exports may be made by the nominated agencies directly or through their associates or by the status holder/exporter as the case may be. The import and export of findings shall be on net to net basis. The foreign buyer may also supply to the nominated agencies/status holder/ exporter in advance and free of charge plain, semi finished gold/silver/platinum jewellery including findings / mountings / components for repairs/re-make and export subject to minimum value addition of 10%. However, if the so imported semi-finished gold/silver /platinum jewellery is exported as studded jewellery, value addition of 15% shall be achieved. In such cases of export, wastage of 2% may be permitted.

The procedures in this regard shall be as prescribed in the Handbook (Vol.1) under:

- Export promotion tours/export of branded jewellery
- Export against supply by nominated agencies

The exporter may obtain the gold/silver/platinum as an input for export products from nominated agencies in advance or as replenishment after exports in accordance with the procedure specified in this behalf.

Export against Advance Licence

An 'Advance Licence' may be granted for the duty free import of:

(a) Gold of fineness not less than 0.995 and mountings, sockets, frames and findings of 8 carats and above;

(b) Silver of fineness not less than 0.995 and mountings, sockets, frames and findings containing more than 50% silver by weight;

(c) Platinum of fineness not less than 0.900, mountings, sockets, frames and findings containing more than 50% platinum by weight.

Such licences shall carry an export obligation which will be required to be fulfilled in accordance with the procedure specified in this behalf.

The 'Advance Licence' holder may obtain gold/silver/platinum from the nominated agencies in lieu of direct import in accordance with the procedure specified in this behalf.

Gem Replenishment Licence

Gem Replenishment (Gem REP) Licence may be issued under the schemes for export of gold/silver/platinum jewellery and articles thereof as given in paragraph 4.4.8, 4.4.9, 4.4.10 and 4.4.11 of the policy. In the case of plain gold/silver/platinum jewellery and articles, the value of such licences shall be determined with reference to the realisation in excess of the prescribed minimum value addition. In the case of studded gold/silver/platinum jewellery and articles thereof, the value of 'Gem Replenishment Licence' shall be determined by taking into account the value of studding used in items exported, after accounting for the value addition on gold/silver/platinum including admissible wastage. Such 'Gem REP Licences' shall be freely transferable.

Gem REP Rate and Item

The scale of replenishment and the item of import will be as prescribed in Appendix 26A of Handbook (Vol.1).

Personal Carriage of Export/ Import Parcels

Personal carriage of gems and jewellery export parcels by foreign bound passengers and personal carriage of gems & jewellery import parcels by an Indian importer/foreign national may be permitted as per the conditions given in Handbook (Vol.1).

Diamond Imprest Licence

Diamond Imprest Licence for import of cut & polished diamonds including semi processed diamonds, half cut diamonds, broken in any form, for mixing with cut & polished diamonds or for export as it is, may be issued for export of cut & polished diamonds. Such licences shall carry an export obligation, which has to be discharged in accordance with the procedure specified in this behalf.

Eligibility

An exporter of cut & polished diamonds who is status holder may be issued a licence for import of cut & polished diamonds upto 5% of the export performance of the preceding year of cut & polished diamonds.

Export Obligation

The export obligation against each consignment shall be fulfilled within a period of five months from the date of clearance of such consignment through customs. However, at no point of time, the importer shall be required to maintain records of individual import consignments nor will they be required to co-relate export consignments with the corresponding import consignments towards fulfillment of export obligation.

Private/ Public Bonded Warehouse

'Private'/'Public Bonded Warehouses' may be set up in EPZ/DTA for import and re-export of cut & polished diamonds, cut & polished coloured gemstones, uncut & unset precious & semi-precious stones. Import & re-export of cut & polished diamonds & cut & polished colored gemstones will be subject to achievement of minimum value addition of 5%.

Bank Guarantee (BG) and Legal Undertaking (LUT)

The licensee is required to execute a 'Bank Guarantee' (BG) / Legal Undertaking (LUT) before the first consignment of import is cleared. However, this requirement will be waived in case the export obligation is fulfilled before any imports are made. LUT / Joint LUT limits for different categories of exporters are indicated in the Table 17.2 below.

Table 17.2: Different Categories of Exporters and Bank Guarantee (BG)/LUT Limits

Type of Exporter	Limits
1. Super star trading house and units within the same group / public sector undertaking and units within the same group.	Unlimited
2. Export house / Trading house / Star trading house and units within the same group.	Up to five times of FOB value of exports effected in the preceding licensing year / current year.
3. Exporters having performance of past exports but not covered under S.No. 1 and 2 above.	Up to two times of FOB value of exports made during the preceding licensing year.
4. Any overseas company with its branch office in India with an annual average turnover in diamonds during preceding three licensing years not less than ₹150 crore.	Up to 50% of annual average turnover of the preceding three licensing years.

Source: ICFAI Research Center

If a licensee does not have LUT limit, he/she is required to execute bank guarantee for 50% of the CIF value of the licence in the prescribed form.

Extension of Export Obligation Period

The licensing authority should allow (1) extension for a period of six (6) months from the date of expiry of the original export obligation period to the licensee. This is subject to the payment of composition fee of 1% of the unfulfilled FOB value of export obligation with reference to CIF value of imports made for which extension is being sought. The request for further extension may be considered by the authorities, subject to payment of composition fee of 5% of the unfulfilled FOB value of export obligation with reference to CIF value of imports made for which extension is being sought. Such extension shall however not exceed a period of six months from the date of expiry of earlier extension.

Diamond Dollar Account

RBI had introduced ‘Diamond Dollar Account Scheme’ in terms of which firms and companies dealing in purchase / sale of rough or cut and polished diamonds / precious metal jewellery plain, ‘minakari’ and / or studded with / without diamond and / or other stones, with a track record of at least 3 years in import / export of diamonds / coloured gemstones / diamond and coloured gemstones studded jewellery / plain gold jewellery, and having an average annual turnover of ₹ 3 crore or above during preceding three licensing years, are allowed to open ‘Diamond Dollar Accounts’ (DDA).

The following are the details:

(i) Under the scheme of the Government of India, firms and companies dealing in purchase / sale of rough or cut and polished diamonds / precious metal jewellery plain, ‘minakari’ and / or studded with / without diamond and / or other stones, with a track record of at least 2 years in import / export of diamonds / coloured gemstones / diamond and coloured gemstones studded jewellery / plain gold jewellery and having an average annual turnover of ₹ 3 croreor above during the preceding three licensing years (licensing year is from April to March) are permitted to transact their business through ‘Diamond Dollar Accounts’.

(ii) They may be allowed to open not more than five ‘Diamond Dollar Accounts’ with their banks.

(iii) Eligible firms and companies may apply for permission to their AD Category–I banks in the format prescribed.

(iv) AD Category-I banks are required to submit quarterly reports to the Foreign Exchange Department, Reserve Bank of India, Central Office, Trade Division, Mumbai, giving details of name and address of the firm / company in whose name the ‘Diamond Dollar Account’ is opened, along with the date of opening / closing the ‘Diamond Dollar Account’, by the 10th of the month following the quarter to which it relates.

(v) AD Category-I banks are required to submit a statement giving the data on the DDA balances maintained by them on a fortnightly basis within seven days of close of the fortnight to which it relates, to the Foreign Exchange Department, Reserve Bank of India, Central Office, Trade Division, Mumbai.

17.6.2 Trade Regulations Governing Exports

FEMA defines 'export' as the taking or sending out of goods by land, sea or air, on consignment or by way of sale, lease, hire purchase, or under any other arrangement by whatever name called, and in the case of software, also includes transmission through any electronic media.

Exports may be of different types. They could be:

Cash Exports

Cash exports are those exports where the proceeds are realized within 6 months from the date of shipment or the due date for payment whichever is earlier. As per FEDAI rules, the normal transit period and the notional due date of the bill will be taken into consideration to determine the due date of payment.

Project Exports

Export of engineering goods on deferred payment terms, and execution of turnkey projects and civil construction contracts abroad, are collectively called as 'Project Exports'. These contracts are normally of very high value.

Deemed Exports

Goods under this kind of export do not leave the shore of the country. Any such supply to be eligible for labeling as deemed exports should comply with the following:

a. Supply of goods is to a project that is funded by multilateral / bilateral agencies like IBRD / ADB / OPEC, etc. and any other such projects notified by the Government of India from time to time.
b. Goods are supplied against an order received under international competitive bidding and to this effect the supplier of goods should submit a certificate from his buyer.

The central idea of this arrangement is that supply of goods has indeed facilitated inflow/retention of forex into / within the country.

The current trade policy allows for the free exportation of all goods, except to the extent such exports are regulated by the ITC (HS) classification of export and import items or any other provision of the policy or any other law for the time being in force. Exports from India are categorized into two (i.e. the open general license and the negative list) on the same lines as imports. The negative list consists of those goods which are (a) Permitted for export under license (restricted) or (b) Canalized or (c) Prohibited.

Some of the goods which are included under the restricted list are cattle, de-oiled groundnut cakes containing more than 1% oil, fur of domestic animals excluding lamb fur skin, fodder including wheat and rice straw, etc. Canalized exports include export of petroleum products, mica waste, mineral ores, onions, etc. The prohibited list includes all forms of wildlife, exotic birds, human skeletons, etc.

The Director General of Foreign Trade (DGFT) lays down conditions according to which certain items may be exported without licenses. Such terms and conditions generally include minimum export price, registration with specific authorities, quantitative ceilings and compliance with other laws. A person wishing to export an item on the negative list of exports must have a registration and membership certificate from the relevant export promotion council. He should also be in possession of a license issued by the licensing authority for the said purpose. An export license contains all the terms and conditions laid down by the licensing authority. Some of the details which are included in an export license are the quantity, description and value of the goods, actual user condition, export obligation, value addition to be achieved by the exporter, and the minimum export price. It should be noted that an export license cannot be claimed as a right. The licensing authority has the power to refuse, grant or renew a license as per the provisions of the act. All export contracts must be denominated in freely convertible currencies.

In addition to possessing an export license, exporters are also required to register themselves with any one of the Export Promotion Councils (EPC) and obtain Registration and Membership Certificate (RCMC). Export promotion councils help in promoting and developing the exports of the country. Each council is responsible for the promotion of a specific group of products, projects and services. EPCs are non-profit organizations registered under the Indian Companies Act 2013 or the Societies Registration Act 1908, as the case may be. They are supported by financial assistance from the Government of India. An exporter who intends to avail various EXIM benefits should mandatorily register with the ‘Export Promotion Council’. The RCMC issued by the ‘Export Promotion Council’ is valid for a period of five (5) licensing years.

Before making any export of goods, an exporter is required to give a declaration of the full export value of the goods. If the value is not ascertainable at the time of export, the value which the exporter expects to receive from the export is to be declared and the declaration must be given that the amount will be paid within the stipulated time and in the prescribed manner.

Also, the export of goods to countries other than Nepal and Bhutan can be made only if a declaration in the prescribed form is furnished to the prescribed authority.

However, declaration forms are not required in certain cases. Exports where declaration form is not required are:

a. Trade samples supplied free of payment.
b. Personal effects of travelers, whether accompanied or unaccompanied.
c. Ships stores, trans-shipment cargo and goods shipped under the orders of the central government or of such officers as may be appointed by the central government in this behalf or of the military, naval or air force authorities in India for military, naval or air force requirements.

d. Goods or software accompanied by a declaration by the exporter that they are not more than twenty five thousand rupees in value.

e. By way of gift of goods accompanied by a declaration by the exporter that they are not more than one lakh rupees in value.

f. Aircrafts or aircraft engines and spare parts for overhauling and / or repairs abroad subject to their re-import into India after overhauling / repairs within a period of six months from the date of their export.

g. Goods imported free of cost on re-export basis.

h. Goods not exceeding US$ 1000, or its equivalent in value per transaction exported to Myanmar under the 'Barter Trade Agreement' between the Government of India and the Government of Myanmar.

i. The following goods which are permitted by the Development Commissioner of the 'Export Processing Zones' or 'Free Trade Zones' to be re-exported if:

   i. Imported goods found defective for the purpose of their replacement.

   ii. Imported goods, which were imported from foreign collaborator on loan basis.

   iii. Surplus goods, which were earlier, imported from foreign suppliers or collaborators free of cost, after production operations.

j. Replacement goods exported free of charge in accordance with the provisions of the EXIM Policy in force, for the time being.

Example: Simplified Regulatory Framework for E-commerce Jewellery Exports

In its decision of June, 2022, Central Board of Indirect Taxes and Customs (CBIC), Govt. of India had announced a new simplified regulatory framework for e-commerce export of jewellery through Courier mode. It enables easy export of jewellery through international courier terminals (ICTs) based on just electronic declarations unlike earlier subject to certain simplified checks. This would greatly facilitate easy exports of jewellery items.

Source: https://www.livemint.com/news/india/govt-issues-standard-sop-for-e-commerce-exports-of-jewellery-via-courier-details-here-11657842738864.html Year: 2022, Accessed on August 26, 2022

17.6.3 General Provisions Governing Imports/Exports

The exports and imports in our country are highly regulated. They need to take place within the exchange control regulations and also within the framework of FEMA (Foreign Exchange and Management Act).

The following paras cover important provisions to handle export-import transactions.

The lists of commodities which can be imported / exported are given in trade policy announced by DGFT at periodical intervals (once in year). Depending on the need of the hour, DGFT amends the policy guidelines like banning onion exports, levying duty on import of steel from China etc.

The general provisions are given below.

1) The system of import and export in India is governed by the Foreign Exchange Management Act and the Foreign Trade Policies. Imports and exports of all goods are free, except for the items regulated by the EXIM policy or any other law currently in force.
2) Exports and imports when they are not 'free' are regulated by way of 'prohibition', 'restriction' or 'exclusive trading through 'State Trading Enterprises' (STEs)' as laid down in IndianTrade Classification (Harmonized System) [ITC (HS)] of exports andimports.

ITC (HS) is a compilation of codes for all merchandise / goods for export / import. Goods are classified based upon their group or sub-group at 2/4/6/8 digits. Imports should comply the domestic laws, unless specifically exempted. However, goods to be utilized/ consumed in the production of export products, as notified by the DGFT, may be exempted from domestic standards / quality specifications.

A pre-requisite for the import and export of goods in India is compulsory registration with regional licensing authority. The customs department will not allow for clearance of goods unless the importer has obtained an 'Import Export Code' (IEC) from the regional authority.

'Import Export Code' number (IEC) is a 10-digit number allotted to a person that is mandatory for undertaking any export / import activities. The facility for IEC in electronic form or e-IEC has also been activated in 2016.

Import Policy

According to the 'Indian Trade Classification' (ITC) - 'Harmonized System' (HS), goods are categorized into three types:

1. Restricted / Licensed items
2. Canalized items
3. Prohibited / Banned items

The goods which are not specified in the categories can be freely imported without any restriction, providedthe importer had obtained a valid IEC.

Restricted (Licensed) Items:

After collecting an import licence from the appropriate regional licensing authority, a player in the international trade can import these *restricted/licensed items*. The list of restricted goods is provided in ITC (HS). An import licence for capital goods is valid for 24 months and for all other goods its validity is 18 months only. Those goods that are covered by this licence shall be disposed off in a manner specified by the licensing authority. This should be clearly mentioned in the licence itself.

The list of restricted items includes items such as components of nuclear reactors, bank notes, sandalwood, municipal and clinical waste, fireworks, blasting powder, waste pharmaceuticals, etc.

Canalized Items:

Items that can be imported only through specific procedures or methods of logistics are canalized goods which must be routed through specific canalizing agencies. The canalized goods list can be found in the ITC (HS).

The list of canalized items includes items such as petroleum products, bulk agricultural products, such as vegetable oils and grains, and some types of pharmaceutical products.

Prohibited/Banned Items:

These are the goods of environmental, health, social, security, and wild life concerns. These items listed in the ITC (HS) are strictly prohibited / banned on all import channels in India. These include wild animals, tallow fat and oils of animal origin, animal rennet and unprocessed ivory.

Export Policy

Goods can be exported freely just like imports, provided they are not mentioned in the classification of ITC (HS).

The classification of goods for exports in the Indian context is as follows:

- Restricted items
- Prohibited items
- State trading enterprise items

Restricted Items

All exporters must obtain a licence which explicitly permits them to export those goods which are otherwise restricted. The restricted goods should follow a set of procedures / conditions for exports that are detailed in the licence.

Prohibited Items

These are the items which are totally banned. Even the government organizations are not allowed to export such goods in the normal course of business. However, export of rough diamonds would be permitted only when accompanied by ‘Kimberley Process’ (KP) certificate as specified by ‘Gem & Jewellery Export Promotion Council’ (GJEPC). The vast majority of these include, wild animals, and animal articles such as leatheras they carry the risk of infection.

State Trading Enterprise (STE) Items

These items can be exported by routing through designated STEs. The export of such items is subjected to the conditions specified in the EXIM policy.

Restriction on Countries for Exports

Specific prohibitions were imposed by the Government of India on import and export of goods from/to the following countries:

- Prohibition on Import and Export of 'Arms and related material' from / to Iraq.
- Prohibition on Direct or Indirect Import and Export from / to Democratic People's Republic of Korea.
- Prohibition on Direct or Indirect Import and Export from/ to Iran.
- Prohibition on Import of Charcoal from Somalia.

Types of Duties

There are several types of duties that are imposed in India on imports and exports as given below:

Basic Duty

All types of goods are subjected to a typical tax rate called the 'Basic' duty. These customs duties are mentioned in the 'First' and 'Second Schedules' of the Customs Tariff Act of 1975. Rates of import duties are contained in the 'First Schedule' while the 'Second schedule' details rates of export duties. Most of the items in India are exempt from customs duty on exports, which are generally levied on imports.

First schedule contains two rates:

- Standard rate: General rate that is applicable to all categories of goods.
- Preferential rate: The preferential rate is lower than the standard rate and is applicable when goods are imported from a place specified by the 'Central Government' (CG).

In all cases, the standard rates are applicable. However, if the CG has signed a trade agreement with the country of origin, then it may opt to charge a lower basic duty (i.e., preferential rate) than indicated in the first schedule.

Countervailing Duty

In case of imported goods, beyond the basic duty, an additional 'Countervailing Duty' (CVD) is also applicable. This rate of duty is equal to the rate of excise applied to goods manufactured in India. If the same product is not manufactured in India, then goods of a similar nature are used to determine the appropriate duty amount. If there are different rates of duty on similar category of goods, then the highest rates of the known products would be applied to the product in question. However, products imported by Special Economic Zones (SEZ) always enjoy zero percent CVD.

Special Additional Countervailing Duty (Special CVD)

Special CVD tax is applicable on all items levied at the rate of 4% of the basic and the excise duty on all imports. This is done to countervail the VAT / Sales tax on local goods in India. Traders who sold imported goods in India after being subjected to VAT / Sales tax would be refunded these duties.

With the introduction of GST regime, Countervailing Duty (CVD) and Special Additional Duty (SAD), have been subsumed into IGST (Integrated GST).

Anti-Dumping Duty

To protect the domestic industry, this is levied on specific goods imported from specified countries. India can levy duties up to, but not exceeding, the margin of dumping, or the difference between the normal value and the export price.

Safeguard Duty

A tariff designed to provide protection to domestic goods, favoring them over imported items is a safeguard duty. If the government determines that greater imports of certain categories of items have a detrimental effect on domestic competitors, it may opt to levy this duty on those imports to discourage their proliferation.

However, these duties are not applicable to articles imported from developing countries. The Government of India may exempt imports of any product from this duty. The notification issued by the government in this regard is valid for four (4) years, subject to further extension. But the aggregate period cannot be more than ten (10) years from the date of its first imposition.

Education and Higher Education Cess

Education cess is a tax that was created to fund education and healthcare initiatives. An education cess of 2% and higher education cess of 1% were levied on the total amount of customs duties. However, the total of customs duties in this case does not include the safeguard duties, countervailing duty on subsidized articles, anti-dumping duty, or countervailing duty equivalent to VAT.

Valuation

Customs duty is usually payable as a percentage of 'Value'. It is known as 'Assessable Value' or 'Customs Value', which can be either:

- 'Value' as defined in Section 14 (1) of the Customs Act; or
- 'Tariff Value' described under Section 14 (2) of the Customs Act.

Tariff Value is the value fixed by the *Central Board of Indirect Taxes & Customs* (*CBIC*) for all categories of imported / exported goods. Authorities will consider the price and volume trends of the relevant goods while fixing tariff value. Once this duty is determined, it becomes payable as a percentage of this value.

According to the provisions of Section 14 of 1962 and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the value of imported goods for the assessment of duty is determined. According to these rules, the assessable value is equal to the transaction value of goods and is adjusted for freight and cost of insurance, including loading, unloading and handling charges.

The following criteria are included in the assessable value:

- Commission and brokerage
- Cost of the container, which are treated as being one with the goods for customs purposes
- Cost of packing – labor or materials
- Materials, components, tools, etc., supplied by buyer
- Royalties and licence fees
- Value of proceeds of subsequent sales
- Other payment as condition of sale of goods being valued
- Cost of transport up to place of importation
- Landing charges and
- Cost of insurance

However, these costs are excluded from the assessable value:

- Charges for construction, erection, assembly, maintenance, or technical assistance undertaken after importation of plant, machinery or equipment;
- Cost of transport after importation;
- Duties and taxes in India; and
- Types of duties on exports and imports in India are covered in the Customs Tariff Act 1975. The Act provides all the laws and regulations related to customs in India.

Customs Handling Fee

The Indian government assesses a 1% customs handling fee on all imports over and above the applicable customs duty.

FTP 2015-2020 gives a fillip to "Make in India" through import substitution and simultaneously boosts exports to effectively manage the current account deficit. The general provisions concerning imports to and exports from India are governed by the following rules, regulations, procedures, etc., as detailed in the FTP:

a. Mandatory documents required for export of goods from India: Bill of Lading / Airway Bill/Lorry Receipt/Railway Receipt/Postal Receipt; Commercial Invoice cum Packing List; and Shipping Bill / Bill of Export/Postal Bill of Export.

b. Mandatory documents required for import of goods into India: Bill of Lading / Airway Bill/Lorry Receipt/Railway Receipt/Postal Receipt in form CN-22 or CN 23 as the case may be; Commercial Invoice cum Packing List; and Bill of Entry.

c. Anygoods / services, the export or import of which is 'Restricted' may be exported or imported only in accordance with an 'Authorization' / 'Permission' or in accordance with the procedure prescribed in a 'Notification' / 'Public Notice' issued in this regard.

d. SCOMET items exported under 'Defence Offset Export Policy' will now go through a simple verification of end user certificate.

e. Goods which are importable freely without any 'Restriction' may be imported by any person. However, if such imports require an 'Authorization', actual user alone may import such goods unless such a clause is specifically dispensed with by the DGFT.

f. Country-specific restrictions would be applicable in case of exports and imports related to "arms and related material" while dealing with Iraq. However, an NOC from the Department of Defence Production would allow import or export of the same. Similar prohibitions are also placed on indirect import / export with People's Republic of Korea & Iran. Import of charcoal from Somalia is also prohibited.

g. STEs are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and / or import. Any goods, import or export of which is governed through exclusive or special privileges granted to STE, may be imported, or exported by the concerned STE as per conditions specified in ITC (HS).

h. All goods and services which are exported from units in 'Domestic Tariff Area' (DTA) and units in 'Export Oriented Units' (EOU) / 'Electronic Hardware Technology Park' (EHTP) / 'Software Technology Park' (STP) / 'Biotechnology Park' (BTP), exemption / remission of service tax levied and related to exports, shall be allowed, as per prescribed procedure.

i. In case of third-party exports (except 'Deemed Export'), export documents such as shipping bills shall indicate the name of both manufacturing exporter / manufacturer and third party exporter(s). Bank Realization Certificate (BRC), export order and invoice should be in the name of third-party exporter.

j. Goods imported may be exported in same or substantially the same form without an 'Authorization' if item to be imported or exported is not restricted for import or export in ITC (HS).

k. All export contracts and invoices shall be denominated either in freely convertible currency or Indian Rupees, but export proceeds shall be realized in freely convertible currency.

l. Authorization to import / export items except those listed as 'Restricted' items in ITC (HS) requires 'Registration-cum-Membership Certificate' (RCMC). Export Promotion Council of the respective segment issues RCMC.

m. Approved exporters can self-certify their manufactured goods with respect to country of origin with a view to qualifying for preferential treatment.

Check Your Progress - 2

6. Country-specific restrictions are applicable to which of the following?
   a. Iraq
   b. Iran
   c. People's Republic of Korea
   d. Somalia
   e. a, b, c and d

7. At what regular intervals, the foreign trade policy will be reviewed?
   a. 1 year
   b. 2 years
   c. 3.5 years
   d. 4 years
   e. 2.5 years

8. To what extent the export obligation under the EPCG scheme has been reduced?
   a. 15%
   b. 25%
   c. 35%
   d. 45%
   e. 50%

9. Which of the following initiatives is 'NOT' part of Export Promotion activity?
   a. Make in India
   b. Digital India
   c. Skill India
   d. Digital and Skill India
   e. Agricultural India

10. How many years of extension may be granted by ‘Board of Approval’to EOUs/STPs for attaining net foreign exchange earnings?
    a. 1 year
    b. 2 years
    c. 3 years
    d. 4 years
    e. 5 years

17.7 Summary

- The liberalization process in India started in the year 1992. It was aimed at freeing industry from licences, permits and government controls. It worked to bring reforms in the fiscal and monetary policies, and in banking and financial sectors, and in capital markets.
- The objective behind the same was to encourage investment and flow of capital into India. It strived to develop a vital infrastructure in India like telecommunications besides power and roads leading towards faster economic growth.
- On the eve of liberalization process, several Foreign Trade Policies (FTP) were released by the Indian Government for every five years: Foreign Trade Policies of 2004-09, 2009-14, 2015-2020. The latest FTP (2015-2020) is categorized into three themes for its successful implementation – ‘Ease of Doing Business’, ‘Trade Facilitation’ and ‘Trade Restrictions’.
- Foreign Trade Policy 2015-2020 has consolidated all previous export schemes under MEIS and SEIS. The new policy is aligned to ‘Make in India’, ‘Digital India’, and ‘Skills India’ initiatives.
- Due to Covid 19, the Export Import Policy 2015-20 was extended initially for one year and subsequently went on extendeding the policy for every 6 months and the said policy was valid till 31st March, 2023.
- To make India’s export of goods and services globally competitive and double the exports by 2020, a plethora of schemes have been introduced.
- Higher level of rewards under MEIS for export items with high domestic content and value addition should also be noted. Duty credit scrips are freely transferable and usable for payment of custom duty, excise duty and service tax.
- ITC (HS), IEC number, import and export policy in force, etc., are the important aspects to be focused upon as a part of general provisions governing imports / exports.

17.8 Glossary

Actual User (Industrial) defined as a person who utilizes the imported goods for manufacturing in his/her own unit or manufacturing for his/her own use in another unit including a jobbing unit.

Actual User (Non-Industrial) defined as "a person who utilizes the imported goods for his/her own use in (i) any commercialestablishment carrying on any business, trade, or profession; or (ii) any laboratory, scientific or Research and Development (R&D) institution, university orany other educational institution or hospital; or (iii) any service industry."

Actual User defined as an actual user who may be either industrial or non-industrial user.

Advance Licences are the licences issued under the duty exemption scheme. Under advance licences, duty free imports of inputs are permitted on fulfillment of value addition and export obligation within a certain time-frame.

Canalized Items under the negative list category are those items, which are dealt by state trading agencies for imports/exports.

Directorate General of Foreign Trade (DGFT) is a government organization entrusted with the responsibility of framing all policies related to exports and imports.

Domestic Tariff Area means area within India which is outside SEZs and EOU/ EHTP/STP/BTP.

Education Cess is a tax that was created to fund education and healthcare initiatives.

Export means the taking or sending the goods across the country borders. The move may be by land, sea or air. It can be on consignment or by way of sale, lease, hire purchase, or under any other arrangement by whatever name is called. In the case of software, also includes transmission through any electronic media.

Export Obligation means obligation to export product or products covered by authorization or permission in terms of quantity, value or both, as may be prescribed or specified by regional or competent authority.

IEC Number is a unique 10-digit code required by the traders or manufacturers for the purpose of imports and exports in India. IEC number means Import and Export Code Number.

Import Licence means a licence granted specifically for import of goods which are subject to import control. Items, which require a licence, can be imported only by an actual user unless the actual user condition is specifically dispensed with by the licensing authority.

Licences with Export Obligations means licences issued with a rider like 'export obligation' which means importers of capital goods are required to export to a place outside India, a certain proportion of goods manufactured by the use of imported capital goods.

Prohibited indicates the import / export policy of an item as appearing in ITC (HS) or elsewhere, whose import or export is not permitted.

Registration-Cum-Membership Certificate (RCMC) means certificate of registration and membership granted by an Export Promotion Council / Commodity Board / Development Authority or other competent authority as prescribed in FTP or Handbook of Procedures.

Regular Licences are the licences issued for the import of goods which fall under the normal import policy.

Restricted is a term indicating the import or export policy of an item, which can be imported into the country or exported outside only after obtaining an authorization from the offices of DGFT.

Restricted Items falling under the negative list category are the items generally those for which demand can be adequately satisfied in normal circumstances by local production in India.

Special Import Licence (SIL) means a licence to be used to import, among other items, certain consumer goods. The SIL is like an import permit and is traded in the market at a premium on its value.

Status Holder means an exporter recognized as 'One Star Export House' / 'Two Star Export House' / 'Three Star Export House' / 'Four Star Export House' / 'Five Star Export House' by DGFT / Development Commissioner.

17.9 Self-Assessment Test

1. Broadly explain the three major themes of current 'Foreign Trade Policy'.
2. Explain the general provisions relating to imports / exports in the new 'Foreign Trade Policy'.
3. What are the objectives and key highlights of 'Foreign Trade Policy 2015-2020'?
4. Write a short note on 'Ease of Doing Business' considering the Indian economy in the year 2017.
5. Distinguish EPCG scheme from STP scheme.
6. FTP 2015-2020 gives a fillip to "Make in India" through import substitution and simultaneously boosts exports to effectively manage the current account deficit. Elaborate it.

17.10 Suggested Readings/Reference Materials

1. Francis Cherunilam, International Business - Text and Cases, 6th Edition, PHI Learning.
2. P G Apte (2020), International Financial Management, McGraw Hill Education (India) Private Limited.
3. Madhu Vij (2021). International Financial Management – Text and Cases. 4th edition. Taxmann.
4. Charles W. L. Hill, G. Tomas M. Hult (2021). International Business. 12th edition. McGraw Hill Education (India) Private Limited.
5. Choel S. Eun & Bruce G. Resnick (2022). International Financial Management. 8th edition. McGraw Hill Education (India) Private Limited.
6. K. Aswathappa (2020). International Business. 7th edition. McGraw Hill Education (India) Private Limited.

17.11 Answers to Check Your Progress Questions

1. (e) Bill of Entry

‘Bill of Entry’ is relevant for imports and not for exports.

2. (a) 1 year

Foreign Trade Policy was reviewed annually in the past.

3. (c) Bill of Exports

‘Bill of Exports’ is relevant for exports and not imports.

4. (b) Cargo Release Order

'Cargo Release Order' is not a mandatory document required by any regulatory agency, but is a commercial document issued by the shipping line to the concerned importer.

5. (c) Packing List & Commercial Invoice

‘Packing List’ and ‘Commercial Invoice’ required by customs were merged into one document.

6. (e) a, b, c and d

Country-specific restrictions are applicable for all the following countries. However, imports and exports may be permitted with an NOC from appropriate authority.

7. (e) 2.5 years

‘Foreign Trade Policy’ will be reviewed after two and half years moving away from the tradition of annual reviews.

8. (b) 25%

Export obligation of EPCG scheme has been reduced by 25% for encouraging domestic sourcing of capital goods.

9. (e) Agricultural India

'Export Promotion Mission' for India connects varied policies, procedures, and guidelines of foreign trade with other major initiatives such as "Make in India", "Digital India", "Skill India". Thus, 'Agricultural India' is outside its purview.

10. (a) 1 year

'Board of Approval' (BoA) may grant one-year extension for achieving net foreign exchange earnings under special circumstances on a case-to-case basis.

Unit 18

Documentary Credits

Structure

"In banking or finance, trust is the only thing you have to sell."

- Patrick Dixon, Influential Business Thinker

18.1 Introduction

Letter of credit is the bank's promise to pay a seller on behalf of the buyer – his client - with laid down conditions. A trust is created in the minds of the seller by the banker through the letter of credit.

In the previous unit, we discussed foreign trade policy which provides framework for export and import activity in the country. This unit deals with how international trade takes place through letters of credit mechanism.

Any trade involves two parties - in a domestic trade both parties are domiciled in the same country and in international trade one of the parties is a foreign national. So, trade takes place between nationals of two different countries and two different political boundaries, different legal frameworks, different trade policies. Also, the currencies of the two countries are different. Further, trade and exchange regulations applicable to both the parties may differ. In such a situation, a seller who ships goods will be apprehensive whether he/she will receive payment from the buyer or not. However, the buyer will be concerned whether the seller will ship the goods ordered for and deliver them on time. Given these complexities, a need for an ideal method of settling international trade payments was felt and consequently the usage of 'Documentary Credits', commonly known as 'Letter of Credit' (LC) came into vogue.

Initially, even this arrangement created discomfiture as parties involved in the transaction have been using different terminologies/interpreting the arrangement in different ways. Subsequently, ICC came up with a set of guidelines in the name of 'Uniform Customs and Practice for Documentary Credits' (UCPDC) to facilitate uniform interpretation of terminology used under 'Documentary Credit' by all concerned. The UCP first appeared in 1933 and since then is getting refined with the experiences gained from time to time. The latest version of rules was in 2017 that govern the Letter of Credit transactions worldwide is UCP 600 prepared by 'International Chamber of Commerce (ICC)' referred to as UCPDC 600.

[10]In the era of digitalization ICC took up e-compatibility of existing ICC rules UCPDC 600 and URC 522 (Uniform Rule for collections) in June 2017. After many consultations, deliberations the ICC had finalized eUCP and eURC 2.0 and it was effective from 1st July 2019. eUCP mentions that if any term is not defined or modified in the eUCP, definitions given in UCP 600 will continue to apply. We have provided the modifications made in UCPDC 600 in the eUCP2.0 version at the end of the unit

18.2 Objectives

After studying this unit, you should be able to:

- State the nature and significance of Letter of Credit
- Describe the characteristics of principal parties to a Letter of Credit
- Comprehend the rights and responsibilities of parties to a Letter of Credit
- Explain in detail the types of Letters of Credit in usage
- Discuss the process of documentation requirements in a Letter of Credit
- Ascertain the Incoterms in usage as a consideration to current trading practices

18.3 Meaning of Letter of Credit

A Documentary Credit or Letter of Credit may be defined as "an arrangement by means of which a bank (Issuing Bank) acting at the request of a customer (Applicant), undertakes to pay to a third party (Beneficiary) a pre-determined amount by a given date according to agreed stipulations and against presentation of stipulated documents". In a simplified form, a Letter of Credit may be defined

[10] https://iccwbo.org/publication/eucp-version-2-0-icc-uniform-customs-and-practice-for-documentary-credits/

as an arrangement where payment is made against documents. Under the documentary credits, all the concerned parties deal with documents and not with goods, services or performances to which the documents may relate.

The Uniform Customs and Practice for Documentary Credits (UCPDC) guidelines which govern the operations of Letters of Credit (LC) define Documentary Credit as "any arrangement, however, named or described, whereby a bank (the "Issuing Bank"), acting at the request and on the instructions of a customer (the "Applicant") or on its own behalf:

i. To make a payment to or to the order of a third party (the "Beneficiary"), or to accept and pay Bills of Exchange ("Draft"(s) drawn by the Beneficiary); OR

ii. Authorizes another bank to effect such payment, or to accept and pay such Bills of Exchange (Draft(s)); OR

iii. Authorizes another bank to negotiate against stipulated documents, provided that the terms and conditions of the credit are complied with".

Example: Letter of Credit and MSMEs

MSMEs involved in Export and import often do business with unknown buyers or sellers in foreign markets. This runs the risk of defaulting payments. In this regards, a Letter of Credit (LC) serves as an important trade financial tool assuring payment. The importer bank, issues an LC guaranteeing that the exporter would receive the payment for the shipped goods. The LCs are issued against cash or other security pledges.

Source: https://economictimes.indiatimes.com/small-biz/trade/exports/process/what-are-the-advantages-of-a-letter-of-credit-for-msme-exporters-and-importers/articleshow/95197098.cms, dated: 31st October 2022.
Accessed on December 1, 2022

18.4 Parties to a Letter of Credit

From the definition given above, it can be deduced that the principal parties to a LC are:

– Applicant (Opener of the LC/Importer)
– Issuing Bank (The bank which opens the LC)
– Beneficiary (Who is the Seller/Exporter) of the underlying LC
– Advising Bank
– Confirming Bank
– Nominated Bank
– Reimbursement Bank.

Applicant

The 'Applicant' of an LC is usually the buyer of the goods who is to make payment to the seller. It is at his request and instructions that the 'Issuing Bank' opens the Letter of Credit. Incidentally, an LC issuing bank could itself be an applicant (For its own use, it can be an applicant, besides being an issuer).

Issuing Bank

The 'Issuing Bank' is the bank, which opens the Letter of Credit in favor of the beneficiary. By opening it, the 'Issuing Bank' undertakes the responsibility to make payment to the seller on compliance of prescribed terms and conditions.

Beneficiary

The 'Beneficiary' is the seller of goods who is to receive payment from the buyer. The Letter of Credit is opened in his/her favor to enable him/her to receive payment on submission of the required documents.

Advising Bank

The 'Advising Bank' advises the credit to the beneficiary. Advising of credit is done only after verifying the authenticity of the credit. When a bank advises a credit, it implies that it authenticates the signatures of the Issuing Bank. The Advising Bank is normally located in the beneficiary country.

Example: ICICI, HDFC and Axis to give Letters of Credit to Defence Ministry

In July 2022, Ministry of Defence (MoD) assigned three private sector banks namely, ICICI, HDFC and Axis to provide Letters of Credit (LoC) for foreign procurements of the Ministry. In this case, MoD would become applicant/ opener i.e. the importer requesting LoC, ICICI Bank, HDFC Bank and Axis Bank would be LoC issuing banks and the beneficiary would be the arms and ammunition dealer/defence ministry of the exporting country.

Source: https://economictimes.indiatimes.com/news/defence/mod-approves-3-private-sector-banks-to-give-financial-services-for-overseas-procurement/articleshow/92720253.cms Accessed on August 30, 2022.

Confirming Bank

The Advising Bank or any other bank so authorized by the Issuing Bank may assume the role of a 'Confirming Bank' and add its confirmation to the Letter of Credit (LC) that is opened by an Issuing Bank. The bank which has been asked to confirm it is under no obligation to confirm it. It can independently select either to confirm or not, but it should advise its decision to the Issuing Bank immediately. A Confirming Bank, for all practical reasons enters the shoes of the Issuing Bank and assumes primary responsibility of effecting the payment under the LC to the beneficiary, upon his complying with the terms of the LC.

Nominated Bank

'Nominated Bank' is the bank that is nominated and authorized by the Issuing Bank to:

- Pay if the LC is a payment LC
- Incur a deferred payment undertaking
- Accept drafts, if the credit stipulates so
- Negotiate.

Where a credit is specified as freely negotiable, any bank can negotiate the documents under such a Letter of Credit (LC). However, where credit is restricted for negotiation, the Issuing Bank specifies the banks which are the Nominated Banks and to whom documents must be presented for negotiation, etc. Bills under an LC with "restricted for negotiation" clause cannot be negotiated by any bank other than Nominated Bank specified in the LC.

Reimbursement Bank

Reimbursement Bank is the bank, which is authorized to honor the reimbursement claim in settlement of negotiation or acceptance or payment lodged with it by paying, negotiating or accepting bank. It is usually the bank with which the Issuing Bank has account, from which payment is to be made.

18.4.1 Rights and Responsibilities of Parties to an LC

The rights and responsibilities of every party associated with an LC have been defined in the Uniform Customs and Practice for Documentary Credits (UCP) 600. It is important that every party that deals with Letter of Credit (LC) is well informed about these responsibilities.

A brief summary of these rights is discussed hereunder:

- All parties dealing with an LC are dealing only with documents and not with goods/services, or performances to which the documents may relate.
- Exporter/Beneficiary of LC has a right to receive a payment against submission of specified documents under the LC. It is the exporter's duty to ship the goods as per the LC. Also, he should submit the documents within the prescribed time for negotiation.
- **Negotiating Bank:** Once documents under the LC are submitted, the 'Negotiating Bank' must determine that they appear on their face to be in line with the terms and conditions of the credit. If found agreeable, should effect payment as per the LC terms and dispatch documents to the Opening Bank as instructed. Once the amount under the LC is paid to the beneficiary, the Negotiating Bank is entitled to get reimbursement from the opening bank for the payment. However, the related documents should be in conformity with LC terms.

- **Opening Bank:** Once documents under the LC are received from the Negotiating Bank, it should scrutinize them. This should be within seven days from the date of receipt. If it finds any discrepancy in the documents, it must convey the same to the Negotiating Bank through the fastest means available for advising, that it is holding documents in need of disposal instructions.
- **Advising Bank:** Once LC opening instructions are received from the Opening Bank, the Advising Bank should, if it so desires to act as Advising Bank, verify the veracity of the LC and advise the beneficiary about the LC and its terms. It is entitled to receive the advising charges for having advised the LC from the LC opening bank.
- **Confirming Bank:** If, at the request of the Issuing Bank, the Advising Bank selects to add its conformity to the LC, it is taking upon itself, the responsibility of paying the beneficiary against presentation of prescribed documents. Upon payment, it is entitled to receive reimbursement from the Issuing Bank. It is also entitled to receive confirmation charges.
- **Applicant to LC:** The importer is responsible for making payment under the LC, against release of stipulated documents, to the Opening Bank.

Activity 18.1

A Letter of Credit is a document from a bank that guarantees payment. How would you assess the process involved in LC payments to the suppliers? Who are the parties to it? Ascertain the rights and responsibilities of each party to an LC in offering escrows services to the buyer and the seller.

Answer:

18.5 Operational Procedures in a Letter of Credit

Some of the operational procedures in handling documentary credits are:

- In order to make payment to the overseas supplier, the buyer of goods approaches his/her bank for opening a Letter of Credit (LC) in favor of the supplier.
- After considering the request of the buyer and fulfillment of the requisite formalities, the Issuing Bank, the buyer's bank, opens the LC in favor of the supplier.
- The LC is transmitted to the Advising Bank (normally an intermediary bank situated in the supplier's country) with a request to advise the credit to the Beneficiary. After being satisfied with the authenticity of the credit, the Advising Bank advises the credit to the Beneficiary (i.e. the supplier).

- The Beneficiary verifies the LC and checks for any discrepancies vis-á-vis, the sale contract. If any discrepancies are noticed, the buyer is asked to incorporate the necessary changes/amendments to the LC. The supplier then proceeds to ship the goods.
- Shipment of goods is followed by submission of necessary documents by the supplier to the Negotiating Bank in order to obtain payment for the goods. The Negotiating Bank, upon receipt of commercial documents and the Bill of Lading from the exporter, scrutinizes the documents in par with the LC and if found to be in order, negotiates the bill and makes payment to the supplier.
- The Negotiating Bank then claims reimbursement from the Issuing Bank by mailing the documents to it or any other bank authorized for the said purpose.
- The commercial invoice and other documents are presented by the Issuing Bank to the buyer of goods, who, on receipt of the same, checks the documents and accepts/pays the bill. Either on acceptance or payment, the shipping documents covering the goods purchased are handed over to him.

Example: Letter of Credit: Union Bank of India Specification of Procedures

Union Bank of India (UBI), the public sector bank, specified the procedures for issuing of letter of credit (LoC) of any importing business firm availing UBI's facility. Firstly, it mentioned about the applicant/opener i.e. the importer who requested for LoC. Then issuing bank (UBI in this case) issued LoC, the advising bank in exporter's country certified the LoC), the confirming bank (can be either advising bank/other bank) added guarantee to LoC, the nominated bank madepayment to the beneficiary.

Source: https://www.unionbankofindia.co.in/pdf/hkb_20_auditpolicylettersofcredit.pdf, UBI Website., Accessed on August 30, 2022

Check Your Progress – 1

1. Identify the party on whom the Letter of Credit is issued by the bank at the customer's request.
   a. Beneficiary
   b. Banker
   c. Applicant
   d. Guarantor
   e. Payee
2. Which of the following party undertakes the responsibility to make payment to the seller on compliance of required terms and conditions?
   a. Issuing bank
   b. Advising bank

   c. Confirming bank
   d. Nominated bank
   e. Reimbursement bank

3. What is the term used for a bank which is authorised to honor claim in settlement of negotiation, or acceptance, or payment lodged with it?
   a. Issuing bank
   b. Advising bank
   c. Confirming bank
   d. Nominated bank
   e. Reimbursement bank
4. Which of the following is not an appropriate mode on how the Letter of Credit is operated based on its usage?
   a. The buyer's bank opens a Letter of Credit in favor of the supplier
   b. On authentication, the intermediary bank initiates the credit to the supplier
   c. On verification of any discrepancies, the Letter of Credit is incorporated with necessary amendments
   d. Shipment is processed on submission of necessary documents to the issuing bank by the supplier who makes the payment in order of a bill
   e. The shipping documents are produced to the buyer in return for acceptance or payment of commercial invoice
5. Which of the following bank confines to the responsibility of making payment to the beneficiary against the presentation of stipulated documents?
   a. Negotiating bank
   b. Confirming bank
   c. Advising bank
   d. Opening bank
   e. Intermediary bank

18.6 Different Kinds of Letters of Credit

The different types of Letter of Credits (LCs) are in operation based upon the requirement.

Based on the nature and functions, Letter of Credit can be categorized as:

18.6.1 Based on Scope for Cancellation

a. **Revocable Letter of Credit:** A 'Revocable Letter of Credit' is one which can be revoked, either cancelled or amended, by the Issuing Bank without giving notice to any of the parties concerned. Here, the Issuing Bank reserves the right of revocation. A Revocable Letter of Credit is disadvantageous from the exporter's point of view. By opening a Revocable Letter of Credit, the Issuing Bank does not make a definite undertaking to effect payment to the exporter. However, if a Nominated Bank has made payment to the beneficiary, prior to receipt of the notice of cancellation or amendment, then the Issuing Bank will be made responsible to reimburse the claim that has been presented to it.

Every Letter of Credit should clearly specify whether it is 'Revocable' or 'Irrevocable'. According to the UCPDC guidelines, if no such indication is observed, the credit will be deemed to be an 'Irrevocable Letter of Credit'.

b. **Irrevocable Letter of Credit:** Almost all LCs opened in the course of international trade are 'Irrevocable Letters of Credit'. Cancellation or any amendment to such an LC cannot be made without the prior acceptance of all the parties to the said LC like the Applicant, the Confirming Bank, if any and the Beneficiary. It is important to note that cancellation or amendment can be made only if all the parties consent to the same. An Irrevocable Letter of Credit is more desirable from the exporter's point of view.

c. **Confirmed Letter of Credit:** Here, in addition to the Issuing Bank, another bank will add its confirmation to the LC. In simple words, a 'Confirmed Letter of Credit' will have the guarantee of not only the Issuing Bank but also of the Confirming Bank. It should be noted that only Irrevocable Letters of Credit can be confirmed. The Confirming Bank will add its confirmation only if requested by the Issuing Bank. Confirming Banks are normally located in the Beneficiary country.

   This works to the convenience of the Beneficiary, as he will have to deal with a local bank rather than a bank situated in another country. A Confirmed Letter of Credit is little bit costlier. This is because of the charges that will have to be paid to the Confirming Bank for confirmation.

18.6.2 Based on Mode of Payment

a. **Payment Credit:** Under this credit, payment will be made to the Beneficiary on submission of the required documents provided they follow the LC terms. 'Payment Credits' do not normally call for drawing of the bills. Under Payment Credit, the Issuing Bank nominates a bank in the exporter's country to effect payment on its behalf if the documents are in conformity with the LC. The bank which paid the amount under the LC gets reimbursement from the Issuing Bank.

b. **Deferred Payment Credit:** This type of credit is a Usance Credit. Here, the payment is made on the due dates mentioned in the credit. The beneficiary may or may not be needed to draw the drafts. However, under this credit, the maturity dates at which payment must be made and how such maturity should be computed should be clearly specified. The drawee bank itself may draw

'Promissory Notes' and pass on to the Beneficiary for claiming payments on the due date.

c. **Acceptance Credit:** This credit is a Usance Credit. Underneath, it is mandatory for the beneficiary to draw a draft on the drawee/specified bank for a specified tenor. The drawee bank will accept such drafts and make payment on the respective due dates on presentation of the relevant Bills of Exchange.

d. **Negotiation Credit:** This credit may be a 'Sight Credit' or a 'Usance Credit'. Under a Sight Credit, payment is made immediately, while under a Usance Credit, payment is made after a specified tenor. A Negotiation Credit may be freely negotiable in which case the Beneficiary may approach any bank for presentation of documents. This implies that when a credit is freely negotiable, then any bank is a Nominated Bank.

   On the contrary, when a credit is restricted for negotiation, the Issuing Bank authorizes certain specified banks as the Nominated Banks. In such a case, the Beneficiary is required to present the requisite documents only to such banks as they alone are authorized to negotiate the documents under Letter of Credit (LC).

   When a bank nominated to make a payment refuses to do so, then it is the responsibility of the Issuing Bank to render such payment. Thus, in a negotiation credit, it is the responsibility of the Issuing Bank to pay. It cannot avoid its responsibility by stating that the Negotiating Bank is required to pay. A Nominated Bank, which effectively negotiates the documents, buys the same from the Beneficiary, thereby becoming a 'Holder in due course'.

18.6.3 Based on Tenor

a. **Sight Credit:** Where payment is made on sight, then such credit is known as a 'Sight Credit'. This can be either on demand or on presentation. Drawing of drafts is not compulsory under Sight Credit. Under a 'Sight Payment Credit' (if drawing a draft is not required), payment can be made against submission of specified documents.

b. **Usance Credit:** This is also referred to as 'Term Credit'. This credit requires the drafts to be drawn on the drawee/specified bank indicating the tenor. Such drafts will be accepted by the drawee and paid for at the end of the usance period.

18.6.4 Based on Availability Style

a. **Revolving Credit:** 'A Letter of Credit' whereby the credit available to the Beneficiary gets reinstated to the original amount once a drawing is made, is called a 'Revolving Credit'. The amount under this credit may revolve in relation to time or value. This may be of two types. In the first type, the amount gets reinstated immediately when the Beneficiary makes a drawing.

In the second type, the amount will be revived only when the Issuing Bank gives a confirmation. This may take place after the Issuing Bank receives documents and payment is made, or the Issuing Bank confirms the fact of receipt of documents. Bankers should be cautious while opening Revolving Credits, as there is a tendency to lose track of the amount, which they are committing under this credit.

b. **Installment Credit:** It stipulates that shipments may be made in installments at specified periods of time. 'Installment Credit' differs from 'Simple Credit', which permits partial shipments in the sense that under Installment Credit, the time as well as the quantity is stipulated. On the other hand, under a simple credit, which permits partial shipments, there is no stipulation as to time and quantity.

   While availing credit under an 'Installment Letter of Credit', the exporter should be aware of the implications of Article 41 of the UCPDC guidelines. As per this article, if for any reason, the Beneficiary is not able to ship the goods within the stipulated period and does not draw the installment on time, then the LC ceases to be available not only for that installment but also for any subsequent installments. This can be prevented only if the Beneficiary sees to it that a provision specifically stipulating that credit will be available for subsequent installments despite any failure of earlier shipment/drawings and the same is incorporated in the text of the LC. This credit calls for shipment of full value of goods.

c. **Deferred Credit:** This credit is mostly used in those trades where a portion of goods is paid for by the buyer after verification of goods or after assessing the value of the goods considering the quality, shortages, etc. Date for payment of the undrawn balance may or may not be specified. Hence, such type of credit is known as 'Deferred Credit'.

d. **Transit Credit:** Usually, when a Letter of Credit (LC) is opened, it will be advised to the Beneficiary by a bank that is based in the Beneficiary's country. However, in a 'Transit Credit', the services of a bank located in a third country will be used. In such credit, the Advising Bank will be in a country other than the Beneficiary's. Such a need may be called for, in cases where the Opening Bank has no correspondent relations with any bank in the Beneficiary's country. This type of credit may also be opened by countries whose credit may not be readily accepted in the Beneficiary's country. In such a case, a bank in a third country may be requested to open the LC.

e. **Reimbursement Credit:** When a credit is denominated in the currency of a third country, such credit is called as 'Reimbursement Credit'. This contrasts with the normal LC, which are denominated in the currency of either the applicant's country or the beneficiary's country.

The reimbursement can be done in two types (i) debit to the Vostro account of the opening bank or (ii) credit to the Nostro account of the paying bank/accepting bank / negotiating bank.

f. **Anticipatory Credit:** Payment under a Letter of Credit (LC) is normally made at the 'Post-shipment' stage. This is on submission of relevant shipping documents. However, under 'Anticipatory Credit', payment is made to the exporter at the 'Pre-shipment' stage in anticipation of export of goods and submission of bills at a subsequent stage. The advances so made will be recovered from the proceeds of bills to be submitted under the LC. Where the bills are not presented, recovery will be made from the Opening Bank.

   Anticipatory Credits are of two kinds:

   - Red Clause Credit
   - Green Clause Credit.

   Under the 'Red Clause Credit', advance payment is made to the beneficiary for purchasing raw materials/processing and/or packing the goods.

   In addition to the purpose specified under the Red Clause Credit, the Green Clause Credit provides for payment of advance towards warehousing and insurance charges at the port where the goods are stored that are pending for availability of ship or for shipping space.

   These two kinds are, as of now, are outdated. They are rarely being used.

18.6.5 Others

a. **Standby Letter of Credit:** In this type, the credit is payable upon certification of a party's non-performance of the agreement. Further, it is paid upon adducing the evidence to the effect that payment has indeed been defaulted. Standby LCs are mostly used in countries, where financial guarantees are prohibited by law, such as in the USA.

   The following is the legal case of National Infrastructure Development Company Limited (NIDC) on how it benefitted on the payment owing to Standby Letter of Credit from the Issuing Bank.

b. **Transferable Credit:** A 'Transferable Credit' can be transferred from the first Beneficiary to a second Beneficiary. It should be noted that such credit can be transferred only once. The second beneficiary cannot in turn transfer the same to a third Beneficiary. This type of credit will be subject to the original terms and conditions of the credit. But this exempts the amount of credit, unit prices, percentage of insurance terms, period of validity and shipment.

   As per the Article 38 of the UCPDC, a credit will be considered as transferable, only if it is specifically specified in the credit.

c. **Back-to-Back Credit:** This credit is opened against the security of another credit known as the main credit. Under this credit, when a Letter of Credit (LC) is opened by the buyer in favor of the first Beneficiary (who is usually not the actual supplier/manufacturer), such a Beneficiary will open another identical LC in favor of his actual supplier/manufacturer against the security of the main credit. By doing so, the first Beneficiary can obtain the reimbursement by submitting documents received under 'Back-to-Back Credit' under the main LC.

   Cases where the need for Back-to-Back Letters of Credit arises:

   - Where the buyer is not willing to open a transferable Letter of Credit.
   - Where the Beneficiary does not want to reveal the source of supply to the buyer.
   - Where the actual supplier wants payment against documents for goods, but the Beneficiary of credit is short of funds.

   Bankers may not find a Back-to-Back Credit as safe as a Transferable Credit. This is because there is likelihood that once payment is made against the documents received under the Back-to-Back LC, the opener of the Back-to-Back LC may not be able to submit the same documents under the main LC to obtain reimbursement. This may lead to credit risk to the Opening Bank of the Back to Back LC. Thus, bankers should exercise due caution while opening a Back-to-Back Letter of Credit.

Example: ICICI's Tenor Based Letters of Credit

ICICI Bank issues three type of tenor based letters of credit (LoC). The first is Sight Letter of Credit which is issued when the documentation is received in order. Secondly, Usance Letter of Credit is issued when drafts are accepted in the name of the drawee after all documentation received and to be paid on the maturity date. ICICI Bank also issues a third type of LoC i.e. the Standby Letter of Credit so that the applicant can meet the payment or contractual obligations.

Source: https://www.icicibank.com/business-banking/tradeservice/letter-of-credit.page, ICICI Bank website., Accessed on August 30, 2022

Check Your Progress - 2

6. Revocable Credit is one which can be cancelled or amended by Issuing Bank without giving notice to any parties concerned. From the following, identify the statement contrary to Revocable Letter of Credit.
   a. Issuing Bank reserves the right of revocation
   b. It is disadvantageous from the exporter's point of view
   c. The Issuing Bank makes a definite undertaking to effect payment to exporter

   d. Any amount paid to buyer prior to cancelation or amendment is claimed for reimbursement by Issuing Bank
   e. Every Letter of Credit should specify whether the given LCs are Revocable or Irrevocable

7. Which of the following credits are issued based on the mode of tenure?
   a. Sight and Usance Credit
   b. Revocable and Irrevocable Credit
   c. Payment and Deferred Payment Credit
   d. Installment and Deferred Credit
   e. Reimbursement and Anticipatory Credit

8. What is the name given to the payment made in advance to the exporter on expected issuance of goods and submission of bills at a later date?
   a. Revolving Credit
   b. Anticipatory Credit
   c. Deferred Credit
   d. Transit Credit
   e. Transferable Credit

9. What is the other name given to Usance Credit?
   a. Red Clause Credit
   b. Green Clause Credit
   c. Term Credit
   d. Acceptance Credit
   e. Main Credit

10. Which of the following Letters of Credit is unsafe because of its likelihood to get payment against document received by the seller on behalf of the main LC, to obtain reimbursement?
    a. Transferrable Credit
    b. Standby Letter of Credit
    c. Back to Back Credit
    d. Reimbursement Credit
    e. Confirmed Credit

18.7 Documents under Letter of Credit

For shipment under Letter of Credit (LC), the supplier should prepare documents strictly in accordance with the terms and conditions of the LC. He should submit them to his bank for negotiation. The Negotiating Bank will examine these documents and if found in order, negotiate the same.

If there are any discrepancies in the documents submitted by the exporter, the Negotiating Bank

- May return the documents to the exporters for rectification of defects, or
- May refuse to negotiate the documents and may advise the exporter to send them on collection basis, or
- Contact the Issuing Bank for authorization for negotiation in case of minor discrepancies, or
- Make payment ‘under’ reserve against exporter’s indemnity and send the bills to the Issuing Bank.

The documents to be submitted by the exporter to his banker would include a commercial invoice, transport document which is usually the Bill of Lading (or Seaway Bill or Airway Bill), insurance document, certificate of inspection, packing list and in some cases a certificate of origin of goods as well.

Before submitting the documents to the bank, the exporter should follow certain safeguards, which are indicated below:

- Documents called for should be submitted and in the requisite number.
- Documents should be issued by persons required to issue.
- Documents should be dated wherever required.
- Documents should be manually signed wherever stipulated.
- Any material alterations to the documents should be properly authenticated.
- Documents should be consistent with each other.
- Shipment should take place within the time stipulated in the LC. In case of Installment Credit, the requisite quantity should be shipped within the stipulated time.
- If partial shipment is effected, the same should be permitted under the LC.
- Documents should be presented at the place stipulated.
- Documents should be presented within the expiry date of the LC.

Documents should be presented within the time stipulation indicated in the LC or the provisions of the UCPDC.

Some provisions of UCPDC are furnished, in Table 18.1, below, to exemplify the role played by UCPDC in demystifying perceptions of parties to the trade related terms and conditions. They also state the mode of handling of transactions by banks.

Table 18.1: Important Articles in UCPDC 600

Article	Concept	Explanation
03	Interpretations of certain terms	The words, “To, till, until”, includes; and; “before and after” excludes, the date mentioned. The first half of the month means 1st to 15th and second half means 16th to last day of the month, irrespective of the number of days in a month.
04	Credit Vs Contracts	Banks are concerned with the terms and conditions undertaken in the letter of credit and not the contract between the exporter and importer.
05	Documents vs. Goods and Contracts	Banks, in letter of credit transactions, deal with the documents and not in goods and services
14	Period of submission of documents	The documents under the L.C are required to be submitted within 21 days from the date of shipment.
	Permissible time for verification of documents	If a bank does not communicate discrepancies, if any, in the documents submitted to it against the L.C, within 5 banking days, the documents are deemed to be acceptable to them.
28	Date of insurance document	The date of insurance document shall not be later than the date of shipment of goods. The currency of insurance shall be in the currency of letter of credit. Unless stated otherwise, the insurance shall be 110% of CIF / CIP value of goods.
30	Tolerance in Credit Amount, Quantity and Price	When words like “about, or approximately” are used before credit amount, or quantity or price; tolerance up to 10% (i.e. 10% more or 10% less) is permitted.
		Tolerance up to 5% (i.e. 5% more or 5% less), is permitted, where the credit does not specify the goods in a specific number of units, provided, the drawings does not exceed the amount of the credit.

31	Partial Shipments	They are permitted, unless specifically prohibited by L.C.
34	Disclaimer on Effectiveness of Documents	Banks assume no responsibility for the "Form, sufficiency, accuracy, genuineness, falsification, legal effect of any document submitted against a L.C".
35	Disclaimer on Transmission of Documents / Messages	A bank assumes no liability or responsibility for the consequences arising out of delay, loss in transit, mutilation or other errors arising in the transmission of any messages or delivery of letters or documents, when such messages, letters or documents are transmitted or sent according to the requirements stated in the credit.
36	Force Majeure	Banks do not assume any responsibility, for the interruption in the business on account of acts of God, riots, civil commotions, insurrections, which are beyond the control of banks.

Source: ICFAI Research Center

Guidelines to be kept in mind with respect to individual documents are enumerated below.

18.7.1 Invoice

A commercial invoice is prima facie evidence of the contract of sale and purchase. It is a document made by the exporter on the importer. It consists of details like description of the goods consigned, consignor's name, consignee's name, name of the steamer, number and date of Bill of Lading, country of origin, price, terms of payment, amount of freight, etc. The invoice should be as explained below:

- The invoice should be prepared in the name of the applicant.
- It should be signed by the maker. Description of goods specified in the invoice should correspond to the description given in the Letter of Credit. Similarly, other conditions like quantity of goods, unit price, delivery terms, etc. should conform to those stipulated in the Letter of Credit.
- The invoice should be drawn in the same currency of LC, unless otherwise specified.
- The invoice should not include any charges not specified in the LC. The gross value of invoice should not exceed the credit amount.
- The invoice should exhibit the deductions towards advance payment made, agency commission payable, etc. as applicable.

- Final amount of invoice or the percentage of drawing as permitted in the LC should correspond with the draft amount.
- If partial shipments are effected, amount of drawings should preferably correspond to proportionate quantities shipped. This is where only quantity is specified without unit price.
- If invoice is issued for an amount in excess of the amount permitted by the credit, the drawings should not exceed the amount of credit.
- Details specified on the invoice should correspond to details specified in all other documents. Further, the invoice should certify to facts like origin of goods as specified in the Letter of Credit (LC).

18.7.2 Bill of Lading

A 'Bill of Lading' is a document issued by the shipping company or its agent. This is for acknowledging the receipt of goods for carriage which are deliverable to the consignee or his assignee in the same condition as they were received.

There exists a close relationship between 'Bills of Lading' and the 'Letter of Credit'. The possession of the original Bill of Lading enables the holder to claim the goods from the carrier.

The Bill of Lading must fulfil certain requirements. Every Bill of Lading must:

- Show the name of the carrier. It must be issued by a named carrier or his agent. The Bill of Lading must also be signed by the named carrier or his agent;
- Bear a distinct number;
- Indicate the date and place of issuance;
- Indicate the name of consignor and consignee;
- Indicate a brief description of goods being carried;
- Indicate port of loading or taking in-charge. In case of Marine Bill of Lading, it must show a definite port of loading and in other cases it can be shown as an "intended" port;
- Indicate port of discharge. In case of a Marine Bill of Lading, it must indicate a definite port of discharge and in other cases it can be shown as an intended port;
- Be presented in full set of originals, i.e., full set comprises two or more originals issued to consignor of goods, all of which are made as "originals" and signed. The number of copies of originals is indicated on the Bill of Lading itself;
- Meet all other specifications of the credit;
- Must indicate whether freight is prepaid or is payable.

A Bill of Lading should not (unless otherwise specified by the terms of the LC):

- Be a chartered party Bill of Lading;
- Indicate that the carrying vessel is propelled by sail only;
- Be issued by a freight forwarder, unless he himself is acting as a carrier or agent;
- Indicate that the goods are or will be loaded on "DECK";
- Be a claused Bill of Lading.

A Bill of Lading can (unless otherwise prohibited):

- Bear title such as "Combined transport B/L" or "Combined Transport Document or Combined Transport B/L" or "Port to Port B/L";
- Be a short form or blank backed Bill of Lading;
- Indicate a place of taking in-charge separate from the port of loading and/or place of destination as separate from the port of discharge;
- Indicate that the goods are carried in containers, pallets, etc.;
- Be a FIATA Combined Transport B/L known as FIATA FBL approved by ICC issued by the freight forwarder; FIATA in French when translated in English means "International Federation of Freight Forwarders Associations";
- Be issued by a freight forwarder provided it is issued in his capacity as a carrier or his agent;
- Contain a notation that the goods may be carried on deck. This is when it does not specifically state that they are/or will be loaded on deck;
- Indicate that the goods will be trans-shipped provided the same Bill of Lading (B/L) covers the entire carriage;
- Be a "freight payable" Bill of Lading;
- Evidence freight prepayment by a stamp or otherwise on Bill of Lading to that effect like "Freight Prepaid";
- Bear a reference by stamp or otherwise to cost additional to freight charges;
- Show clauses such as "shippers load and count" or "said by shipper to contain" etc. with reference to goods covered by Bill of Lading;
- Show shipper as third party other than the beneficiary;
- Be deemed as "clean on board" if it is an on-board Bill of Lading without any super imposed clauses or notations expressed in declaring the defective conditions of the goods and/or the packaging.

Other Aspects of Bill of Lading

If a Bill of Lading is issued as an "On-board" Bill of Lading, then it must indicate the name of the carrying vessel.

A charter party Bill of Lading need not show the name of the carrier.

A FIATA FBL can be accepted as a "Marine Bill of Lading" provided it fulfils all the requirements of a Marine Bill of Lading.

A B/L issued by even a Non-Vessel Owning Common Carrier (NVOCC) can be accepted as "Marine B/L" provided NVOCC has issued the B/L in his capacity as a carrier or his agent. This is subject to all other requirements of "Marine B/L" are met with.

Bill of Lading received for shipment can be treated as an "on-board" Bill of Lading; if received for shipment. Bill of Lading is affixed with "on-board" notation duly signed or initialed and dated by the carrier or his agent.

If LC calls for a "Marine B/L" without specifying whether it should be "on-board" or "received for shipment" only "On-board B/L" will be accepted.

Date of issue of B/L or "on-board" notation should be dated prior to the shipment date permitted under the LC.

Shipping marks, gross/net weight, etc., specified on Bill of Lading must correspond to those specified in other documents.

Example: Amazon Global Logistics Issues Bill of Lading

Amazon through its Global Selling (AGS) enabled sellers to export to various international market players. For Indian exporters, AGS allowed to sell in 18 international market places. AGS also took care of issuing Bill of Lading (BoL) document for the registered exporters using Amazon Global Logistics. BoL document is issued by a carrier acknowledging receipt of cargo for shipment.

Source: https://sell.amazon.in/grow-your-business/amazon-global-selling. Accessed on August 30, 2022

18.7.3 Insurance Document

In international trade, when goods are in transit, they are exposed to marine perils. Insurance is affected to safeguard the insured against risk of loss/damage to goods due to marine perils.

Insurance documents should be issued and signed only by insurance companies or underwriters or their agents.

Cover notes issued by brokers cannot be accepted unless specifically authorized by the credit.

The insurance document should be signed by the issuer and dated. Date of the issuance must be on or before the date of shipment or it must be evidence by specific notation that the cover is effective from the date of shipment.

The insurance document must be expressed in the same currency as the Letter of Credit.

The insurance document must indicate the name of the assured and give brief details of the goods insured.

The mode of conveyance of goods should also be indicated. Further, it should also indicate the nature of risks covered which should be those specified in the LC.

The insurance document should be in a negotiable form.

Unless otherwise specified, it should be issued for an amount of 110% of CIF/CIP value of the goods. If such value is not determinable from the documents on their face, it should be for a minimum amount of negotiation requested for or the amount of invoice value whichever is higher.

If the insurance document is issued in more than one negotiable copy, all copies must be submitted.

The document should be endorsed in blank by the assured if required as per the terms of the LC.

It should provide the port of shipment and destination or point of insurance coverage and point of termination of insurance coverage.

It should not contain any clause affecting the interest of the assured or assignees.

It must cover all the additional risks as stipulated in the Letter of Credit (LC).

If the goods are on "DECK", then deck shipment should be covered.

18.7.4 Other Documents

In addition to the above documents, a Letter of Credit (LC) may call for additional documents like bills of exchange, pre-shipment inspection certificate, packing list, shipping company's certificate, health certificate, beneficiary's declaration/ undertaking, etc. Whenever such documents are called for under Letter of Credit (LC), then the following aspects should be taken care of:

- The documents called for, should be issued by the person or authority specified in the credit. If no such person is specified or authorized, the banker may accept documents issued by any person.
- The documents should be dated and signed by the person or authority concerned.
- The documents should certify the facts stipulated as per the LC.
- It should be checked whether the documents contain wordings or data content as specified in the LC or not.
- Bankers should check whether the details specified in such certificates or documents are consistent with other documents.

Certificate of Origin

Many countries require a certificate from the supplier of goods that states the origin of the goods and certified by the chamber of commerce or any other recognized authority in the exporter's country. Certificate of origin is a vital document in case of imports into India to determine the origin of goods for methods of payment purpose as stipulated by the exchange control authorities. The important points are:

- It must be issued and signed by an independent authority like chamber of commerce, etc. It should indicate the origin of goods.
- The country of origin certified must be as per the Letter of Credit (LC) requirement and consistent with the declaration given by the beneficiary in his invoice/other documents.
- It must indicate the details of the goods. It should be consistent with other documents.
- It must indicate the name of the consignor/seller and name of consignee/buyer.

Details in the documents must be consistent with the details in other documents.

Activity 18.2
a. List out the documents pertaining to a Letter of Credit. You as an importer, state the requisites of documents for payment to the supplier to get the delivery of goods in transit.
b. Go through the particulars to a company's Letter of Credit by accessing a sample of LC from internet or by getting any company LC document belonging to export-import transactions. Illustrate the mode of operation on how an LC works between the buyer and the seller in export and import of goods.

18.8 Digitization of Trade Finance – eUCP Version 2.0[11]

In the era of digitalization, ICC took up e-compatibility of existing ICC rules UCPDC 600 and URC 522 (Uniform Rule for collections) in June 2017. After many consultations, deliberations the ICC had finalized eUCP and eURC 2.0 and it was effective from 1st July 2019. eUCP mentions that if any term is not defined or modified in the eUCP, definitions given in UCP 600 will continue to apply. We have provided the modifications made in UCPDC 600 in the eUCP2.0 version at the end of the unit.

Documentary Credits for Electronic Presentation (EUCP) Version 2.0 considered the following issues in the digitalized trade finance.

The mode of presentation to the nominated bank, confirming bank, if any, or the issuing bank, by or on behalf of the beneficiary, of electronic records alone or in combination with paper documents, is outside the scope of the eUCP. The mode of presentation to the applicant, by the issuing bank, of electronic records alone or in combination with paper documents, is outside the scope of the eUCP.

Where not defined or modified in the eUCP, definitions given in UCP 600 will continue to apply. Before agreeing to issue, advise, confirm, amend or transfer a eUCP credit, banks should satisfy themselves that they can examine the required electronic records in a presentation made thereunder.

Article e1: An eUCP credit must indicate the applicable version of the eUCP. If not indicated, it is subject to the latest version in effect on the date. An eUCP credit must indicate the physical location of the issuing bank.

In addition, it must also indicate the physical location of any nominated bank and, if different to the nominated bank, the physical location of the confirming bank, if any, when such location is known to the issuing bank at the time of issuance.

Article e2: If an eUCP credit allows the beneficiary to choose between presentation of paper documents or electronic records and it chooses to present only paper documents, the UCP alone shall apply to that presentation. If only paper documents are permitted under an eUCP credit, the UCP alone shall apply.

Article e3: Document shall include an electronic record. Place for presentation is an electronic address of a data processing system.

Presenter is the beneficiary, or any party acting on behalf of the beneficiary who makes a presentation to a nominated bank, confirming bank, if any, or to the issuing bank directly. Superimposed, notation or stamped means data content whose supplementary character is apparent in an electronic record.

[11] file:///C:/Users/Home/Downloads/icc-commentary-on-eucp-2-0-and-eurc-1-0-article-by-article-analysis.pdf

The words Data, Data processing system, Electronic record, Electronic signature. Received means when an electronic record enters a data processing system, at the place for presentation indicated in the eUCP credit, in a format capable of being accepted by that system. Any acknowledgement of receipt generated by that system does not imply that the electronic record has been viewed, examined, accepted or refused under an eUCP credit. Re-present or re-presented means to substitute or replace an electronic record already presented.

Article e4: Banks do not deal with the goods, services or performance to which an electronic record or paper document may relate.

Article e5: An eUCP credit must indicate the format of each electronic record. If the format of an electronic record is not indicated, it may be presented in any format.

Article e6: An eUCP credit must indicate a place for presentation of electronic records. An eUCP credit requiring or allowing presentation of both electronic records and paper documents must, in addition to the place for presentation of the electronic records, also indicate place for presentation of the paper documents. Electronic records may be presented separately and need not be presented at the same time. When one or more electronic records are presented alone or in combination with paper documents, the presenter is responsible for providing a notice of completeness to the nominated bank, confirming bank, if any, or to the issuing bank, where a presentation is made directly. The receipt of the notice of completeness will act as notification that the presentation is complete and that the period for examination of the presentationis to commence.

Each presentation of an electronic record under an eUCP credit must identify the eUCP credit under which it is presented. Any presentation of an electronic record not so identified may be treated as not received.

If the bank to which presentation is to be made is open but its system is unable to receive a transmitted electronic record on the stipulated expiry date and/or the last day for presentation, as the case may be, the bank will be deemed to be closed and the expiry date and/or last day for presentation shall be extended to the next banking day on which such bank is able to receive an electronic record. In this event, the nominated bank must provide the confirming bank or issuing bank, if any, with a statement on its covering schedule that the presentation of electronic records was made within the time limits extended in accordance with sub-article e6 (e) (i). If the only electronic record remaining to be presented is the notice of completeness, it may be given by telecommunication or by paper document and will be deemed timely, provided that it is sent before the bank is able to receive an electronic record. An electronic record that cannot be authenticated is deemed not to have been presented.

Article e7: This article deals with examination of the documents.

The period for the examination of documents commences on the banking day following the day on which the notice of completeness is received by the nominated bank, confirming bank, if any, or by the issuing bank, where a presentation is made directly.

Article e8: If a nominated bank acting on its nomination, a confirming bank, if any, or the issuing bank, provides a notice of refusal of a presentation which includes electronic records and does not receive instructions from the party to which notice of refusal is given for the disposition of the electronic records within 30 calendar days from the date the notice of refusal is given, the bank shall return any paper documents not previously returned to that party, but may dispose of the electronic records in any manner deemed appropriate without any responsibility.

Article e9: Any requirement for presentation of one or more originals or copies of an electronic record is satisfied by the presentation of one electronic record.

Article e10: The electronic record must provide evidence of its date of issuance.

Article e11: If an electronic record evidencing transport does not indicate a date of shipment or dispatch or taking in charge or a date the goods were accepted for carriage, the date of issuance of the electronic record will be deemed to be the date of shipment or dispatch or taking in charge or the date the goods were accepted for carriage.

Article e12 discusses on Data Corruption of an Electronic Record.

Article e13: By satisfying itself as to the apparent authenticity of an electronic record, a bank assumes no liability for the identity of the sender, source of the information, or its complete and unaltered character other than that which is apparent in the electronic record received by the use of a data processing system for the receipt, authentication, and identification of electronic records. A bank assumes no liability or responsibility for the consequences arising out of the unavailability of a data processing system other than its own.

Article e14 deals with Force Majeure. A bank assumes no liability or responsibility for the consequences arising out of the interruption of its business, including but not limited to its inability to access a data processing system, or a failure of equipment, software or communications network, caused by Acts of God, riots, civil commotions, insurrections, wars, acts of terrorism, cyber attacks, or by any strikes or lockouts or any other causes, including failure of equipment, software or communications networks, beyond its control.

18.9 Incoterms 2020[12]

Incoterms – an acronym for 'International Commercial Terms' – are a series of 11 trade terms used in international sales contracts to clearly divide the risks and

[12] https://incodocs.com/blog/incoterms-2020-explained-the-complete-guide/

responsibilities of buyers and sellers regarding the movement of goods between both the parties. They were first introduced in 1936 in Europe to prevent misunderstandings and disputes that may arise because of different trading practices among countries. They have been revised periodically to reflect current trading practices and the most recent universally used trade terms is the Incoterms 2010.

International Chamber of Commerce published the INCO terms for the first time in the year, 1936. The acronym "Incoterms" stands for International Commercial Terms. It is revised periodically, incorporating the changing trade practices. Even though Incoterms are revised in the years 2015, 2016, 2017, 2018, 2019, Incoterms 2010 continues to be the base for the international trade contracts. Incoterms 2020, which was revised during the year 2019, will be effective from 1st January 2020.

Incoterms are the accepted definitions and rules related to delivery of goods to countries located in different places. They explain in clear terms the duties and responsibilities of the exporter and importer as regards the delivery of goods, customs clearance, payment of freight, payment of marine insurance etc.

EXW Ex-Works or Ex-Warehouse

It means that the seller places the goods at the disposal of the buyer either at the seller's premises or any other named place (works, factory, warehouse, etc.). This term represents the minimum obligation for the seller. All the expenses and risks involved in taking the goods from the seller's premises will have to be borne by the buyer.

FCA Free Carrier

"Free Carrier" (FCA) means that the seller fulfills his obligation to deliver when he has handed over the goods, cleared for export, into the charge of the carrier named by the buyer at the named place or point. If no precise point is indicated by the buyer, the seller may choose within the place or range stipulated where the carrier shall take the goods into his charge.

FAS Free Alongside Ship

'Free alongside Ship' means that the seller delivers when the goods are placed alongside the vessel at the named port of shipment. This means that the buyer must bear all costs and risks of loss of or damage to the goods from that moment. Free alongside Ship does not include charges for loading the goods on board the vessel. It also does not include ocean freight charges and marine insurance premium. The FAS term requires the seller to clear the goods for export. This contrasts with the earlier requirement where the buyer was required to arrange for clearance of the goods.

FOB Free on Board

The seller is said to have delivered once the goods cross the ship's rail at the named port of shipment. From that point onwards, all the risks and expenses are to be borne by the buyer. The FOB price is inclusive of ex-works price, packing charges, transportation charges up to the place of shipment, wharfage and portage, customs dues, export duties, cost of checking of quality measure, weight or quantity, if any which an exporter incurs while delivering the goods to the buyer on-board the ship.

CFR Cost and Freight

"Cost and Freight" (CFR) means that the seller must pay the costs and freight necessary to bring the goods to the named port of destination but the risk of loss of or damage to the goods, as well as any additional costs due to events occurring after the time the goods have been delivered on board the vessel, is transferred from the seller to the buyer when the goods pass the ship's rail in the port of shipment.

CIF Cost, Insurance and Freight

"Cost, Insurance and Freight" (CIF) means that in addition to the obligations under Cost and Freight (CFR), the seller must procure 'Marine Insurance' against the buyer's risk of loss of or damage to the goods during the carriage. The seller contracts for insurance and pays the insurance premium.

CPT Carriage Paid TO

"Carriage paid to ..." (CPT) means that the seller pays the freight for the carriage of the goods to the named destination. The risk of loss of or damage to the goods, as well as any additional costs due to events occurring after the time the goods have been delivered to the carrier, is transferred from the seller to the buyer when the goods have been delivered into the custody of the carrier.

"Carrier" means any person who, in contract of carriage, undertakes to perform or to procure the performance of carriage, by rail, road, sea, air, inland waterway or by a combination of such modes.

If subsequent carriers are used for the carriage to the agreed destination, the risk passes when the goods have been delivered to the first carrier.

CIP Carriage and Insurance Paid To

"Carriage and Insurance Paid to ..." (CIP) means that the seller has the same obligations as under CPT (Carriage Paid To), but with the addition that the seller has to procure 'Cargo Insurance' against the buyer's risk of loss of or damage to the goods during the carriage. The seller contracts for insurance and pays the insurance premium. The buyer should note that under the CIP term, the seller is only required to obtain insurance on minimum coverage. The CIP term requires the seller to clear the goods for export. This term may be used for any mode of transport including multi-modal transport.

Delivered At Place Unloaded (DPU)

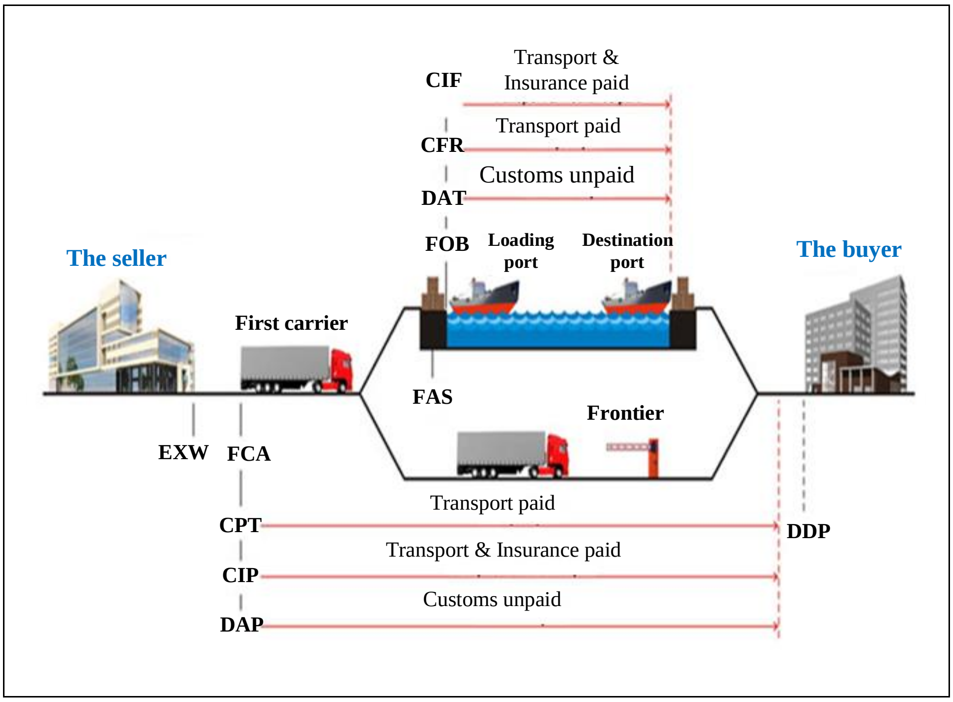
DPU replaces the "Delivered at Terminal" Incoterm of 2010. This means the seller delivers when the goods, once unloaded are placed at the disposal of the buyer at a named place of destination. The seller breaks all risks involved in bringing the goods to and to unload them at the destination.

DDP Delivered Duty Paid

"Delivered Duty Paid" (DDP) means that the seller fulfills his/her obligation to deliver when the goods have been made available at the named place in the country of importation. The seller must bear the risks and costs, including duties, taxes and other charges of delivering the goods thereto, cleared for importation. While the EXW (ex works) term represents the minimum obligation for the seller, DDP represents the maximum obligation.

Figure 18.1 gives a pictorial representation of the documentation process mode with the regard to the export and import of goods by the buyers and the sellers.

Figure 18.1: Incoterm Process Documentation Mode



Source: https://cdn.bgfashion.net/img16/Incoterms.jpg

Therefore, to be in pace with the ever-evolving global trade landscape, latest update to the trade terms were done in the year 2020.

Example: Incoterms 2020 updated by DHL on its website

Incoterms 2020 replacing Incoterms 2010 constituted the latest set of international contract terms. Significant change in new version included the new rule of "Delivered at Place Unloaded" in the place of "Delivered at Terminal" (DAT). Secondly, the previous four category classification of rules turned into two category classification putting the onus on seller for the risk or loss of delivery damage. Incoterms 2020 were ratified by all global logistic companies. DHL, the German based global logistics company ratified the trade terms specified in Incoterms 2020 on its website.

Source: https://www.dhl.com/global-en/home/our-divisions/freight/customer-service/incoterms-2020.html Accessed on September 2, 2022

18.10 Summary

- International trade involves dealings between parties who are in two distinctly located countries. Their trade practices, exchange regulations, legal systems, etc. differ from each other. Under such circumstances, it is but natural for a seller of goods to be apprehensive about the buyer's willingness to pay for goods in time and the buyer to harbor a nagging doubt about the exporter's ability to ship the goods in time. He even wonders, whether the exporter would dispatch the goods if he makes advance payment.
- Against these mutual apprehensions of buyer and seller, a mechanism often called as 'Documentary Credit' or Letter of Credit came into existence to smoothen these irregularities and to ensure that an exporter, upon his shipping the goods gets his payment from middlemen like a bank making the payment against the exporter submitting the title to goods to the bank. By this mechanism, the importer is assured that payment is made only after the intended goods have been shipped and the seller is sure of getting payment, once he ships the goods.
- International Chamber of Commerce (ICC) has taken upon itself the responsibility of designing bylaws governing these transactions to ensure uniformity across the trading partners. The guidelines issued by the ICC are commonly known as Uniform Customs and Practice for Documentary Credits and the regulations that are currently in force are prescribed in the booklet UCP-600.
- LCs are opened by the buyer's bank and advised to the Beneficiary (exporter) through a bank located in the exporter's country, commonly known as the Advising Bank. Documents under the LC can be negotiated by a bank located in the exporter's country if it is not restricted and reimbursement can be claimed from the Issuing Bank.

- There are different kinds of LCs that are used for achieving different objectives of importer/exporter. All the parties associated with a LC deal only in documents, but not with the underlying goods. Documents like commercial invoice, Bill of Lading, insurance documents are the prime documents under LC. These documents must comply with the specifications mentioned against each item in the LC.
- It is only upon confirmation that the documents submitted by the exporter, comply with the terms and conditions of the LC, that payment is made available under the LC. Each party endowed with the responsibility of submitting documents is provided with seven working days to scrutinize the documents and ascertain if they comply with the terms.
- Documentary credits, one of the important mechanisms, are ensuring smooth flow of international trade.
- eUCP and eURC version 2.0 were made effective from 1st July 2019 for documentation related to digitized trade finance.
- The operational issues in digital documents of documentary credits were discussed.

18.11 Glossary

Advising Bank is the bank that advises the credit to the beneficiary after verification of its authenticity.

Back-to-Back Credit is opened against the security of another credit called the main credit.

Beneficiary of LC is the seller of goods who is to receive payment from the buyer. The LC is opened in his/her favor to enable him/her to receive payment on submission of the stipulated documents.

Bill of Exchangeis a written unconditional order for payment from a drawer to a drawee, directing the drawee to pay a specified amount of money in a given currency to the drawer or a named payee at a fixed or determinable future date.

Bill of Lading is a document issued by the shipping company or its agent, acknowledging the receipt of goods for carriage which are deliverable to the consignee or his/her assignee in the same condition as they were received.

Certificate of Origin refers to a certified document detailing the origin of goods used in foreign commerce.

Clean Bill of Lading is a document specifying that the carrier receives the goods in apparent good order and condition.

Consignment refers to the process of delivery of merchandise from an exporter to a distributor specifying that the distributor will sell the merchandise and then pay the exporter.

Correspondent Bank is the bank that provides services to another bank in a different location.

Cost and Freight (C&F) - "C&F to a named port" is used in connection with a price quotation under which the seller must pay all costs of goods and transportation to the named port except cost of insurance.

Cost, Insurance and Freight (C.I.F) is same as C&F except that seller also provides insurance up to the named destination.

Incoterms is the acronym for 'International Commercial Terms' which are a series of 11 trade terms used in international sales contracts to clearly divide the risks and responsibilities of buyers and sellers regarding the movement of goods between both parties.

Invoice refers to a document which is prima facie evidence of the contract of sale and purchase.

Irrevocable Letter of Credit is an LC where cancellation or any amendment cannot be made without the prior acceptance of all the parties to the said LC.

Letter of Credit is the arrangement by means of which a bank (Issuing Bank) acting at the request of a customer (Applicant), undertakes to pay to a third party (Beneficiary) a predetermined amount by a given date, according to agreed stipulations and against presentation of stipulated documents.

Revocable Letter of Credit is one which can be revoked (either cancelled or amended) by the Issuing Bank without giving notice to any of the parties concerned.

Revolving Credit is a Letter of Credit whereby the credit available to the beneficiary gets reinstated to the original amount once a drawing is made, is called 'Revolving Credit'.

Sight Draft is the draft payable upon presentation to the drawee.

Standby Letter of Credit is payable upon certification of a party's non-performance of the agreement, of course, upon adducing evidence to the effect that payment has indeed been defaulted.

UCPDC is the standardized code of practice issued by the International Chamber of Commerce in Paris covering Documentary Credits.

18.12 Self-Assessment Test

1. What is a Letter of Credit (LC)? Explain the parties involved in a Letter of Credit.
2. "The rights and responsibilities of every party associated with an LC have been defined in the Uniform Customs and Practice for Documentary Credits (UCP) 600" – Elucidate.

3. Explain the role and responsibilities of parties to an LC with necessary examples.
4. Give a brief note on the operational procedure of an LC transaction between the exporter and the importer.
5. Enumerate on the nature of a Letter of Credit, classified in accordance to its availability style.
6. Discuss the categories of Letter of Credit classified based on nature of cancellation and payment operations.
7. Describe the process of documentation in case of discrepancies in the documents presented by an exporter at the time shipment.
8. "A Bill of Lading is a document issued by the shipping company on acknowledging the receipt of goods for carriage, deliverable to the consignee in condition as they were received." – Elucidate.
9. What are Incoterms? Narrate the series of usual international trade terms in use to sales contracts, between the buyer and the seller.

18.13 Suggested Readings/Reference Materials

1. Francis Cherunilam, International Business - Text and Cases, 6th Edition, PHI Learning.
2. P G Apte (2020), International Financial Management, McGraw Hill Education (India) Private Limited.
3. Madhu Vij (2021). International Financial Management – Text and Cases. 4th edition. Taxmann
4. Charles W. L. Hill, G. Tomas M. Hult (2021). International Business. 12th edition. McGraw Hill Education (India) Private Limited.
5. Choel S. Eun & Bruce G. Resnick (2022). International Financial Management. 8th edition. McGraw Hill Education (India) Private Limited.
6. K. Aswathappa (2020). International Business. 7th edition. McGraw Hill Education (India) Private Limited.

18.14 Answers to Check Your Progress Questions

1. (a) Beneficiary

A Documentary or Letter of Credit is an arrangement by means of which a bank (Issuing Bank) acting at the request of a customer (Applicant), undertakes to pay to a third party (Beneficiary), a predetermined amount by a given date, according to agreed stipulations and against presentation of stipulated documents.

2. (a) Issuing Bank

The 'Issuing Bank' is the bank, which opens the LC in favor of the beneficiary. By opening the LC, the Issuing Bank undertakes the responsibility to make payment to the seller on compliance of required terms and conditions.

3. (e) Reimbursement Bank

'Reimbursement Bank' is the bank, which is authorized to honor the reimbursement claim in settlement of negotiation/acceptance/payment lodged with it by the paying, negotiating or accepting bank.

4. (d) Shipment is processed on submission of necessary documents to the Issuing Bank by the supplier who makes the payment in order of a bill

Shipment of goods is followed by submission of necessary documents by the supplier to the Negotiating Bank in order to obtain payment for the goods. The Negotiating Bank, upon receipt of commercial documents and the Bill of Lading from the exporter, scrutinizes the documents in relation to the LC and if found to be in order, negotiates the bill and makes payment to the supplier.

5. (b) Confirming Bank

If, at the request of the Issuing Bank, the Advising Bank chooses to add its conformity to the LC, it is taking upon itself, the responsibility of paying the beneficiary against presentation of stipulated documents.

6. (c) The Issuing Bank makes a definite undertaking to effect payment to exporter

As a 'Revocable Letter of Credit' is disadvantageous from the exporter's point of view, by opening a Revocable Letter of Credit, the Issuing Bank does not make a definite undertaking to effect payment to the exporter.

7. (a) Sight and Usance Credit

Where payment is made on sight, it is called as 'Sight Credit' and the credit that requires drafts to be drawn on the drawee/specified bank indicating the tenor is referred to as 'Usance Credit' classified on the basis of tenor.

8. (b) Anticipatory Credit

Payment under a Letter of Credit is usually made at the post shipment stage (i.e., on submission of relevant shipping documents). However, under Anticipatory Credit, payment is made to the exporter at the pre-shipment stage in anticipation of export of goods and submission of bills at a later stage.

9. (c) Term Credit

‘Term Credit’, requires drafts to be drawn on the drawee/specified bank indicating the tenor. Such drafts will be accepted by the drawee and paid for at the end of the usance period.

10. (c) Back-to-back credit

Bankers may not find a ‘Back-to-Back Credit’ as safe as a Transferable Credit. This is because there is likelihood that once payment is made against the documents received under the Back-to-Back LC, the opener of the Back-to-Back LC may not be able to submit the same documents under the main LC to obtain reimbursement leading to credit risk to the opening bank of the Back-to-Back LC.

Unit 19

Export Finance and Exchange Control Regulations Governing Exports

Structure

"From an operational perspective, exports challenge companies to design, develop, manufacture and supply products to discerning customers in global markets. This, in turn, motivates companies to scale up the value chain, which results in higher realisations."

- Baba Kalyani- Indian businessman ex-chairman
and managing director of Bharat Forge

19.1 Introduction

The quote highlights the importance of exports and the challenges involved in it. This underscores the need of export finance and control regulations.

In the previous unit we have discussed various issues on Letters of Credit, one of the important instruments in international trade and finance. We briefly discussed the nature and significance and characteristics of Letter of Credit. We also discussed the rights and responsibilities of parties to a Letter of Credit and some of the operational details of Letters of Credit.

As discussed earlier, exports play a key role in the Indian economy. In order to give a boost to this sector, various incentives are extended to exporters. Exports help in augmenting the country's foreign exchange reserves, besides generating employment. Exports give a boost to the economic activity in the country ultimately improving the standard of living. Given the fact that exports play a very crucial role in a developing economy like India, any effort to promote exports cannot ignore the vital aspect of finance. The requirement of finance for an exporter may arise either at the Pre-shipment stage or the Post-shipment stage. Timely availability of credit at competitive rates enables an exporter to produce quality goods and ship it within the delivery schedules prescribed by the overseas buyer. Further, timely availability of credit simply enhances the credibility of Indian exporters and also increases their share in the market. Thus, in the present unit, we have discussed various regulations and incentives provided by the government through various measures.

19.2 Objectives

After studying this unit, you should be able to:

- Determine the measures taken by the Reserve Bank of India (RBI) to encourage exporters by offering various incentives
- Describe the significance and the criteria applicable for Pre-shipment finance
- Explain in detail the customs formality requisites for clearance of goods to be exported from India
- Discuss the legal regulations on how a Post-shipment finance is classified
- Describe the salient features of 'Gold Card' scheme available for exporters
- Discuss in detail the regulatory measures governing exports in relation to exchange controls

19.3 Finance Related Incentives Available to Exporters

In the era of globalization, countries have entered an intense competition in international trade. This heightened competition in international trade compels the governments to support their exporters to aggressively compete in the global markets. To be highly competitive in the global markets, one of the important requirements for the exporters is to provide attractive terms of credit to their overseas buyers. Export finance is a key competitive factor with several advantages for the exporters.

i. Adequate finance to boost the competitiveness of exporters:

The exporters experience huge liquidity constraints on their firms while providing such attractive credit to overseas buyers. To overcome such liquidity strains and boost the exporters' financial credibility, it is very important to make available adequate export finance facilities for the exporters both from the national, foreign, and multinational financial institutions. Well-designed export finance helps the exporter in not tying-up the firm's assets but helps in avoiding credit-risk, currency-risk, and interest-rate risks during the settlement periods. Furthermore, export finance saves the exporter from the use of the expensive administrative resources in collecting the payments from the debtors.

ii. Financing Transfer of Technology:

Technological progress is uneven across the countries. The developing countries particularly are in dire need of the state-of-the-art technologies that are generally evolving in the developed world. To acquire those technologies, massive finance is much needed to facilitate continuous technology transfer. This necessitates a growing scope for export finance.

iii. Attractive Terms of Credit:

In a highly competitive global market, the exporters can position themselves advantageously, provided they offer attractive terms of credit to their overseas buyers. It is the exporter's ability to finance the importer that can win the export orders/contracts. Export finance has an important role in those cases where the exporters are required to arrange the overseas buyers' credit to foreign importers. It helps the exporter in gaining an edge over the competitors by offering the much-needed finance to the prospective overseas-buyers. Besides, it favors the exporter in receiving cash payments upon the shipment or commissioning of the export-orders.

iv. Finance as a Factor of Production of Exports:

International trade research emphasizes that there is a direct nexus between the financial health of the exporters and their export market participation. Financial constraints adversely impact on exporters' investments and production capacities as inadequate finance hinders research and development (R&D) decisions and hiring skilled labor. In overcoming such financial constraints, exporters need export finance as a factor in the production of exports.

V. Export Sales Promotion and Customer Service:

As discussed earlier, international trade faces a highly competitive market. To promote their products and services, the exporters are required to undertake activities such as product/service exhibitions, participate in trade fairs, undertake large-scale publicity and advertisements, and various sales promotion activities. Further, as a post-sales activity, the exporters are required to provide customer service in terms of product modification, product warranty, after-sale service, etc. All these activities incur massive finance. Export finance caters to these requirements of the exporters as well.

Institutions involved in export finance:

In India, the following banks and financial institutions play a greater role in the provision of export finance:

- Commercial Banks (both public sector and private sector)
- Export-Import Bank of India (EXIM Bank)
- Export Credit Guarantee Corporation Ltd. (ECGC)
- Small Industries Development Bank of India (SIDBI)
- State Finance Corporations

The Reserve Bank of India introduced various measures in its efforts to encourage exports:

- Exporters are eligible to avail finance at concessional rates of interest.
- Banks being the main source of finance are encouraged to extend credit liberally to exporters, including granting lines of credit for 2-3 years at a stretch.
- It is mandatory for banks to extend a minimum of 2% of net bank credit to the export sector.
- To compensate banks for extending finance at lower rates of interest, export refinance facility is provided by the Reserve Bank of India.
- To encourage banks to grant credit to exporters liberally, credit guarantee is arranged from the ECGC, for loans extended to exporters at both Pre- and Post-shipment stage.
- Exporters are also granted loans against Duty Drawback entitlements.
- Exporters can retain a certain proportion of export proceeds in foreign currency in the EEFC account at the rate of 70% in case of 100% E.O.U and 50% in case of any other person resident in India.
- Export earnings are not fully taxed.

Central Board of Indirect Taxes and Customs (erstwhile Central Board of Excise & Customs) set up a new incentive scheme to boost the exporting operations of India’s garment industry to provide rebate on state levies which is shown below:

Export finance includes a range of finance facilities focused on the export market. The uniqueness of export finance lies in the fact that it not only benefits the exporter but also immensely favors the exporting country. Export finance caters to the needs of the exporter particularly for procuring, processing, producing, and packaging the goods/services for export. It is useful both in the pre-shipment stage and the post-shipment stage in providing credit to the overseas-buyers, as well as the exporters for several purposes. The following are the broad types of export finance:

Table 19.1: Types of Preshipment & Post Shipment Credits

1. Pre-shipment export finance	**2. Post-shipment export finance**
1.1 Packing Credit	2.1 Export finance against the collection of bills
1.2 Business Loan	2.2 Bill Discounting and Invoice Factoring
1.3 Loans against incentives, allowances, and subsidies	2.3 Letter of Credit Discounting
	2.4 Supplier's Credit & Buyer's Credit
	2.5 Deferred export finance

Source: ICFAI Research Center

Export finance can be categorized into Pre-shipment finance and Post-shipment finance depending at what stage of export activity, finance is extended.

19.3.1 Pre-shipment Finance

Pre-shipment finance is basically a short-term finance (inventory finance) extended to exporters in anticipation of export of goods. This finance enables exporters to procure raw materials, process, manufacture, warehouse, and ship the goods meant for export.

Pre-shipment finance can be classified as:

a. Packing Credit.
b. Advance against incentives receivable from government covered by ECGC guarantee.
c. Advance against cheques/drafts received as advance payment.

Packing Credit

It is a loan or advance granted to the exporter for purchase of raw materials/processing /packing based on LC opened in his favor by the importer. The LC/Confirmed order will be retained by the bank. It will be endorsed accordingly by indicating that Packing Credit has been availed of by the exporter.

Eligibility

An exporter who wants to avail the Pre-shipment finance should obtain an importer-exporter code number from the Directorate General of Foreign Trade (DGFT). In addition, the exporter shall not be under the caution list/special approval list of the RBI/ECGC.

Normally, the Packing Credit is extended to exporters who have the export order/LC in their name. It can also be extended where the contract is concluded by exchange of messages between the two parties, with the opening of Letter of Credit (LC) to be followed later. In such cases, banks may grant Packing Credit based on the communication, and subject to the following information made available:

a. Name of the overseas buyer
b. Particulars of goods to be exported
c. Quantity and unit prices or value of order
d. Dates of shipment
e. Terms of sales and payments

Packing Credit is also extended to supporting manufacturers/suppliers of goods who do not have Letter of Credits (LCs) in their own name but orders have been placed on them for supply of goods by an LC holder.

Type of Finance

Packing Credit is usually a funded advance. It takes the form of an unsecured/clean loan in the initial stages of disbursement of funds (i.e. when raw materials are yet to be procured). It is known as an extended Packing Credit. When the exporter obtains a title to the goods, then it becomes a secured advance.

At times, Pre-shipment finance will be extended in a non-fund form such as issuing LCs favoring the suppliers of raw materials, opening guarantees for credit purchases, etc.

Quantum of Finance

The quantum of loan will not usually exceed the Free on Board (FOB) value of goods or the domestic market value of goods, whichever is lower. But there are specific exceptions to this. Packing credit may be granted up to the domestic cost of goods even if it is higher than the FOB value. This is provided where such goods are covered by export incentives of the Government of India and availability of Export Production Finance Guarantee offered by the ECGC. The excess of advance over the FOB value should be adjusted from the cash incentives/duty drawback received.

Margin Requirements

Pre-shipment finance is a need-based finance. Thus, banks have the freedom to determine the 'Margin' that is to be brought in by the exporters.

Margins serve three vital purposes:

a. To ensure that exporter has a stake in business.

b. To take care of erosion in value of the goods charged to banker.

c. To ensure that bank finance is not extended to cover exporter's profit margin.

The percentage (%) of margin will be based upon the type of the order, commodity, capability of exporter, etc. Disbursement of funds under packing credit takes place in phases. This depends on the length of the operating cycle.

Period of Finance

Period of advance for a packing credit advance depends upon the circumstances of the individual case, such as the time required for procuring, manufacturing or processing (where necessary) and shipping the relative goods. it is primarily for the banks to decide the period for which a packing credit advance may be given having regard to the various relevant factors so that the period is enough to enable the exporter to ship the goods. further, if pre-shipment advances are not adjusted by submission of export documents within 360 days from the date of advance, the advances will cease to qualify for concessional rate of interest to the exporter ab initio. In other words, concessional rates of interest will be applicable only if export of goods takes place within the time stipulated. The stipulated period has been fixed as 360 days from the date of availing the finance. In case, the export of goods does not take place within the stipulated period, then the banks can charge interest from the very first day of the advance at a prescribed rate for ‘Export Credit Not Otherwise Specified’ (ECNOS).

Interest Equalization Scheme

Government of India had introduced interest equalization scheme to incentivize the exporters by providing interest subsidy for selected industries. The following are the details:

Government of India has approved the extension of Interest Equalization Scheme for Pre and Post Shipment Rupee Export Credit (‘Scheme’) up to March 31, 2024 or till further review, whichever is earlier. The extension takes effect from October 1, 2021 and ends on March 31, 2024.

Telecom Instruments’ sector having six HS lines shall be out of the purview of the Scheme, except for MSME manufacturer exporters.

Revised interest equalization rates under the Scheme will now be 3 per cent for MSME manufacturer exporters exporting under any HS lines, and 2 per cent for manufacturer exporters and merchant exporters exporting under 410 HS lines (after excluding 6 HS lines pertaining to Telecom Sector as mentioned above).

For the period from October 1, 2021 to March 31, 2022, banks shall identify the eligible exporters as per the scheme, credit their accounts with the eligible amount of interest equalisation and submit sector-wise consolidated reimbursement claim for the said period to the Reserve Bank by April 30, 2022.

With effect from April 1, 2022, banks shall reduce the interest rate charged to the eligible exporters upfront as per the guidelines and submit the claims in original within 15 days from the end of the respective month, with bank’s seal, and signed by authorised person, in the prescribed format, as modified.

Liquidation of Packing Credit

All packing credit advances shall be liquidated from funds received by the exporter from either one or a combination of any of the following sources:

a. Proceeds of bill drawn for exported commodities on its purchase, discounts, etc.

b. Balances in Exchange Earners’ Foreign Currency A/c (EEFC A/c) and from Rupee resources of the exporter to the extent exports have taken place can also be used to repay/prepay the advance.

If a packing credit advance is not liquidated by export proceeds, that advance will not be entitled for concessional rate of interest.

Liquidation can also be done through the payment receivable from the Government of India. This may include the duty drawback payment from the Market Development Fund (MDF) of the central government or from any other relevant source.

Substitution of Contracts

In this case, an exporter has availed packing credit. But, the export order cannot be executed because of cancellation of the order or for any other reason beyond the exporter's control. The banks are given the discretion to adjust the packing credit availed of, from the proceeds of any other export order. However, this is subject to the authorized dealer being satisfied about the commercial necessity of such a switch-over.

Running Account Facility

It is a special type of facility applicable for exporters of any origin. This is to grant the pre-shipment financing facility for exports by banks. Banks extend these facilities based upon the exporter's good track record. In return, the exporter requires to produce the LC or the firm's export order within a stipulated time.

Pre-Shipment Credit in Foreign Currency (PCFC)

Exporters often complain about the high cost of capital vis-á-vis their competitors from other countries. In order to make their prices competitive and to give a boost to exports, the Government of India made available yet another mode of financing, i.e., financing exporters in foreign currency at internationally competitive interest rates as explained hereunder:

i. The scheme is an additional window for providing pre-shipment credit to Indian exporters at internationally competitive rates of interest. It will be applicable only to cash exports.
ii. The exporter will have the following options to avail the export finance:
    a. To avail of pre-shipment credit in Indian Rupees and then the post-shipment credit either in Rupees or discounting/rediscounting of export bills under Export Bills Rediscounting Scheme (EBR Scheme).
    b. To avail of pre-shipment credit in foreign currency and discount/ rediscount of the export bills in foreign currency under Export Bills Rediscounting Scheme.
    c. To avail of pre-shipment credit in Indian Rupees and to convert the drawals into Pre-shipment Credit in Foreign Currency (PCFC). This is at the discretion of the bank.

Liquidation of Credit

Pre-shipment Credit in Foreign Currency (PCFC) can be liquidated out of proceeds of export documents on their submission for discounting/re-discounting under the EBR scheme or by grant of foreign currency loans (DP bills) subject to the mutual agreement between the exporters and the bankers. It can also be repaid/prepaid out of balances in Exchange Earners' Foreign Currency A/c (EEFC A/c), and from rupee resources of the exporter to the extent exports have actually taken place. In case of cancellation of the export order for which the PCFC was availed of by the exporter from the bank, or if the exporter is unable to execute the export order for any reason, it will be in order for the exporter to repay the loan together with accrued interest thereon, by purchasing foreign exchange (principal + interest) from domestic market through the bank. In such cases, interest will be payable on the Rupee equivalent of principal amount at the rate applicable to 'Export Credit Not Otherwise Specified' (ECNOS) at pre-shipment stage plus a penal rate of interest to be decided by the bank from the date of advance after adjustment of interest of PCFC already recovered. Banks may extend PCFC to such exporters subsequently, after ensuring that the earlier cancellation of PCFC was due to genuine reasons.

[13]The interest rates applicable to PCFC and other foreign currency loans are linked to LIBOR/Euribor till 2021 December. However, in relation to USD LIBOR, ICE Benchmark Administration IBA – Intercontinental Exchange Benchmark Administration) as administrator of LIBOR proposal to discontinue announcement of LIBOR rates gradually the US regulators released a statement encouraging banks to cease entering into new contracts that use USD LIBOR after the end of 2021. RBI also followed the suit and announced changes to the all-in-cost benchmark and ceiling for FCY ECBs/ TCs vide circular No. 19 December 08, 2021. Accordingly, RBI redefined benchmark rate for foreign currency ECBs and trade credits. The benchmark rate in case of FCY ECB/TC shall refer to any widely accepted interbank rate or alternative reference rate (ARR) of 6-month tenor, applicable to the currency of borrowing. While fixing rates to the borrowers' banks have to take into account differences in credit risk and term premia between LIBOR and the ARRs, the all-in-cost ceiling for new FCY ECBs and TCs has been increased by 50 bps to 500 bps and 300 bps, respectively, over the benchmark rates.

Table 19.2: Alterative Reference Rates after discontinuing LIBOR

Currency	Recommended Alternative Reference Rate	Administrator
USD	SOFR (Secured Overnight Financing Rate)	Federal Reserve Bank of NY
GBP	SONIA (Sterling Overnight Index Average)	Bank of England
EUR	€STR (Euro Short-Term Rate)	European Central Bank
CHF	SARON (Swiss Average Rate Overnight)	SIX Swiss Exchange
JPY	TONA (Tokyo Overnight Average Rate)	Bank of Japan

Source: https://www.eximbankindia.in/LIBOR-Transition.aspx

[13] https://www.eximbankindia.in/LIBOR-Transition.aspx
https://www.rbi.org.in/Scripts/BS_CircularIndexDisplay.aspx?Id=12204
External Commercial Borrowings (ECB) and Trade Credits (TC) Policy – Changes due to LIBOR transition RBI/2021-22/135 A.P. (DIR Series) Circular No. 19 December 08, 2021

Advances against Incentives Receivable from the Government of India

These advances are usually granted at the Post-shipment stage. But, in exceptional cases, where the value of material to be procured for export is more than the Free on Board (FOB) value of the contract and considering the availability of receivables from the Government of India, advances are granted for a maximum period of 90 days for more than the FOB value. The advances are liquidated by negotiation of export bills and out of proceeds of receivables from the Government of India.

Advance against Duty Drawback

Pre-shipment finance can also be extended against duty drawback entitlements provisionally certified by the customs. The loans so extended shall be adjusted when the final assessment is done by customs and duties are refunded by them. Duty drawback loans are usually granted by banks at the post-shipment stage. This is for a period not exceeding 90 days at lower interest rate as prescribed.

Role of Customs and C&F Agents

Freight forwarders act on behalf of exporters and importers in arranging services such as loading and unloading of goods, obtaining payment on behalf of customers, booking of space, and customs clearance for air cargo, sea cargo, land transportation, rail freight, custom agency services, multi-modalism, door-to-door pick-up and delivery services, etc. Their earnings consist of commissions paid for their services.

Before proceeding to discuss post-shipment finance, we shall, in brief, discuss the customs formalities to be followed by exporters for clearance of goods to be exported.

Customs Formalities for Clearance of Goods to be exported from India

Certain formalities must be fulfilled for clearance of exports by the customs authorities. The exporter is required to submit necessary documents for this purpose. The main document required by the customs authorities for permitting clearance is the Shipping Bill. While the exporter should submit the shipping bill in case of export by sea or air, he is required to submit a bill of export in case the export is by road. Shipping bills are of four kinds:

- White shipping bill prepared in triplicate is to be submitted for export of duty-free goods.
- Green shipping bill prepared in quadruplicate should be submitted, for export of goods under which duty drawback is to be claimed.
- Yellow shipping bill in triplicate is to be submitted for export of dutiable goods.
- Blue shipping bill prepared in seven copies will be required, for exports under the DEPB scheme.

Other documents required for processing of Shipping Bill include:

In order to simplify the existing form used for declaration of exports of goods/softwares, a common form called “Export Declaration Form” (EDF) has been devised to declare all types of export of goods from Non-Electronic Data Interchange (EDI) ports and a common “SOFTEX Form” to declare single as well as bulk software exports. The EDF will replace the existing GR/PP form used for declaration of export of goods. The procedure relating to the exports of goods through EDI ports will remain the same and SDF form will be applicable as hitherto.

- EDF forms in duplicate for shipment to all countries at non EDI ports
- 4 copies of the packing list giving details like contents, quantity, gross and net weights of each package
- 4 copies of invoice giving all relevant details like number of packages, quantity, unit rate, total f.o.b or c.i.f value, correct and full description of the goods, etc.
- Contract/LC or purchase order of the buyer
- AR4 (original and duplicate) and invoice
- Inspection/Examination certificate.

Exports through Non EDI Ports

(i) Customs shall certify the value declared and give running serial number on the two copies of Export Declaration Form (EDF), submitted by exporter at Non-Electronic Data Interchange (EDI) port.

(ii) Customs shall retain the original EDF for transmission to the Reserve Bank and return the duplicate copy to the exporter.

(iii) At the time of shipment of goods, exporters shall submit the duplicate copy of the EDF to customs. After examining the goods, customs shall certify the quantity in the form and return it to the exporter for submission to AD for negotiation or collection of export bills.

(iv) Within 21 days from the date of export, exporter shall lodge the duplicate copy together with relative shipping documents and an extra copy of the invoice to the AD named in the EDF.

(v) After the documents have been negotiated / sent for collection, the AD shall report the transaction through Export Data Processing and Monitoring System (EDPMS) to the Reserve Bank and retain the documents at their end.

(vi) In case of exports made under deferred credit arrangement or to joint ventures abroad against equity participation or under rupee credit agreement, the number and date of the Reserve Bank approval and/or number and date of the relative RBI circular shall be recorded at the appropriate place on the EDF.

(vii) Where duplicate copy of EDF is misplaced or lost, AD may accept copy of duplicate EDF duly certified by customs.

Export of goods / software done through EDI ports

(i) The shipping bill shall be submitted in duplicate to the authority concerned (Commissioner of Customs or the SEZ, if the export is made through it).

(ii) After verifying and authenticating, the authority concerned shall hand over to the exporter, one copy of the shipping bill marked 'Exchange Control (EC) Copy' for being submitted to the AD bank within 21 days from the date of export for collection/negotiation of shipping documents. However, in cases where EC copy of shipping bill is not printed in terms of CBEC's Circular No. 55/2016-Customs dated November 23, 2016 and data of shipping bill is integrated with EDPMS, requirement of submission of EC copy of shipping bill with the AD bank would not be there.

(iii) The manner of disposal of EC copy of shipping bill shall be the same as that for EDF. The duplicate copy of the form together with a copy of invoice etc. shall be retained by ADs and may not be submitted to the Reserve Bank. The question of disposal of EC copy of shipping bill will, however, not arise where EC copy of shipping bill is not printed in terms of CBEC's Circular No.55/2016-Customs dated November 23, 2016 and data of shipping bill is integrated with EDPMS.

Note: In cases where ECGC/private insurance companies regulated by Insurance Regulatory and Development Authority (IRDA) initially settles the claims of exporters and the export proceeds are subsequently received from the buyer/buyer's country, the share of exporters in the amount so received is disbursed through the AD which had handled the shipping documents post receipt of certificate issued by ECGC/ private insurance companies. The certificate will indicate the number of declaration form, name of the exporter, name of the AD, date of negotiation, bill number, invoice value and the amount actually received by ECGC/private insurance company.

International Trade Settlement in Indian Rupees (INR)

a) In order to promote growth of global trade with emphasis on exports from India and to support the increasing interest of global trading community in INR, it has been decided to put in place with effect from July 11, 2022 an additional arrangement for invoicing, payment, and settlement of exports / imports in INR. Before putting in place this mechanism, AD banks shall require prior approval from the Foreign Exchange Department of Reserve Bank of India, Central Office at Mumbai.

b) The broad framework for cross border trade transactions in INR under Foreign Exchange Management Act, 1999 (FEMA) is as delineated below:

   (i) All exports and imports under this arrangement may be denominated and invoiced in Rupee (INR).

   (ii) Exchange rate between the currencies of the two trading partner countries may be market determined.

c) For settlement of trade transactions with any country, AD bank in India may open Special Rupee Vostro Accounts of correspondent bank/s of the partner trading country. In order to allow settlement of international trade transactions through this arrangement, it has been decided that:

   (i) Indian importers undertaking imports through this mechanism shall make payment in INR which shall be credited into the Special Vostro account of the correspondent bank of the partner country, against the invoices for the supply of goods or services from the overseas seller / supplier.

   (ii) Indian exporters undertaking exports of goods and services through this mechanism shall be paid the export proceeds in INR from the balances in the designated Special Vostro account of the correspondent bank of the partner country.

d) The export / import undertaken and settled in this manner shall be subject to usual documentation and reporting requirements. Letter of Credit (LC) and other trade related documentation may be decided mutually between banks of the partner trading countries under the overall framework of Uniform Customs and Practice for Documentary Credits (UCPDC) and Incoterms. Exchange of messages in safe, secure, and efficient way may be agreed mutually between the banks of partner countries.

e) Indian exporters may receive advance payment against exports from overseas importers in Indian rupees through the above Rupee Payment Mechanism. Before allowing any such receipt of advance payment against exports, Indian banks shall ensure that available funds in these accounts are first used towards payment obligations arising out of already executed export orders / export payments in the pipeline. In order to ensure that the advance is released only as per the instructions of the overseas importer, the Indian bank maintaining the Special Vostro account of its correspondent bank shall, apart from usual due diligence measures, verify the claim of the exporter with the advice received from the correspondent bank before releasing the advance.

f) 'Set-off' of export receivables against import payables in respect of the same overseas buyer and supplier with facility to make/receive payment of the balance of export receivables/import payables, if any, through the Rupee Payment Mechanism may be allowed, subject to the conditions.

g) Issue of Bank Guarantee for trade transactions, undertaken through this arrangement, is permitted subject to adherence to provisions of FEMA Notification No. 8, as amended from time to time and the provisions of Master Direction on Guarantees & Co-acceptances.

h) The Rupee surplus balance held may be used for permissible capital and current account transactions in accordance with mutual agreement. The balance in Special Vostro Accounts can be used for:

   (i) Payments for projects and investments.

   (ii) Export/Import advance flow management

   (iii) Investment in government treasury bills, government securities, etc. in terms of extant guidelines and prescribed limits, subject to FEMA and similar statutory provision.

i) Reporting of cross-border transactions need to be done in terms of the extant guidelines under FEMA 1999.

j) The bank of a partner country may approach an AD bank in India for opening of Special INR VOSTRO account. The AD bank will seek approval from the Reserve Bank with details of the arrangement. AD bank maintaining the special vostro account shall ensure that the correspondent bank is not from a country or jurisdiction in the updated FATF Public Statement on High Risk & Non Co-operative Jurisdictions on which FATF has called for counter measures.

Check Your Progress – 1

1. Which of the following term is used when the loans or advances are financed for purchase of raw materials or processing or packaging of goods meant for export?

   a. Advances against incentives

   b. Advances against cheques / drafts

   c. Advances based on Letter of Credit

   d. Advances against export bills sent on collection basis

   e. Advances against deemed exports

2. Identify an appropriate authority from below that issues an importer-exporter code number.

   a. Directorate General of Foreign Trade

   b. Department of Industry Policy and Promotion

   c. Export Credit Guarantee Corporation

   d. Foreign Exchange Dealers Association of India

   e. Reserve Bank of India

3. What is the maximum allowable amount under Packing Credit?

   a. FOB value or domestic market value of goods whichever is lower

   b. FOB value of goods

c. Domestic value of goods
d. Domestic or export value of goods whichever is lower
e. CIF value or FOB value of export contract

4. What is the maximum period given for Pre-shipment Credit on foreign currency advances?
   a. 90 days
   b. 120 days
   c. 180 days
   d. 270 days
   e. 360 days
5. Which of the following is true regarding interest rates on PCFC?
   a. RLLR (Repo linked lending Rate)
   b. RLLR minus 2.5%
   c. RLLR+ 2.5%
   d. ARR (Alternative Reference Rate)
   e. ARR Linked

19.3.2 Post-shipment Finance

Post-shipment export finance is provided to the exporter after shipment of goods till the date of realization of export proceeds. This facility is provided by the financial institutions against the evidence of shipment of goods. Post-shipment export finance can be classified as secured (when the loan is extended against the documents of title of goods) or unsecured. This facility can be extended to a maximum of 100% of the invoice value of the exports. It can be of short-term or long-term. However, the exporter must realize that export proceeds within a maximum period of 365 days from the date of shipment.

Export Finance against the Collection of Bills is one of the facilities under the category of Post-Shipment Export Finance. Under this facility, the exporter can avail loans from a bank/financial institution against the bills sent for collection.

Bill Discounting and Invoice Factoring is another type of post-shipment export finance available to the exporters. Under this facility, the exporter can benefit from faster liquidation of the export invoice as the bank/financial institution can purchase, collect or discount the bill.

Letter of Credit Discounting is often provided to the exporters by the banks against a confirmed Letter of Credit (LC). The credit made available is secured as the LC issuing bank will make payment of the loan in case of default.

Supplier's Credit & Buyer's Credit is an interesting type of export finance. Under the supplier's credit facility, the bank provides the full amount of the invoice to the exporter while the overseas buyer will make the payment of the loan in agreed installments. On the other hand, in the case of the buyer's credit facility, the overseas buyer is extended with a credit facility by the exporter's bank to facilitate the exporter to undertake the order.

A Deferred Export Finance is a deferred payment export facility for large value export and particularly for a longer period. A deferred supplier's finance is offered to the exporter by the bank to export the goods on an installment basis. On the other hand, a deferred buyer's finance is provided to the overseas buyer to make payment for the equipment or machinery purchased from the exporter.

Post-shipment finance can be availed on submission of commercial documents evidencing export to the authorized dealer. The exporter is required to submit the documents to the bank within 21 days from the date of shipment of goods. The documents to be submitted include all shipping documents and an extra copy of invoice, relating to any export declaration form endorsed by customs/postal authorities.

Post-shipment finance can be further classified as under:

- Negotiation/payment/acceptance of export documents under Letter of Credit
- Purchase/discount of export documents under confirmed orders/export contracts, etc.
- Advances against export bills sent on collection basis
- Advances against exports on consignment basis
- Advances against undrawn balance on exports
- Advances against receivables from the Government of India
- Advances against retention money relating to exports
- Advances against approved deemed exports

Eligibility for Post-Shipment Finance

Post-shipment finance is extended to the actual exporter or to an exporter in whose names the export documents are transferred. In case of deemed exports, finance is extended to the deemed exporters. In case of cash exports, exporters should submit EDF/ SOFTEX forms, as applicable along with the shipping documents for negotiation.

Example: ICICI Incentives for Post-Shipment Finance

ICICI Bank, the leading Indian bank, offered many incentives to exporters availing their post-shipment finance.

Contd....

The bank offered and instant access to funds on presenting export collection documents and a maximum tenor of 180 days for repayment and flexible cash flow management tool matching the underlying trade transaction in sync with the trade cycle and thereby improve the cash flow.

Source: https://www.icicibank.com/business-banking/tradeservice/export-finance.page_ Year: 2022, Author: ICICI Bank Website Accessed on July 27, 2022

Quantum

Post-shipment finance can be extended up to 100% of the invoice value of the goods. However, banks are free to stipulate margin requirements as per their lending norms.

Period of Finance and Interest Rates Applicable

Post-shipment finance may be availed of either in Indian rupees or by using the rediscounting of export bills abroad scheme.

Even though post-shipment finance is working capital finance, it may be offered on short-term basis or on a long-term basis depending upon the payment terms offered by the exporter to the overseas buyer.

The rate of interest depends on the nature of the bills, i.e. whether it is a demand bill or usance bill. A demand bill or a sight bill is one which is payable immediately on presentation. In case of a usance bill, the terms of payment are specified on the bill. Under this arrangement, the importer is allowed a grace period for payment of the bill. Export finance availed against sight bills will be charged lower rates of interest for a maximum period of the Normal Transit Period (NTP) stipulated for the concerned bill as per FEDAI rules.

FEDAI Rules 10th Edition is effective from 1st April 2019.

FEDAI has fixed different transit periods for export bills drawn on different countries. The export bill (Demand) should normally be realized within that period. The transit period so fixed by FEDAI is known as 'Normal Transit Period' and mainly depends on geographical location of a country. Concessional rates of interest will be charged by banks up to the actual date of realization of export proceeds or NTP stipulated for the bill, whichever is earlier. Where the sight bill is not paid on or before the Normal Transit Period, it will be considered as an overdue bill.

Application of interest

Rate of interest applicable to all export transactions shall be as per the guidelines of Reserve Bank of India from time to time. Overdue interest shall be recovered from the customer, if payment is not received within normal transit period in case of demand bills and on/or before notional due date/actual due date in case of usance bills, as per RBI directive.

In case of usance bills, concessional rate of interest is applicable up to the notional due date. However, the maximum period for which lower rates are charged cannot exceed 90 days. While determining the notional due date of a usance bill, three components must be taken into consideration. They are:

1. Normal Transit Period as fixed by FEDAI
2. Usance period of the bill
3. Grace period if applicable in the country on which the bill is drawn.

Where an export bill has a usance period of more than 90 days, such a bill will not be eligible for concessional rates of interest. In this situation, banks are free to determine the rate of interest on such credit.

Normal Transit Period Concepts of normal transit period and notional due date are linked to interest rate on export bills and to arrive at due date of the bill/export credit. Normal transit period comprises of the average period normally involved from the date of negotiation/purchase/discount till the receipt of bill proceeds. It is not to be confused with the time taken for the arrival of the goods at the destination. Normal transit period for different categories of export business are laid down as below.

a. Fixed Due Date: In the case of export usance bills, where due dates are fixed or are reckoned from date of shipment or date of bill of exchange etc., the actual due date is known. Therefore, in such cases, normal transit period is not applicable.
b. Bill drawn on DP/At Sight Basis and not under Letter of Credit (LC)

(i) Bill in Foreign Currencies	– 25 days
(ii) Bills in Rupees not under Letter of Credit	– 20 days

The unrealized foreign currency amount will be crystallized by the bank at the prevailing TT selling rate by affecting a notional sale. The rupee equivalent amount so converted should be shown in the advance's portfolio of the bank under the head "Advances against overdue export bills realizable" account. When the bills are realized, purchase should be reported in respective R-returns under the head "Purchases relating to reversed export bills".

Rediscounting of Export Bills Abroad

The scheme was introduced by the Reserve Bank of India (RBI) on 6th October 1993. It works as an additional window for early realization of export proceeds. Underneath, the authorized dealers in India and exporters shall have access to the overseas market for rediscounting of export bills. Authorized Dealers can have the eligible export bills in their portfolio for rediscounting abroad. Exporters are permitted for discounting their export bills directly. However, this is subject to the following conditions:

a. Direct discounting of export bills by exporters with overseas bank and/or any other agency will be made only through the branch of an Authorized Dealer designated for the purpose.

b. Discounting of export bills will be routed through designated bank/Authorized Dealer from whom the Packing Credit facility has been availed of. In case, these are routed through any other bank/Authorized Dealer, the latter will first arrange to adjust the amount outstanding under the Packing Credit with the concerned bank out of the proceeds of the rediscounted bills.

Source of Funds

Authorized Dealers can utilize the foreign exchange resources available with them in Exchange Earners Foreign Currency Accounts (EEFC), Resident Foreign Currency Accounts (RFC), Foreign Currency (Non-Resident) Accounts (Banks) Scheme and Escrow accounts to discount usance bills. They (Authorized Dealers) retain such bills in their portfolio without resorting to rediscounting. In the case of demand bills, these may have to be routed through the existing Post-shipment credit facility.

For rediscounting of bills, Authorized Dealers may, wherever necessary, access the local market, which will enable the country to save foreign exchange to the extent of the cost of rediscounting.

It is comparatively easier to have a facility against bills portfolio (covering all eligible bills) than to have a rediscounting facility abroad on bill by bill basis, as various rediscounting agencies may require detailed information relating to the underlying transactions, such as names of exporters and importers, commodities exported, Letter of Credit details, etc.

Authorized Dealers can therefore arrange a "Bankers Acceptance Facility" (BAF). Each Authorized Dealer can have his own BAF limits fixed with an overseas bank or a rediscounting agency or an arrangement with any other agency such as a factoring agency.

Under the scheme, rediscounting is available in any convertible currency.

Eligibility Criteria

Export bills up to a usance period of 180 days from the date of shipment including Normal Transit Period and grace period will be covered under this scheme.

Spread

In the case of rediscounting of bills with recourse, the interest rate will not exceed 0.75% over 6 months LIBOR-Euro.

It is recognised that it will be difficult to get 'without recourse' facility from abroad under LIBOR or any other facility. The bills may be rediscounted 'with recourse'. However, if an AD is able to arrange 'without recourse' facility on competitive terms, it is permitted to avail itself of such a facility.

Refinance

Banks will not be eligible for refinance against bills discounted/rediscounted under this scheme. Hence, the bills discounted/rediscounted in foreign currency should be shown separately from the export credit figures reported for purposes of drawing export credit refinance.

19.4 Gold Card Scheme for Exporters

Gold Card Scheme for Exporters is the RBI Gold Card Scheme that was drawn up in 2003-04 Exim policy.

The scheme envisages certain additional benefits based on the record of performance of the exporters. The gold card holder would enjoy simpler and more efficient credit delivery mechanism in recognition of his good track record. The salient features of the scheme are:

a. All credit-worthy exporters, including those in small and medium sectors with good track record would be eligible for issue of gold card by individual banks as per the criteria to be laid down by latter.

b. Gold card under the scheme may be issued to all eligible exporters including those in the small and medium sectors who satisfy the laid down conditions.

c. Gold card holder exporters, depending on their track record and credit-worthiness, will be granted better terms of credit including rates of interest than those extended to other exporters by the banks.

d. Applications for credit will be processed at norms simpler and under a process faster than for other exporters.

e. Banks would clearly specify the benefits they would be offering to gold card holders.

f. The charges schedule and fee-structure in respect of services provided by banks to exporters under the scheme will be relatively lower than those provided to other exporters.

g. The sanction and renewal of the limits under the scheme will be based on a simplified procedure to be decided by the banks. Considering the anticipated export turnover and track record of the exporter, the banks may determine need-based finance with a liberal approach.

h. 'In-principle' limits will be sanctioned for a period of 3 years with a provision for automatic renewal subject to fulfillment of the terms and conditions of sanction.

i. A standby limit of not less than 20 per cent of the assessed limit may be additionally made available to facilitate urgent credit needs for executing sudden orders. In the case of exporters of seasonal commodities, the peak and off-peak levels may be appropriately specified.

j. In case of unanticipated export orders, norms for inventory may be relaxed, considering the size and nature of the export order.

k. Requests from card holders would be processed quickly by banks within 25 days /15 days and 7 days for fresh applications/renewal of limits and ad hoc limits, respectively.

l. Gold card holders would be given preference in the matter of granting of packing credit in foreign currency.

m. Banks would consider waiver of collaterals and exemption from ECGC guarantee schemes. This is based upon the basis of card holder's credit-worthiness and track record.

n. The facility of further value addition to their cards through supplementary services like ATM, internet banking, international debit/credit cards may be decided by the issuing banks.

o. Gold card holders will be given preference for grant of Packing Credit in Foreign Currency (PCFC). The preference is given based upon their track record of timely realization of export bills. The grant will be considered for issuance of foreign currency credit cards for meeting urgent payment obligations, etc. Banks will consider granting term loans in foreign currency in deserving cases out of their FCNR (B), RFC, etc.

p. The credit to Indian exporters should be at rates of interest not exceeding LIBOR + 0.75 per cent. In case sufficient dollars are not available with the bank to lend to the exporters at a time, service charge at flat rate of 0.1 per cent may be charged by the bank on the inter-bank foreign currency borrowings for the purpose.

Example: Union Bank of India (UBI) Gold Card Benefits

UBI provided a host of benefits to exporters under the Gold Card Scheme. Apart from the in-principle approval of credit for 3 year period, UBI provided "step-up" and "step-down" of credit limit based on track record. Other benefits included consideration of 0.25% concession on pre and post-shipment credit facility, 25% concession on ECIP (WT-PC)* premium and 10% rebate on processing charges.

*ECIP (WT-PC): Export Credit Insurance of Banks for Whole Turnover Packing Credit.

Source: https://www.unionbankofindia.co.in/english/ibd-treasury-bullion.aspx rs. Year: 2022 Authors: UBI Website. Accessed on July 27, 2022.

Activity 19.1

As an exporter, how would you measure the pre-requisites of pre-shipment and post-shipment finance in international trade? Discuss.

Answer:

19.5 Export Control Regulations Relating to Exports

In the previous unit, we have seen that exporters/importers are required to adhere to certain trade regulations. Apart from this, they are also required to comply with exchange control regulations. Exchange control regulations in India are issued and administered by the Reserve Bank of India (RBI). The regulations include: the method of realization of proceeds of exports, purchase and sale of foreign exchange, maintenance of balance at foreign centers, etc. The Reserve Bank of India ensures strict compliance of these regulations in order to conserve foreign exchange reserves. We shall now discuss in detail, the exchange control regulations governing exports.

Export Declaration Forms

As per FEMA, every person/firm engaged in the business of exports (except for exports to Nepal and Bhutan) is required to make a declaration giving the full value of the exported goods on an Export Declaration Form.

Export Declaration Forms are of different types depending on the mode of export.

Mode	**Form**
Exports made otherwise than by post	EDF
Export by post	Postal Bill of Export (PBE)
Export of computer software	SOFTEX form
Declared to customs offices notified by the central government which have introduced Electronic Data Interchange (EDI) system for processing shipping bills notified by the central government.	SDF form

Importer Exporter Code

Every person/firm/company engaged in the business of exports must obtain an Importer-Exporter Code Number from the DGFT. Export Declaration Forms submitted should bear this number. Export forms which do not bear the Importer-Exporter Code Number will not be entertained by Customs/Post Office/ Department of Electronics. The new guidelines for postal exports are described in the exhibit below.

Exhibit 19.1: New Guidelines for Postal Exports

For exporting items through postal channel a new procedure has been mandated by customs to be followed by exporters. The exporters can use the postal channel of exports for sending the commercial exports out of the country. Any exporter holding a valid Import-Export Code shall be permitted to export goods by filing a Postal Bill of Export (PBE) in the form prescribed under the "*Export by Post Regulations 2018*".

Contd.…

The procedures of filling and filing the PBE forms have been detailed by customs through notifications. The two PBE forms, PBE-I and PBE-2 are for eCommerce exports and other than eCommerce exports respectively subject to other terms and conditions as notified from time to time by customs and other concerned organizations.

The PBE along with goods shall be presented to the customs at the Foreign Post Office. Upon completion of processing of the PBE by customs, the goods shall be presented to the postal department, who will acknowledge receipt of the shipment on the PBE and affix the tracking number of each shipment on the same. Upon affixation of the tracking number by postal authorities, the PBE consignment shall be presented to the custom for grant of "Let Export Order". The original PBE will be retained by customs and the duplicate PBE will be handed over to the exporter or his customs broker. In the case of exports, not involving e-commerce, the PBE-II shall be filed. The postal authorities will furnish the proof of export of the goods i.e. copy of relevant CN / CP forms, as applicable to different categories of postal mails, to the customs at the FPO.

The recent surge in eCommerce goods being exported from India is being facilitated further by Department of Post. The export can be done by using bouquet of products like registered packets (2 kg), air parcels for consignments weighing up to 20 kg, international tracked packet for select destination and EMS-Speed Post for consignment weighing up to 35 kg. In the case of natural persons (i.e. other than firms & companies) exporting parcels, there is no change in procedure being followed hitherto. It is clarified that they will not be required to file any PBE.

Source: https://www.indiapost.gov.in/MBE/Pages/Content/ExportofCommercialItems.aspx#:~:text=Any%20exporter%20holding%20a%20valid,detailed%20by%20Customs%20through%20notifications.

Example: Export Controls for SCOMET Goods

Exporting SCOMET goods from India is subject to certain regulations under India's foreign trade policy. SCOMET stands for special chemicals, organisms, materials, equipment, and technologies, or SCOMET goods which have "dual-use" for both defence and commercial usage. Businesses wishing to export SCOMET goods need to get an IEC Code and license from Ministry of Commerce's Directorate General of Foreign Trade (DGFT).

Source: https://www.e-startupindia.com/learn/scomet-list-related-to-the-export-of-services/ Dt. September 2, 2022, Author: Radha Dhaked. Accessed on November 29, 2022

Methods of Repatriation of Export Proceeds

i. Export proceeds representing the full value of exported goods should be received through the medium of an Authorized Dealer in the manner specified in the Foreign Exchange Management (Manner of Receipt & Payment)

Regulations, 2000. Where the exporter has received payment directly in the form of bank draft, pay order, banker's cheque, personal cheque, etc. The Authorized Dealer will handle export documents only if the exporter's track record is good. The Authorized Dealer should also be convinced that the instrument represents payment for exports.

ii. Proceeds of goods sold to overseas buyers on their visits to India may be received by the exporter either by reimbursement against charge slips signed by the International Credit Card (ICC) holders (overseas buyers) or as instantaneous credit to the exporter's bank account in India. Authorized Dealers will handle export documents even in such cases. In case, the Authorized Dealer is not the credit card servicing bank,

    Form EDF (erstwhile GR form) /SDF (duplicate) will be released by the Authorized Dealers on receipt of funds in their Nostro account[14] or on production of a certificate by the exporter from the credit card servicing bank in India to the effect that it has received the equivalent amount in foreign exchange.

    The payment may also be made to the Authorized Dealers for the exports made outside India through the importer's credit card wherein the reimbursement from the card issuing bank/organization is received in foreign exchange.

iii. Funds held in the Foreign Currency (Non-resident) account and Non-resident (External) Rupee account may also be utilized for payment of export proceeds.

Export proceeds may also be paid by foreign currency notes/foreign currency traveler cheques by the buyer on his visit to the country.

For the transactions between a resident of India and a resident of Nepal, the payment maybe settled in Rupees. In the case where the goods are exported to Nepal and the importer resident in Nepal has permission from Nepal Rashtra Bank for making payment in free foreign exchange, such payments are routed through the ACU mechanism.

The export proceeds may be made to Gem & Jewellery units in SEZs and EOUs in the form of precious metals such as Gold / Silver / Platinum equivalent to the value of jewellery exported such that the same and the approximate value of precious metal is provided as indicated in the relevant GR / SDF / PP Forms of sales contracts.

Time Limit for Realization of Export Proceeds

Export proceeds must be realized on the due date of payment or within six months from the date of shipment whichever is earlier. In case of exports to Indian-owned

[14] Nostro Account – A bank account maintained with a bank located in another country, in the currency of that country

warehouses abroad, established with the permission of the Reserve Bank of India, a maximum period of 15 months is allowed for realization of export proceeds.

- The exporter is required to submit the duplicate copy of the EDF form along with relative shipping documents and an extra copy of the invoice to the Authorized Dealer within 21 days from the date of shipment. After the documents have been negotiated or sent for collection, the Authorized Dealer is required to report this transaction to the Reserve Bank of India in statement ENC (Export Negotiated Contract) (Annexure) under cover of appropriate R-Supplementary Return.
- The duplicate copy of the EDF form and the extra copy of the invoice will be retained by the Authorized Dealer until the export proceeds have been realized. The duplicate copies will not be returned to the exporters except in cases where rectification of errors must be made. The exporter is required to re-submit the duplicate copies after the necessary rectification.
- On realization of the export proceeds, the form and the invoice will have to be submitted to the RBI duly certified, under cover of appropriate returns. The information about the inflows and outflows of foreign exchange from the ADs is collected by RBI through R-Returns. R-Returns are submitted through the Foreign Exchange Transactions Electronic Reporting System (FETERS).

[15]In view of the outbreak of pandemic COVID-19, it has been decided, in consultation with the government of India, to increase the period of realization and repatriation to India of the amount representing the full export value of goods or software or services exported, from nine months to fifteen months from the date of export, for the exports made up to or on July 31, 2020.

Exports under Trade Agreements / Rupee Credits

In a situation where special arrangements or Rupee credits are extended by the Government of India to foreign governments, export of goods will be regulated in accordance with the conditions set forth by the trade control authority in India and the instructions issued periodically by the Reserve Bank of India. The conditions are covered in the relative public notices. They are related to different aspects like type of goods eligible for export, procedure for obtaining approval for individual export contracts, manner of receiving payment and other matters. Important instructions are communicated to Authorized Dealers (ADs) through AD circulars.

In addition to the above aspects, the EXIM bank also extends the line of credit to commercial banks/financial institutions in foreign countries for financing exports from India to those countries. Terms and conditions relating to this form of financing are advised by the Reserve Bank of India and is made known to the

[15] https://www.rbi.org.in/scripts/NotificationUser.aspx?Mode=0&Id=10395

Authorized Dealers by way of AD circulars and Authorized Dealers are advised to refer to these circulars while dealing with documents relating to such credits.

Protection against Transit Risks under FOB, C&F and other Contracts:

Where the export transaction is either on FOB or C&F basis, and where an Irrevocable Letter of Credit is not opened, exporters should take care to ensure:

- The shipment is adequately insured to cover all risks of loss or damage during the entire course of transit, and
- The insurance cover incorporates seller's interest clause in the policy, and that in case of loss/damage to the shipment, claims are paid to the exporter in India before the ownership of goods passes to the buyer.

Bid Bonds and Other Guarantees against Commodity Exports

Authorized Dealers are permitted to offer guarantee in favor of overseas buyers provided they are satisfied with the bona fides of the export transaction. However, before giving guarantee, they should also satisfy themselves with the bona fides of the applicant, and his ability to perform the contract. Also, the value of the guarantee as a percentage of the value of the contract should be reasonable in accordance with normal practice in international trade. The terms should also comply with the exchange control regulations. Authorized Dealers are also permitted to issue counter guarantees in favor of their branches/correspondents abroad in cover of guarantees required to be issued by the latter on behalf of Indian exporters in cases where guarantees of only resident banks are acceptable to the overseas buyer in accordance with local/laws/regulations. If and when the bond/guarantee is invoked, Authorized Dealers may make payments due there under to non-resident beneficiaries, but a report should be sent to the Reserve Bank of India where the amount of remittance exceeds USD 5000 or its equivalent.

Foreign Currency Accounts

Exporters having a good track record may be permitted to open foreign currency accounts with banks abroad for crediting the export proceeds. This facility will be subject to certain terms and conditions. Monitoring of the operations in the account abroad will be done by a designated branch of the Authorized Dealer.

Exporters intending to avail of this facility must make an application on Form EFC (Annexure) which has to be submitted through the designated branch to the Exchange Control Department under whose jurisdiction the exporter is functioning.

Counter Trade Arrangements

Proposals for opening an Escrow account for adjustment of value of goods imported into India against value of goods exported from India may be permitted by the Reserve Bank of India. Such an arrangement should be a voluntary arrangement between the Indian party and the overseas party. Also, the Escrow account should be opened in India in the US Dollar. Under this arrangement, all imports and exports should be at international prices in compliance with the Foreign Trade Policy and Foreign Exchange Management Act, 1999 and the rules and regulations made thereunder. Payments relating to imports and exports will be made on the balances standing to the credit of the account and in case of temporary surplus funds, such funds will be held in a short-term deposit up to a total period of three months in a year for which interest will be payable to the exporter at the applicable rate. No overdraft or loans will be permitted against the funds in the Escrow account.

The Escrow account is to be opened by the overseas exporter/organization through the Authorized Dealer with whom the account is proposed to be opened. The application is to be sent to the concerned RBI office under whose jurisdiction the Authorized Dealer is functioning.

Export Bills Register

The Authorized Dealer should maintain export bills register, in physical or electronic form aligned with Export Data Processing and Monitoring System (EDPMS). The bill number should be given to all types of export transactions on a Financial Year (FY) basis (i.e. April to March) and same should be reported in EDPMS.

Export of Goods on Lease, Hire etc.

No person shall, except with the prior permission of the Reserve Bank of India, take or send out by land, sea or air any goods from India to any place outside India on lease or hire or under any arrangement or in any other manner other than sale or disposal of such goods.

Participation in Trade Fairs Abroad

Indian exporters intending to participate in trade fairs conducted abroad, have to make an application to the Authorized Dealer giving necessary particulars. Foreign exchange will be released by the AD after scrutinizing the application, provided the exporter agrees to give a proper account of the expenditure incurred for the above purpose. Exporters may also open temporary foreign currency accounts abroad for depositing the foreign exchange obtained on sale of goods at the trade fairs. The foreign currency account will be closed, once the fair ends and any balance in that account will be repatriated back to India through normal banking channels within a period of one month from the date of closure of the exhibition/trade fair. Details of the transactions entered and the sale of goods (duly certified by the exporter’s banker) will have to be made to the RBI.

Firms/Companies and other organizations participating in Trade Fair/ Exhibition abroad can take/export goods for exhibition and sale outside India without the prior approval of the Reserve Bank. Unsold exhibit items may be sold outside the exhibition/trade fair in the same country or in a third country. Such sales at discounted value are also permissible. It would also be permissible to 'gift' unsold goods up to the value of USD 5000 per exporter, per exhibition/trade fair.

AD Category-I banks may approve EDF of export items for display or display-cum-sale in trade fairs/exhibitions outside India subject to the following:

(i) The exporter shall produce relative bill of entry within one month of re-import into India of the unsold items.

(ii) The sale proceeds of the items sold are repatriated to India in accordance with the Foreign Exchange Management (Realization, Repatriation, and Surrender of Foreign Exchange) Regulations, 2000.

(iii) The exporter shall report to the AD Category-I banks the method of disposal of all items exported, as well as the repatriation of proceeds to India.

(iv) Such transactions approved by the AD Category-I banks will be subject to 100 per cent audit by their internal inspectors/auditors.

Project Exports and Service Exports

Export of engineering goods on deferred payment terms and execution of turnkey projects and civil construction contracts abroad are collectively referred to as ‘Project Exports’. Prior approval of the Authorized Dealer/EXIM Bank/Working Group is required where Indian exporters offer deferred payment terms to overseas buyers and to those participating in global tenders for undertaking turnkey/civil construction contracts abroad. Regulations relating to ‘Project Exports’ and ‘Service Exports’ are laid down in the revised Memorandum on Project Exports (PEM).

Export on Elongated Credit Terms

Exporters intending to export goods on elongated credit terms must submit their proposals giving full particulars through their banks for consideration to the Regional Office concerned of the Reserve Bank.

For the exports done on consignment basis, the approval of ADs is provided up to 360 days from the date of shipment for realization of export proceeds. The exporters can also abandon the books remaining unsold at the expiry of the period of sale contract.

Shut out Shipments and Short Shipments

Short shipment in case of shipment covered by a EDF form that is filed with the customs should be intimated to the customs in the prescribed form and according to the prescribed manner. Where there is a delay in obtaining certified short shipment notice from the customs, the exporter should give an undertaking to the Authorized Dealer that he has filed the notice with the customs and will submit it on receipt of the same. The short shipment notice along with the duplicate copy of the EDF form will be sent to the RBI.

In a situation where the shipment is totally shut out and reshipment of goods is delayed, then the exporter is required to give notice in duplicate to the customs in the form and manner prescribed. Unused duplicate copy of the EDF form and the shipping bill should be attached to the form in which the notice is given. After verification, the copy of the notice will be certified as correct and will be forwarded to the RBI along with the unused duplicate copy of the EDF form. The original EDF received from the customs will be canceled and in case reshipment of goods takes place, a fresh set of EDF forms should be completed.

Shipments Lost in Transit

Where shipments in respect of which payments are not yet received are lost in transit, the AD will have to ensure that the insurance claim is made as soon as possible as the loss is known. The duplicate copy of the Export Declaration Form will have to be submitted to the RBI giving details like:

- Amount for which shipment was insured
- Name and address of the insurance company
- Place where claim is payable.

In case, the claim is payable abroad, the AD should first arrange to collect the amount through the medium of his overseas branch/correspondent. The duplicate copy of the Export Declaration Form will be submitted to the RBI only after the amount is collected with their authentication of receipt of claim on the reverse of the duplicate copy.

Note: At times, claims on shipments lost in transit are also partially settled directly by shipping companies/airlines under carrier's liability. ADs shall ensure that the amounts of such claims if settled abroad are also repatriated to India by exporters.

Exports by Air Delivery of Goods only on Payment/Acceptance

In case of air consignments, exporters are advised to consign the goods in favor of the overseas branch/correspondent of the Authorized Dealer through whom shipping documents will be forwarded for collection. ADs will instruct their overseas branch/correspondent to arrange for issue of delivery order in favor of the buyer only on payment/acceptance of the bill drawn by the shipper.

Consolidation of Air Cargo

Where air cargo is shipped under consolidation, the airline company's Master Airway Bill is issued to the consolidating cargo agent who will in turn issue his own House Airway Bills (HAWBs) to individual shippers.

The HAWBs will be negotiated by ADs only if relative LC specifically provides for negotiation of these documents in lieu of airway bills issued by the airline company. Authorized Dealers may also accept Forwarder's Cargo Receipts (FCR) issued by steamship companies or their agents (instead of 'IATA' approved agents), in lieu of Bills of Lading, for negotiation/collection of shipping documents, in respect of export transactions backed by Letters of Credit, only if the relative Letter of Credit specifically provides for negotiation of this document, in lieu of Bill of Lading. Further, it may also be provided in the relative sale contract with the overseas buyer that FCR may be accepted in lieu of Bill of Lading as a shipping document.

Trade Discount

Any trade discount given by the exporter will have to be declared on the EDF form at the time of shipment and accepted by customs. Only then, will the documentary bill in respect of exports by sea or air which fall short of the value declared on EDF forms on account of trade discount, be accepted by Authorized Dealers.

Advance Payment against Exports

Exporters are permitted to receive advance payments from the overseas buyers, provided the shipments are monitored by the AD through whom advance payment is received. The appropriations made against every shipment must be endorsed on the original copy of the inward remittance certificate issued for advance remittance.

Note: Purchase of foreign exchange from the market for refunding advance payment credited to EEFC account may be allowed only after utilizing the entire balances held in the exporter's EEFC accounts maintained at different branches/banks.

Part Drawings

In certain lines of export trade, it is customary for exporters not to draw bills for the full invoice value, but to leave a certain part undrawn. In such cases, ADs will accept part drawings provided:

a. The undrawn balance is in conformity with the normal level of balance in that line of trade, subject to a maximum of 10 per cent of the export value, and
b. The exporter gives a declaration that the balance proceeds will be surrendered to the AD within the prescribed period for realization. The undertaking will have to be given on the duplicate copy of theEDF/SDF/ forms.

Where the exporter has not been able to repatriate the balance proceeds in spite of his best efforts, ADs on being convinced of the bona fides of the case may submit the duplicate copies of GR/PP forms to the RBI duly certified for the amount actually realized, provided the exporter has realized at least the value for which the bill was initially drawn or 90% of the value declared on GR/PP form whichever is more and a period of one year has elapsed from the date of the shipment.

Consignment Exports

When goods have been exported on consignment basis at the risk of the exporter for sale and eventual remittance of sale proceeds to him by the agent/consignee abroad. Authorized Dealer, while forwarding shipping documents to his overseas branch/ correspondent, will instruct the latter to deliver them only against trust receipt/ undertaking to deliver sale proceeds by a specified date which should be within the period prescribed for realization of export proceeds. This procedure will be followed even if according to the practice in certain trades, a bill for part of the estimated value is drawn in advance against the exports.

Deduction of Expenses from Sale Proceeds

Expenses normally incurred like landing charges, warehouse rent, handling charges, etc. may be deducted by the agents and the net proceeds may be remitted to the exporter.

Insurance on Consignment Exports

In case of export on consignment basis, freight and marine insurance should be arranged in India.

Establishment of Overseas Warehouses

Certain Indian organizations have been permitted to establish warehouses abroad, to help Indian exporters to arrange off-the-shelf sales for achieving greater penetration of overseas export markets subject to the following conditions:

a. Applicant's export outstanding does not exceed 5 per cent of exports made during the previous year.
b. Applicant has a minimum export turnover of USD 100,000 during the last year.
c. Period of realization should be as applicable i.e., 180 days for non-status holder exporters and 12 months for status holder exporters.
d. All transactions should be routed through the designated branch of the Authorized Dealer.

The above permissions may be granted to the exporters initially for a period of one year and the renewal thereof may be considered subject to the applicant satisfying the requirement at (a) above.

Deduction from Account Sales

Proper verification of the account sales should be undertaken by the Authorized Dealer before it is sent to the Reserve Bank of India. Exporters having overseas warehouses are required to produce the supporting bills/receipts in original towards deductions in account sales except in case of petty items like postage/cable charges, stamp duty, etc.

Dispatch of Shipping Documents

Shipping documents received from the exporter should be dispatched to the overseas branch/correspondents of the ADs as quickly as possible. In case of exports to neighboring countries, it should be ensured that documents reach the buyer before the steamer discharges the cargo at the port of destination. To make this possible, exporter should prepare the shipping documents as early as possible and submit the same to the ADs at the earliest.

Dispatch of Shipping Documents Direct to the Consignees

Shipping documents may be dispatched directly to the consignee or his agent by the Authorized Dealer, provided advance payment or an irrevocable LC for the full export value has been received. Moreover, the sale contract should specify that documents should be directly dispatched to the consignee or his agent resident in the country of destination of goods. For, the exporters having not made the advance payments, the ADs can still accept their request for dispatch of documents direct to the consignee/agent provided the exporter is a regular customer and AD is satisfied with his standing and track record and the arrangements made for realization of export proceeds.

Handing over Negotiable Copy of Bill of Lading to Master of Vessel/Trade Representative

Authorized Dealers are permitted by the Reserve Bank of India to deliver one negotiable copy of the Bill of Lading to the master of the vessel or trade representative. This is in respect of exports to certain landlocked countries where an Irrevocable LC has been opened and documents are in conformance to the terms of LC which provides for such delivery.

Reduction in Value

In case, the exporter wants to reduce the amount after the bills are negotiated/sent for collection, he is first required to make an application to such bank giving full details of the shipment, an attested copy of the invoice and documentary evidence in support of the reduction sought for. However, approval will be granted provided:

a. Reduction in amount does not exceed 25%[16] of invoice value.
b. The export does not relate to gold or silver or articles made of cut and polished diamonds. It does not relate to commodities subject to floor price stipulations and the exporter is not on the caution list of the RBI.
c. The proportionate export incentive availed of is surrendered.

Exporters who are in the field of exports for more than three years may be allowed to reduce the amount without any ceiling, provided their track record is satisfactory i.e. export outstanding should not exceed 5% of the average annual export realization during the preceding three calendar years.

For determining the percentage of outstanding export bills to average export realizations during the preceding three calendar years, an exporter is permitted to ignore outstanding export bills in respect of exports made to countries facing externalization problems. However, this is subject to the payments made by the buyers in the local currency.

---

[16] https://rbidocs.rbi.org.in/rdocs/notification/PDFs/APD6883071E462E56498C99FF8DDB9DD8A916.PDF

Write-off of Unrealized Export Bills

An exporter who has not been able to realize the outstanding export dues despite best efforts, may either self-write off or approach the AD Category-I banks who had handled the relevant shipping documents, with appropriate supporting documentary evidence with a request for write off of the unrealized portion subject to the fulfillment of stipulations regarding surrender of incentives prior to" write-off". After liberalizing and simplifying the procedure, the limits prescribed for "write-offs" of unrealized export bills are as under:

- Self "write-off" by an exporter (Other than Status Holder Exporter) - 5% of the total export proceeds realized during the previous calendar year.
- Self "write-off" by Status Holder Exporters - 10% of the total export proceeds realized during the previous calendar year.
- 'Write-off" by Authorized Dealer Bank - 10% of the total export proceeds realized during the previous calendar year.

The above limits will be related to total export proceeds realized during the previous calendar year and will be cumulatively available in a year.

The request may be agreed provided:

a. The amount has been outstanding for one year or more.

b. The aggregate amount of write off during a calendar year should not exceed 10% of the total export proceeds realized during the previous calendar year.

c. The exporter submits satisfactory documentary evidence to prove that he has made all efforts to realize the dues.

d. Write off will also be permitted in case:

   i. Of insolvency of the overseas buyer and a certificate from the official liquidator has been obtained to that effect.

   ii. It is not possible to trace the buyer over a long period of time and supporting documentary evidence is provided to that effect.

   iii. The goods exported have either been auctioned or destroyed by the authorities in the importing country and a certificate to that effect has been issued.

   iv. The unrealized amount represents the balance due in a case settled through the intervention of the Indian embassy, foreign chamber of commerce or similar organization.

   v. The unrealized amount represents the undrawn balance of an export bill (not exceeding 10 percent of the invoice value) and has been unpaid and turned out to be unrealizable despite all efforts made by the exporter.

   vi. Where the legal expenses likely to be incurred for recovering the said amount would be disproportionate and where the exporter despite the court order in his favor is not able to execute the same due to reasons beyond his control.

vii. Bills are drawn for the difference between the Letter of Credit value and actual export value or between the provisional and the actual freight charges but the amount has remained unrealized consequent on dishonor of the bills by the overseas buyer and documentary evidence is produced to show that there are no prospects of realization.

e. The case is not the subject matter of any civil or criminal suit which is pending.

f. The exporter has not come to the adverse notice of the Enforcement Directorate or the Central Bureau of Investigation or such other law enforcement agency.

g. The export incentives availed of has been surrendered by the exporter.

h. The exporter must submit the AD concerned with a Chartered Accountant's certificate in case of self-write-offs, indicating that the exports have been realized in the preceding calendar year along with amount written-off along with supporting evidences of relative documents related to export transaction. The exporter should also surrender the benefits availed of, if any during the previous calendar year as is revealed in the CA certificate.

Where there is no further amount to be realized against the GR/PP/SDF form covered by the write off, the Authorized Dealer will submit the duplicate copy of the same to the RBI along with R-Return with their certification, stamp and signature with the following text:

"Write off of ____________________ (Amount in words and figures) permitted in terms of paragraph C.18 of Directions to Authorized Dealer".

Date …………………………..

Stamp & Signature of

Authorized Dealer

Change of Buyer/Consignee

Where after the goods have been shipped, there is a change in the buyer to whom goods are transferred, prior approval of the RBI is not required provided:

- The reduction in value does not exceed 10% of the invoice value.
- The export proceeds are realized within the stipulated time period of 6 months from the date of shipment.

Where reduction in value exceeds 10%, the exporter will have to comply with the regulations stipulated in the paragraph 'Reduction in value'.

Extension of Time-limit

(i) The Reserve Bank of India has permitted the AD Category-I banks to extend the period of realization of export proceeds beyond stipulated period of realization from the date of export, up to a period of six months, at a time, irrespective of the invoice value of the export subject to the following conditions:

(a) The export transactions covered by the invoices are not under investigation by Directorate of Enforcement / Central Bureau of Investigation or other investigating agencies.

(b) The AD Category-I bank is satisfied that the exporter has not been able to realize export proceeds for reasons beyond his control.

(c) The exporter submits a declaration that the export proceeds will be realized during the extended period.

(d) While considering extension beyond one year from the date of export, the total outstanding of the exporter does not exceed USD one million or 10 per cent of the average export realizations during the preceding three financial years, whichever is higher.

(e) All the export bills outstanding beyond six months from the date of export may be reported in XOS statement. However, where extension of time has been granted by the AD Category-I banks, the date up to which extension has been granted may be indicated in the 'Remarks' column.

(f) In cases where the exporter has filed suits abroad against the buyer, extension may be granted irrespective of the amount involved / outstanding.

(ii) In cases where an exporter has not been able to realize proceeds of a shipment made within the extended period for reasons beyond his control, but expects to be able to realize proceeds if further extension of the period is allowed to him, as well as in respect of cases not covered under Para (i) above necessary application (in duplicate) should be made to the Regional Office concerned of the Reserve Bank in form ETX through his AD Category-I bank with appropriate documentary evidence.

Payment of Claims by ECGC and private insurance companies regulated by Insurance Regulatory and Development Authority of India (IRDAI)

The ADs can write off the relative export bills and delete the same from the XOS statement on the receipt of application from the exporter backed by documentary evidence from the ECGC confirming that the claim in respect of the outstanding bills has been settled by them. The limit of 10 per cent will not be applicable to such write-offs. Surrender of incentives, if any, in such cases will be as provided in the foreign trade policy. The claims settled in Rupees by ECGC and private insurance companies regulated by the Insurance Regulatory and Development

Authority of India (IRDAI) will not be construed as export realization in foreign exchange.

Write-off Relaxation

As announced in the FTP, 2015-2020, realization of export proceeds shall not be insisted upon under any of the Export Promotion Schemes under the said FTP, subject to the following conditions:

a. The write-off done on the basis of merit is allowed by the Reserve Bank of India or by the Authorized Dealer on behalf of the RBI; and

b. The exporter produces a certificate from the foreign mission of India concerned, about the fact of non-recovery of export proceeds from the buyer.

Export of Computer Software

Export of computer software takes place either in the physical form or in the non-physical form. In the physical form, software prepared on magnetic tapes and paper media are exported. The non-physical exports take the form of direct transmission abroad through dedicated earth stations/satellite links. Procedure relating to declaration of exports taking place in the physical form is the same as applicable to export of other goods. However, export of software in the non-physical form will have to be declared on SOFTEX form (Annexure). A set of SOFTEX forms comprises three copies marked original, duplicate and triplicate which carry an identical pre-printed serial number. The three copies duly completed should be submitted for the purpose of valuation together with relevant documents to the designated official of the Ministry of Information Technology, Government of India at the Software Technology Parks of India (STPIs) or at the Free Trade Zones (FTZs) or Export Processing Zones (EPZs) or Special Economic Zones (SEZs) in India. SOFTEX forms submitted by exporters located outside the STPI will also be certified by the designated official/s at the nearest STPI.

After certification of all the three copies of the SOFTEX form, the original will be forwarded directly to the nearest office of the Exchange Control Department of the RBI on the day it is received or the next day. The duplicate copy of the form will be returned to the exporter. The designated official will retain the triplicate copy for their record.

Within 21 days of certification of the form, the exporter is required to submit the duplicate copy along with a copy of each of the supporting documents to the AD either for negotiation or for collection. The AD will retain the forms so submitted until the full export proceeds are realized. After the export proceeds are realized, the forms will be submitted to the Reserve Bank of India duly certified under the cover of an appropriate R-return along with a copy/ies of invoice/s.

After the documents are negotiated/sent for collection, ADs should report the transaction to the Reserve Bank of India in a fortnightly statement in form ENC under the cover of appropriate R-Return. Chronological order as recorded in the internal register (export bills register) should be maintained in case of entries in the ENC statement.

The export proceeds should be repatriated into India on due date of payment or within 180 days from the date of invoice whichever is earlier.

Terms of Payment-Invoicing

i. In respect of long duration contracts involving series of transmissions, the exporters should bill their overseas clients periodically, i.e. at least once a month, or on reaching the 'milestone' as provided in the contract entered into with the overseas client and the last invoice/bill should be raised not later than 15 days from the date of completion of the contract. Exporters are advised to submit a combined SOFTEX form for all the invoices raised on an overseas client, including advance remittances received in a month.

ii. In respect of contracts involving only 'one shot operation', the invoice/bill should be raised within 15 days from the date of transmission.

iii. The exporter should submit SOFTEX form in triplicate to the concerned official of the Government of India at STPI / EPZ / FTZ / SEZ for valuation / certification not later than 30 days from the date of invoice/the date of last invoice raised in a month as indicated above. The designated officials may also certify the SOFTEX Forms in respect of EOUs which are registered with them.

iv. The invoices raised on overseas clients as indicated in (i) and (iii) above will be subject to valuation of export value declared on SOFTEX form by the designated official of the Government of India and consequent amendment made in the invoice value, if necessary.

Remittances Connected with Exporters

Exporters are permitted to retain a part of their export proceeds in a foreign currency account called the 'Exchange Earners Foreign Currency Account' with an Authorized Dealer in India. This account may be maintained in current, savings or term deposit form. The balances in this account may be utilized for all bona fide payments of the exporter subject to production of documentary evidence. This was listed in Annexure I to chapter 14 of the Exchange Control Manual.

Agency Commission

Agency commission on exports may be permitted provided certain conditions are fulfilled, such as

a. The amount of commission should be declared on the Export Declaration Form (i.e., GR/SDF/PP/SOFTEX). This should be accepted by the customs authorities. If the commission has not been declared in the prescribed form, then the remittance is provided only if the concerned authorities are satisfied with the reasons adduced by the exporter for not declaring commission on the prescribed 'Export Declaration Form'. However, this is subject to the valid agreement/written understanding between the exporter and/or beneficiary for payment of commission that subsists.

b. The commission paid by Indian exporters may be allowed by Authorized Dealers in respect of their exports covered under counter-trade arrangement through Escrow accounts designated in USD provided the commission is not payable to Escrow account holders themselves or the commission is not allowed by deduction from the invoice value.

c. Payment of commission is not allowed on account of exports made by Indian partners towards equity participation in an overseas joint venture/wholly owned subsidiary as well as exports under rupee credit route except for tea and tobacco.

d. The relative shipment has already been made.

Overpricing

Overpricing of exports has been prohibited and cases having exceptional features may be referred to the RBI explaining why the exporter is unable to remunerate the agent by paying commission instead of overpricing.

Export Claims

Remittances towards export claims can be made by Authorized Dealers provided the relative export proceeds are already realized and repatriated into India and the exporter is not on the caution list of the Reserve Bank of India.

In every such case, the exporter is required to surrender proportionate incentives, if any, received by him.

Dispatch of Goods not involving Foreign Exchange

In respect of exports by air-freight and post parcel which are covered by certificates issued by ADs confirming that the transaction does not involve any foreign exchange, the GR/PP forms procedure has been waived. Waiver will be permitted provided the following conditions are fulfilled:

Export is made by post-parcel or air-freight

AD is convinced that the transaction does not involve any foreign exchange flow and value of shipment is not more than ₹ 25,000.

Activity 19.2

What are write-offs? Analyze the exchange control regulatory measures on trade write-offs applicable for exporters regarding claim of payments.

Answer:

19.6 Schemes Introduced to Incentivize the Exporters

Government of India and the RBI have introduced various measures, schemes and set of rules in their efforts to encourage exports.

The following are some of the measures introduced by the RBI/the Government of India.

The Reserve Bank of India has introduced various measures like:

- Exporters are eligible to avail finance at concessional rates of interest.
- Banks being the main source of finance are encouraged to extend credit liberally to exporters, including granting lines of credit for 2-3 years at a stretch.
- It is mandatory for banks to extend a minimum of 12% of net bank credit to the export sector.
- To compensate banks for extending finance at lower rates of interest, export refinance facility is provided by the Reserve Bank of India.
- To encourage banks to grant credit to exporters liberally, credit guarantee is arranged from the ECGC, for loans extended to exporters at both pre- and post-shipment stage.
- Exporters are also granted loans against duty drawback entitlements.
- Exporters can retain a certain proportion of export proceeds in foreign currency in the EEFC account at the rate of 70% in case of 100% E.O.U and 50% in case of any other person resident in India.
- Export earnings are not fully taxed.

In order to obtain foreign exchange and promote exports, the Government of India has rolled out various schemes which provide the following incentives and benefits:

Free Trade Zones (FTZ): Companies manufacturing goods for export purposes operating from Free Trade Zones need not pay excise duties. Also, goods being brought into these zones from different parts of the country are brought without payment of any excise duty. No customs duties are payable on imported raw material and components used in the manufacture of such goods being exported. If the entire production is not sold outside the country, then the unit has the provision of selling 25 per cent of their production in India. On such sale, the excise duty is payable at 50 per cent of basic plus additional customs or normal excise duty payable if the goods were manufactured elsewhere in India, whichever is higher. Exemption from the Goods and Services Tax (GST) and levies imposed by state government and supplies to Special Economic Zones (SEZs) are zero rated under the Goods and Services Taxes (IGST) Act, 2017, meaning they are not taxed.

Electronic Hardware Technology Park / Software Technology Parks: This scheme is like FTZ scheme; however, it is restricted to units in the electronics and computer hardware and software sector.

Example: Meerut STP Inaugurated
Meerut Software Technology Park (STPI-Meerut), the 62nd such centre by Software Technology Park of India (STPI) was inaugurated on December 28, 2021. The STPI falls under Central Government's Ministry of Electronics & Information Technology. The STP scheme which is exclusively focussed on computer software combined the government idea of 100 percent Export Oriented Units (EOUs) and Export Processing Zones (EPZs) and Science Parks/Technology Parks.

Source: https://stpi.in/about-noida-meerut Year: 2022 Author: STPI Website, Accessed on July 28, 2022

Special Economic Zones (SEZs): The Special Economic Zone policy in India first came on April 1, 2000. The main objective was to enhance foreign investment and provide an internationally competitive and hassle-free environment for exports. The idea was to promote exports from the country and realizing the need that level playing field must be made available to the domestic enterprises and manufacturers to be competitive globally. As a part of this idea, the Special Economic Zones (SEZs) were created. The special economic zone is a geographical region that has economic laws different from a country's typical economic laws. Normally, the goal is to enhance the foreign investments. Special Economic Zones have been established in several countries, including China, Jordan, India, Kazakhstan, Poland, Russia, and Philippines. North Korea has also attempted this to a degree. At present, there are nine special economic zones situated at Santa Cruz (Maharashtra), Chennai (Tamil Nadu), Kandla and Surat (Gujarat), Cochin (Kerala), Falta (West Bengal), Visakhapatnam (Andhra Pradesh), Indore (Madhya Pradesh), Noida (Uttar Pradesh).

Export Oriented Units (EOU): In the early 1980s, EOU concept was introduced to boost exports by creating additional production capacity. The scheme has witnessed significant changes in the past three decades and is complementary to the Export Processing Zone (EPZ) scheme, except that it is widely spread unlike EPZs which are set up at specific locations. EOUs can be set up for manufacturing goods, including repairing, re-making, reconditioning, re-engineering and rendering of services. 100% EOUs fall into three categories. They are:

a. EOUs established anywhere in India and exporting 100% products except certain fixed percentage of sales in the Domestic Tariff Area (DTA) as may be permissible under the policy,

b. Units in Free Trade Zones in Special Economic Zones (SEZs) and exporting 100% of their products,

c. EOUs set up in Software Technology Parks (STPs) and Electronic Hardware Technology Parks (EHTPs) of India for development of software and electronic hardware.

Advance Licence / Duty Exemption Entitlement Scheme (DEEC): Advance licence which can be either Quantity based (Qbal) or Value based (Vabal), is given under this scheme to an exporter against which the raw materials and other components may be imported without payment of customs duty provided the manufactured goods are exported. These licences are transferable in the open market at a price.

Export Promotion Capital Goods Scheme (EPCG): A domestic manufacturer can import plant and machinery without paying customs duty or settling at a concessional rate of customs duty. However, the importer has to export 6 times the value of duty saved on the importation of such goods within 6 years from the date of issuance of authorization.

Deemed Exports: The Indian suppliers are entitled for the following benefits in respect of deemed exports:

- Refund of excise duty paid on final products
- Duty Drawback
- Imports under DEEC scheme
- Special import licences based on value of deemed exports.

Manufacture under Bond: In this scheme, manufacturers execute a bond of adequate amount to assume export obligation. On the strength of this bond, the manufacturer can import goods without paying any customs duty or source it locally without paying excise duty. The production is made under the supervision of customs or excise authority.

Duty Drawback: It means the rebate of duty chargeable on imported material or excisable material used in the manufacturing of goods that is to be exported. The exporter may claim drawback or refund of excise and customs duties being paid by his suppliers. The final exporter can claim the drawback on material used for the manufacture of export products. In case of re-import of goods, the drawback can be claimed. The following are the drawbacks:

- Customs paid on imported inputs plus excise duty paid on indigenous imports
- Duty paid on packing material.

Drawback is not allowed on inputs obtained without payment of customs or excise duty. In case of part payment of customs and excise duty, rebate or refund can be claimed only on the paid part.

In case of re-export of goods, it should be done within 2 years from the date of payment of duty when they were imported. 98% of the duty is allowable as drawback only after inspection.

When the imported goods that are meant for re-export are partially used before they are re-exported, then the drawback allowed will be lesser percentage than that is prescribed for re-export of the imported goods that are unused.

Special Sectoral Incentives

Textile Sector

India is among the largest producer of textiles and apparel in the world. The domestic apparel and textile industry accounts for 2% of the country's GDP and 7% of the industry output in the country. The share of this industry in India's exports was 11.4% in 2020-21. India's exports of textiles and apparel are expected to reach $100 bn in the next 5 years, growing at a CAGR of 11%[17].

The Government of India launched the Production Linked Incentive scheme that has an outlay of ₹ 10, 683 crore. This scheme promoted the production of MMF Apparel, MMF Fabrics and Products of Technical Textiles in the country.

Leather Sector[18]

India is the second-largest exporter of leather garments, the third-largest exporter of saddlery & harness and the fourth-largest exporter of leather goods in the world. The garments sector accounted for 7.03% of the country's total leather export in 2021-22[19].

The Council for Leather Exports is an autonomous non-profit Export Promotion Council (EPC) operating under the Ministry of Commerce and Industry, Government of India. This council offers various schemes to the leather manufacturers and exporters such as:

1. **Duty Free Import Scheme -** The DFIS scheme applicable only to members of the Council, allows duty free import of notified eligible inputs to an extent of 3% of FOB value of export realization (2% of FOB value of export realization in respect of lining and interlining materials for leather garments exporters) for certain notified product segments.

   The 3% DFIS Scheme is available for manufacturer-exporters of leather garments and to merchant-exporters of leather garments tied up with supporting manufacturer. In case of footwear and other leather products, the DFIS Scheme is available only for manufacturer-exporters only.

2. **Market Access Initiative (MAI) Scheme -** Under this scheme the council passes on the assistance provided by the Ministry for organizing leather shows/participation in certain exhibitions through a highly subsidized fee. The scheme benefits mostly the leather traders and manufacturers in the MSME sector.

---

[17] https://www.investindia.gov.in/sector/textiles-apparel
[18] https://leatherindia.org/benefits-of-becoming-a-member-of-cle/
[19] https://www.ibef.org/exports/leather-industry-india

3. **Integrated Development of Leather Sector (IDLS) -** This is a scheme for modernization and technology upgradation in all the segments of the leather industry, namely tanneries, footwear, footwear components, saddlery, leather goods and garments, being implemented under Indian Leather Development Programme (ILDP) in XII Five Year Plan.

   The financial assistance under the scheme will be investment grant to the extent of 30% of cost of plant and machinery for SSI and 20% of cost of plant and machinery for other units (i.e. non small scale units) subject to ceiling of ₹ 50 lakh for technology up gradation /modernization and/or expansion and setting up a new unit. The rate of assistance would be @ 20% for all units (both SSI and Non-SSI) above ₹ 50 lakhs subject to ceiling of ₹ 2 crore.

4. **Indian Footwear Leather and Accessories Development Programme (IFLADP)[20]** – This scheme was initially initiated in 2017-18 but in Sepetmber 2021, the scheme was extended with a ₹ 1,700 crore upto 2025-26. The programme has six components — Sustainable Technology and Environmental Promotion; Integrated Development of Leather Sector; Establishment of Institutional Facilities; Mega Leather Footwear and Accessories Cluster Development; Brand Promotion of Indian Brands in Leather and Footwear Sector; and Development of Design Studios.

[21]Automobiles & Components Sector

The size of India's auto component industry is US$ 57 billion with exports of US$ 15 billion. The country is an emerging destination for globally for auto component sourcing and the industry exports over 25% of its production annually.

Auto component exports are expected to grow and reach US$ 30 billion in FY26.

India has a competitive advantage in auto components categories such as shafts, bearings and fasteners due to large number of players. This factor is likely to result into higher exports in coming years. The Government of India’s Automotive Mission Plan (AMP) 2006-26 has been instrumental in ensuring growth for the sector. The Indian automobile industry is expected to achieve a turnover of US$ 300 billion by 2026 by expanding at a CAGR of 15% from its current revenue of US$ 74 billion.

In November 2020, the Union Cabinet approved a PLI scheme in automobile and auto components with an approved financial outlay over a five-year period of ₹ 57,042 crore (US$ 8.1 billion).

Diamond Dollar Account

Diamond exporters enjoy several benefits including the right to open Diamond Dollar accounts, which was introduced in the EXIM Policy 1997-2002. Diamond Dollar accounts allow exporters to retain their proceeds in dollars. However,

---

[20] https://www.livemint.com/news/india/govt-to-extend-incentive-scheme-ifladp-for-leather-footwear-industry-till-fy26-11630835610141.html

[21] https://www.ibef.org/industry/autocomponents-india, 2022

opening of this account is optional, and diamond exporters can continue to use their rupee accounts if required.

The criteria specified by RBI for operating Diamond Dollar accounts include:

- Firms / companies should be dealing in the purchase / sale of rough or cut and polished diamonds.
- A track record of at least 3 years in import or export of diamonds.
- An average annual turnover of ₹ 5 crore or above during the preceding three licensing years.

Firms and companies maintaining foreign currency accounts, excluding Export Earners' Foreign Currency (EEFC) accounts, with banks in India or abroad, are not eligible to maintain Diamond Dollar accounts. Eligible firms or companies may be allowed to open not more than five Diamond Dollar accounts with their banks.

19.7 Recent Developments in India's International Business

In the above paragraphs we have discussed about the various finance related incentives available to the exporters and also various schemes introduced by the government to boost the exports. However, there are certain developments in the international front on the subsidies allowed in our export trade and also some of the issues related to taxation due to introduction of GST in India.

[22]According to World Bank Report 2020 on Ease of Doing Business India ranked 63 among the chosen 190 countries.

[23]The government has had eased FDI regulations in various industries, PSUs, oil refineries, telecom and defence. As a consequence, India's FDI inflows reached record levels during 2020-21. The total FDI inflows stood at US$ 81,973 million, a 10% increase over the previous financial year. According to the World Investment Report 2022, India was ranked eighth among the world's major FDI recipients in 2020, up from ninth in 2019. Information and technology, telecommunication and automobile were the major receivers of FDI in FY22.

[24]The Union Budget 2023-24 has increased the allocation for some key export-boosting schemes.

Allocation for the commerce department's key Remission of Duties and Taxes on Export Products (RoDTEP) scheme has been increased by 10 per cent, from ₹ 13,699 crore in 2022-23 to ₹ 15,069 crore in the next financial year 2023-24.

Rebate of State and Central Taxes and Levies (RoSCTL) a scheme for garments and made-ups — the total outgo from the centre will be ₹ 8,405 crore in 2023-24, up from ₹ 7,461 crore.

---

[22] https://www.makeinindia.com/eodb#:~:text=
[23] https://www.ibef.org/economy/foreign-direct-investment
[24] https://www.business-standard.com/budget/article/budget-2023-24-allocation-for-schemes-to-boost-exports-increased-123020201568_1.html

Both schemes aim to refund to exporters the embedded non-creditable central, state and local levies paid on inputs. These taxes were not refunded earlier.

The allocation for the interest equalization scheme has been hiked by nearly a fourth to ₹ 2,932 crore in 2023-24 from ₹ 2,376 crore in 2022-23. The scheme provides subsidies for pre- and post-shipment export credit and mostly covers labour-intensive sectors.

Example: Indian Government extends RoSCTL Scheme

The Scheme for Rebate of State and Central Taxes and Levies (RoSCTL) meant to boost exports of apparel/garments and made-ups has been extended till March 31, 2024. The RoSCTL facilitated cost efficiency and thereby export competitiveness apart from generating employment in the textile industry. The The Ministry of Commerce and Industry made this decision in early July, 2022.

Source: https://www.livemint.com/news/india/govt-extends-rosctl-scheme-till-march-2024-for-exports-of-apparelgarments-11657793318417.html Year: 2022, Author: Livemint Website. Accessed on July 28, 2022.

Check Your Progress – 2

6. Identify the Export Declaration Form needed for exports of computer software.
   a. GR Form
   b. PP Form
   c. Softex Form
   d. SDF Form
   e. Export forms
7. Which of the following is not a condition for opening or hiring of warehouses abroad?
   a. Applicant's export outstanding should not exceed 5 percent of the exports made during previous year
   b. Requires a maximum turnover of USD 1,00,000 in the previous year
   c. All transactions should be routed through designated branches of the ADs
   d. The Authorized Dealer is supposed to maintain a proper record of granted approvals
   e. Period of realization should be applicable
8. Identify the statement wherein all the export bills outstanding beyond six months from the date of export should be reported.
   a. XOS
   b. ETX
   c. FCR
   d. PEM
   e. ENC

9. What is issued as a part of Bid Bonds?
   a. Line of credit
   b. Turnkey project
   c. Post award clearance
   d. Supply bidding process
   e. Deferred payment
10. Where the shipments for which the payments are due are lost in transit, then from which of the following an exporter can claims such loss?
   a. Insurance
   b. Export Credit Guarantee Corporation
   c. Post shipment credit
   d. Pre-shipment credit
   e. Overseas Authorized Dealers

19.8 Summary

- Exports play a key role in the economy. The Government of India provides different kinds of incentives to the exporters.
- One of the major incentives provided to exporters is granting of liberal credit by the banking system at concessional rates of interest.
- Banks are directed to make credit available both at pre- and post-shipment stages more liberally i.e. without asking for collateral securities, etc.
- Banks have been asked to grant lines of credit to exporters even for 3-4 years.
- Depending on their track record, so that they can scout for business/export orders, without being bogged down with credit constraints.
- Packing credit at pre-shipment stage, discounting of bills at post-shipment stage, either in Indian Rupees or foreign currency is the most common mode of credit supply.
- To encourage banks to liberally sanction loans to exporters, banks are provided loan guarantee facilities by an officially set up body called ECGC. Similarly, banks are also offered refinance facilities by the Reserve Bank of India, against the outstanding under export credit.
- The Gold Card scheme introduced in the EXIM policy facilitates the exporter to enjoy simpler and more efficient credit delivery mechanism.
- Special incentives are provided to sectors like textiles, leather.
- There are certain exchange regulations that define the mode of conducting exports and all the organizations/persons dealing with exporters should comply with these regulations as they are mandatory.
- The introduction of GST in Indian Taxation has given way for change in nomenclature used in IEC.

- In view of the outbreak of pandemic COVID-19, RBI increased the period for realization of export proceeds from nine months to fifteen months from the date of export, for the exports made up to or on July 31, 2020.
- New guidelines for postal exports were introduced in 2018 by customs.
- FEDAI Rules 10th Edition is effective from 1st April 2019. Some changes were brought in computation of interest and transit periods.
- With the introduction of Electronic Data Interchange (EDI) port, some procedural changes were brought in customs procedures.
- Since LIBOR related rates were on the verge of discontinuation, alternative reference rates are made benchmark rates for foreign currency denominated trade credits.
- In order to promote growth of global trade with emphasis on exports from India and to support the increasing interest of global trading community in INR, an additional arrangement for invoicing, payment, and settlement of exports / imports in INR was introduced in July 2022.

19.9 Glossary

Airway Bill is a receipt from the airline confirming receipt of goods from the shipper. It serves as a non-negotiable receipt for the shipper.

Authorized Dealers are those authorized by the RBI to deal in foreign currencies. They can be money changers, offshore banking units or any other person who is authorized to deal in foreign exchange or foreign securities.

Bonded Warehouse refers to an authorized warehouse by customs authorities for storage of goods where payment of duties on the goods is deferred until they are removed from the warehouse.

Consignment refers to delivery of merchandise from an exporter to a distributor specifying that the distributor will sell the merchandise and then pay the exporter.

Counter-Trade involves adjustment of value of goods imported against value of goods exported, in terms of an arrangement voluntarily entered between two parties.

EXIM Bank: The Export Import Bank of India encourages foreign trade by extending trade credit.

FEDAI: The Foreign Exchange Dealers' Association of India, the self-regulatory body for the Authorized Dealers in foreign exchange.

Gold Points refers to the limits on either side of the gold parity set by transaction and transportation costs, within which exchange rates could move under the Gold Standard.

Harmonized System is a classification system for goods in international trade that provides a domestic market uniform system of product classification for all major trading countries.

Import Licence is a licence required and issued by the DGFT, authorizing the entry of foreign goods into the country.

Importer Exporter Code number issued by the Director General of Foreign Trade (DGFT), which is required to be indicated on Export Declaration Forms submitted by the exporter.

Post-Shipment Finance is generally meant for financing exports on sales receivables of the exporter.

Pre-Shipment Finance is a short-term finance (inventory finance) extended to exporters in anticipation of export of goods. This finance enables exporters to procure raw materials, process, manufacture, warehouses, ship the goods meant for export.

Project Exports refers to export of engineering goods on deferred payment terms and execution of turnkey projects and civil construction contracts abroad are collectively referred to as 'Project Exports'.

19.10 Self-Assessment Test

1. Give a detailed note on the measures taken by the RBI to encourage the exporters by offering various incentives.
2. Explain the determinants of Pre-shipment finance given to exporters on account of goods meant for export.
3. Enumerate on the customs formality requisites for clearance of goods to be exported from India.
4. "Post-shipment finance is defined as "any loan or advance granted, or any other credit provided by an institution to an exporter from India from the date of extending the credit after shipment of the goods to the date of realization of the export proceeds" - Elucidate.
5. Explain the salient features of Gold Card scheme available for exporters.
6. Discuss in detail the regulatory measures governing exports in relation to exchange controls.
7. Describe the salient features and regulatory norms relative to software export in India's international trade market.

19.11 Suggested Readings/Reference Materials

1. Francis Cherunilam, International Business - Text and Cases, 6th Edition, PHI Learning.
2. P G Apte (2020), International Financial Management, McGraw Hill Education (India) Private Limited.
3. Madhu Vij (2021). International Financial Management – Text and Cases. 4th edition. Taxmann

4. Charles W. L. Hill, G. Tomas M. Hult (2021). International Business. 12th edition. McGraw Hill Education (India) Private Limited.

5. Choel S. Eun & Bruce G. Resnick (2022). International Financial Management. 8th edition. McGraw Hill Education (India) Private Limited.

6. K. Aswathappa (2020). International Business. 7th edition. McGraw Hill Education (India) Private Limited.

19.12 Answers to Check Your Progress Questions

1. (c) Advances based on Letter of Credit

Packing Credit is a loan or advance on pre-shipment finance granted to the exporter for purchase of raw materials/processing/packing based on Letter of Credit (LC) opened in his favor by the importer.

2. (a) Directorate General of Foreign Trade

An exporter who wants to avail of pre-shipment finance should obtain an importer-exporter code number from the DGFT. In addition, the exporter should not be under the caution list/special approval list of the RBI/ECGC.

3. (a) FOB value or domestic market value of goods whichever is lower

Quantum of loan will not normally exceed FOB value of goods or domestic market value of goods whichever is lower.

4. (e) 360 days

The maximum period given for pre-shipment credit on foreign currency advances is 360 days. In case, export of goods does not take place within the stipulated period, banks are eligible to charge interest from the very first day of advance at a rate prescribed for ‘Export Credit Not Otherwise Specified’ (ECNOS).

5. (e) ARR related

Alternative Reference Rate linked rates.

6. (c) Softex Form

Export of software in the non-physical form will have to be declared on SOFTEX form (Annexure). A set of SOFTEX forms comprises three copies marked original, duplicate and triplicate which carry an identical pre-printed serial number.

7. (b) Requires a maximum turnover of USD 1,00,000 in the previous year

Indian organizations permitted to establish warehouses abroad for achieving greater penetration of overseas export markets should have a minimum export turnover of USD 1,00,000 during the last year.

8. (a) XOS

All export bills outstanding beyond six months from the date of export should be reported in XOS statement.

9. (d) Supply bidding process

Authorized Dealers are permitted to offer guarantee in favor of overseas buyers provided they are satisfied with the bona fides of the export transactions. Bid Bonds are those that are issued as part of supply bidding process.

10. (a) Insurance

Where shipments in respect of which payments are not yet received are lost in transit, then the exporter can make an insurance claim for recovery of such loss.

Unit 20

Import Finance and Exchange Control Regulations Relating to Import Finance

Structure

"Imports create competition and keep domestic industry more responsive to consumers."

- Chuck Grassley, United States Senator

20.1 Introduction

Imports are crucial for countries and the quote underlines the importance of imports and therefore import finance also becomes important.

In the previous unit, we have discussed the exchange control guidelines relating to exports and various types of funding facilities available to exporters. We have also discussed the regulations that are currently in force for the exports at length, under the Foreign Trade Policy 2015-2020 of Chapter II. In the present unit, we shall discuss the scope and facets of import finance, and the exchange control regulations that govern the imports into the country.

In India, imports into the country are regulated as per the provisions in Foreign Trade (Development and Regulation) Act, 1992, where the central government announces from time to time policy guidelines governing imports.

20.2 Objectives

After studying this unit, you should be able to:

- Discuss the customary activities in financing imports
- Explain in detail the requisite procedure to open an import Letter of Credit (LC)

- State the legal compliance with exchange control aspects in import Letter of Credit
- Discuss in detail the customary procedure for clearance of imports into India
- Enumerate the exchange control regulations governing imports
- Describe the mode of settlement and remittance of advance in import payments

20.3 Financing Imports

As the structure of the global economy is changing steadfast, import finance assumes greater significance as it benefits the countries in acquiring goods and services that are available in foreign countries. More often, countries resort to import of goods and services when such goods/services are not domestically available or their domestic production is not cost-effective. For example, certain countries import raw materials such as crude oil and commodities such as metals that are not available at affordable costs in their national dominions. On the other hand, most of the countries import a range of consumer goods such as clothing, car, confectionery, televisions, etc., to meet the domestic demand. However, the import of goods and services is strictly regulated by the national governments as it can adversely affect the balance of payments and foreign exchange positions of the countries. For example, in India, the import policy is announced annually by the Government of India and is regulated by the office of the Director-General of Foreign Trade in coordination with the Reserve Bank of India. Export-Import Bank of India (EXIM bank) and Commercial banks (both the public sector and private sector) play a crucial role in the provision of import finance in India.

Import finance is the finance that helps to bring foreign goods into a country. Over the last three decades, the upsurge in globalization has resulted in the liberalization of economies which has led to the rise in the demand for imports. The provision of import finance, more specifically in developing and least-developed countries, has a vital role in facilitating globalization. Imports have certain clear benefits to the countries such as speeding up of their industrialization, meeting the domestic demand, improving the standards of living, overcoming the natural disasters, and ensuring national defence.

The need for import finance arises due to the challenges in overseas trade, where the risk of uncertainty of payment and moving of the goods is ever-present. Import finance thus, helps the businesses smoothen their cross-border transactions. Import finance involves the different types of credit facilities that facilitate the importers in managing their cash-flow problems. In some regional contexts, it is also termed as trade, stock, or inventory finance. Essentially, import finance in the form of a credit facility enables the importer to acquire the financial resources to further the business objectives. In simple terms, import finance funds the gap between receiving the goods and making the payment. In the absence of import finance, the importer faces a significant strain on cash-flows due to the delays and complexities involved in import transactions such as changing freight rates, import tariffs and other costs.

Benefits of Import Finance

Import finance offers several advantages to the importers. It brings confidence, certainty, and assurance around the importer's business transactions. It also helps in overcoming the problems of cash-flows of the importer. In general, the import finance facilities are off-balance sheet financial instruments that do not affect the existing bank relationships of the importer. In a way, the importer can grow his business without resorting to equity or angel investment. Import finance helps to optimize the cash flows, improve the revenues, simplify the trade transactions and secure the payments for the importer.

Import Finance by Banks

Bank lending activities under the import financing are mainly concentrated on activities like:

- Import of consumable inputs and channelized items.
- Import of plant and machinery.
- Imports made under short-term credit facility extended by overseas seller.

Broadly, import finance can be classified into 5 major types:

1. Letter of Credit (LC)
2. Bank Guarantees (BG)
3. Revolving credit facility
4. Business loan facility
5. Asset finance facility

Credit support to imports is usually extended in the form of:

- Opening of import Letter of Credit.
- Financing imports in the form of cash credit, loans mostly against import trust receipt, effecting payment in foreign exchange directly to overseas sellers.
- Issuing Deferred Payment Guarantees favoring overseas seller on behalf of importer, who is importing capital goods on long-term credit.

Generally, any credit facility extended to an importer is basically appraised like any other domestic credit proposal, to ascertain that the business has scope to generate cash flows that are sufficient to service the debt besides leaving a reasonable profit with the borrowers. In addition to these normal credit appraisal techniques, banks are expected to assess the loan requirement for compliance with trade and exchange regulations that are applicable to the respective import activity. It is, in fact, incumbent upon everyone concerned with imports to comply with these regulations. In view of this, we shall now discuss opening of import LCs or financing an importer against import trust receipt, etc., and compliance with regulations in detail.

Though the features of import finance are the same as they are to be within the framework of exchange control regulations, banks extend additional benefits by way of low charges. One such example is given below.

Example: HDFC Import Financing Features

HDFC Bank, the largest private bank in India, offers import financing facilities through its My Bank import services platform. It offers Import Advances, Import Direct Payments, Import Collection and Buyer's Credit. HDFC Bank claimed that its significant overseas presence of branches enabled it to charge low commissions on remittances.

Source: https://www.hdfcbank.com/sme/trade/import-services Year: 2022; HDFC Website Accessed on July 29, 2022

20.4 Pre-requisites for Opening Import Letter of Credit

Any request for the import of goods/services by customer will be subjected to the following aspects by the Authorized Dealer like

a. Trade control requirements

b. Exchange control requirements

c. Credit norms of the RBI

d. UCPDC provisions and FEDAI

e. Bank's internal procedures

Credit rating and credit-worthiness of the client should meet the requirements of the bank.

According to the exchange control guidelines, banks are required to open Letters of Credit for their own customers known to be participating in the trade. The opening of a Letter of Credit involves two stages wherein the importer is first required to make an application-cum-agreement in the required format to the bank for opening the LC. Along with the application, the importer is also required to submit certain important documents like:

- The exchange control copy of the import licence/open general licence declaration form, in case the items to be imported are covered under OGL.
- Letter of authority signed by the licenser in favor of the applicant, in case the applicant is not the holder of the licence.

- Pro forma invoice/indent/sale contract etc. covering the goods to be imported.
- Board resolution in the case of limited companies authorizing the company to establish the Letter of Credit.
- Board resolution for availing of import loan wherever necessary.
- Evidence of the Import-Export Code Number allotted by the Directorate General of Foreign Trade (DGFT) to the importer.
- The sale contract between the importer and the exporter.

While submitting the application, the importer should take care to ensure that:

- The application form is duly stamped according to the law of the State concerned and dated.
- The application form is signed on all pages by the authorized signatory.
- The application is filled in completely and any corrections or alterations are duly authenticated.
- Particulars furnished conform to the pro forma invoice/contract/indent backing the Letter of Credit.
- The tenor of the bill of exchange does not exceed that provided by the exchange control regulations in force.
- Currency in which payment is to be made is in conformance with the permitted methods of payment.
- Goods are consigned only in the name of the LC opening bank. Similarly, documents of title to goods are in the name of the LC issuing bank and never directly to the importer.
- The LC application clearly mentions the origin of the goods.
- The indent/contract continues to be valid.
- Terms and conditions mentioned are compatible with each other.
- The rate of interest, if any, for the usance period does not exceed the prime rate of interest in the country of the currency in which goods are invoiced.

In order to assess the credit-worthiness of an importer, banks obtain information relating to the following:

The importer should be in possession of an importer exporter code issued by the Directorate General of Foreign Trade. However, with the introduction of GST trade notice 9 issued in June 2017, GSTIN would be used for all export import purposes. Further, for the existing IEC holders, necessary changes in the system would be implemented by DGFT so that their PAN becomes their IEC. IEC holders are required to quote their PAN (in place of existing IEC) in all their future documentation. As on July 2019, both the systems are in vogue and the process was on to use PAN/GSTIN in place IEC.

As the exchange control copy of the import licence should be submitted to the Authorized Dealer, the import licence should:

- Be valid.
- Be issued on security paper and have a printed number and date.
- Have a security seal.
- Be in the name of the importer or properly transferred in his name with proper transfer letters authorizing him to effect import and open Letter of Credit, etc. by the licensee as per provisions of ITC policy.
- Commodity specified in the licence should be the same as that indicated in the application. Similarly, quantity or amount limits specified in the licence should be in agreement with that mentioned in the application. Also, irrespective of the sale terms for which the Letter of Credit is proposed to be opened, the import licence should have adequate value to cover Cost, Insurance, and Freight (CIF) value plus agency commission and interest, if any.
- Country of origin of goods authorized in the licence and country of shipment as authorized should be in agreement with that which is stated in the Letter of Credit agreement.
- The licence should be valid for shipment at least up to the last shipment date requested for in the Letter of Credit application.
- If licence is issued under any bilateral or multilateral agreement, the conditions stated in the concerned agreements and the relative ITC notification are complied with.
- If licence stipulates placement of order within a specified time limit, the sale contract submitted must confirm compliance of the condition.

Similarly, an import Letter of Credit will have to comply with certain exchange control aspects and hence, the importer should be aware that:

- LCs will be opened by bankers only in favor of their customers who are known to be participating in the trade.
- For those goods which are covered under the negative list of imports, LC will be opened only if the importer submits a licence marked “For Exchange Control Purposes”.
- Where goods are imported from Nepal or Bhutan, payment will be made in Rupees and such an LC would be treated as a domestic LC.
- If the beneficiary is from an ACU country, the LC should be denominated in ACU Dollar which is equivalent value-wise to one US Dollar.
- If import is made under a foreign loan or credit agreement and payment is authorized under letter of commitment method, Letter of Credit should not

envisage any remittance from India. In the case of import licences where reimbursement method applies, Authorized Dealers will make appropriate stipulations to ensure that the prescribed documents are submitted to them without fail.

- In case of import of technology and drawings, the applicant will be required to pay 'Research and Development Cess', before allowing remittance till 2017. The Union Budget, 2017 abolished Research and Development Cess ('R&D Cess') effective April 1, 2017. Presently, R&D Cess at the rate of 5 percent is levied on payments made towards import of technology like royalty, technical fee etc. The payments towards import of technology also attract service tax on reverse charge basis.
- In case of imports on cash basis, remittance should be completed within six months from the date of shipment. However, in a situation where there is undrawn balance, payment for such amount can exceed six months, but no interest will be paid on such amount withheld.
- If a Letter of Credit is to be opened for transaction of merchanting or intermediary trade, a Letter of Credit for the other leg of the transaction on back to back terms will have to be opened or full advance payment should be made. Moreover, banks will open LCs only in favor of their clients who are genuine traders in goods and not mere financial intermediaries.

If the Letter of Credit application is found to be in order after scrutiny from all angles, the bank will open the LC in favor of the supplier of the goods. The LC will be advised to the Beneficiary by an Advising Bank based in the Beneficiary's country. The mode of transmission of the LC is normally indicated by the Applicant. However, in situations where such a request cannot be acceded to, the bank will inform the Applicant and seek alternate instructions. The documents which are presented to the Issuing Bank are the same documents which are presented by the exporter. On receipt of documents from the exporter's bank, the importer's bank will examine the documents with the terms and conditions of the LC already issued and if found in order it will debit the importer's account for the amount in Rupees equivalent to the bill amount plus its own charges and charges of the overseas bank and hand over the same to the importer.

The procedure for scrutiny of the said documents will be the same as that made by the exporter's banker. As payments under a Letter of Credit depend on the correctness and completeness of the documents submitted, both importers and exporters are required to follow certain safeguards while submitting the same.

Bank Guarantees

Bank guarantee (BG) is a guarantee issued by a bank in favor of the importer duly certifying the creditworthiness of the importer. The major difference between

Letter of Credit (LC) and Bank Guarantee (BG) lies in how they are used by the importers. Usually, those importers involved in regular imports are more likely to use LC. On the contrary, contractors involved in infrastructure projects are more likely to use the Bank Guarantee. Under a Bank Guarantee, if the importer fails to honor the obligations of the contract with the seller or creditor, then the bank makes the payment at once to the seller.

Bank Guarantees are generally classified into two broad types: Financial guarantees and Performance guarantees. Some of the financial guarantees include Bid Bond Guarantee (international tender), Guarantee for Payment of Customs duty, Advance Payment Guarantee (APG), Deferred Payment Guarantee (DPG), and Shipping Guarantee.

Revolving credit facility

Revolving credit is a kind of credit facility wherein the importer must pay a specified sum of money as a commitment fee to access funds as and when required. This is always the most favored type of finance by the importers as it meets their financial needs. It has a special advantage for the borrower as he need not pay the interest when he has not borrowed the funds and the interest is levied only on the borrowed funds at any point of time. The facility is renewable annually with a specified fee. However, this facility is generally provided to the importers based on their creditworthiness and the repayment performance of the borrower.

Business loan facility

Banks offer broadly two types of business loans for importers: Unsecured business loans, Secured business loans. An unsecured business loan facility is extended against the personal guarantee of the importer typically for a period of 3 to 24 months at relatively higher interest rates. On the other hand, a secured business loan facility is provided against formal security in the form of a pledge of valuables securities, or mortgage of security, or formal charge on the company assets. Typically, these loans are extended for a duration of 2 to 5 years at relatively lower interest rates.

Asset Finance facility

The asset finance facility is provided to the importing borrower based on the value of the assets of the business entity's balance sheet. Typically, this includes finance extended by the banks against the importer's inventories, short-term investments, and accounts receivable as the security for the loan amount. Mostly, this facility is short-term in nature and rather easy to secure from the banks.

Other methods of import finance include factoring, forfaiting, and bridge finance.

Exporters executing overseas projects can also open import letters of credit. The following example provides the details for opening letter of credit.

Example: Union Bank of India (UBI) Specifications for Import LoC

UBI specified the requirements for Import LoC by business entities. One of the requirements is regarding exporters claiming Import LoC. It stated that an Indian exporter "executing a contract abroad" can import from a third country into the country of project execution. Such exporters can claim Import LoC.

Source: https://www.unionbankofindia.co.in/pdf/HKB_20_AuditPolicyLettersofCredit.pdf Year: 2022, Authors: UBI Website. Accessed on July 29, 2022.

Activity 20.1

As an importer, how would you assess and evaluate the need of opening an import Letter of Credit? List down the pre-requisites that you need to infer for obtaining the import Letter of Credit.

Answer:

20.5 Customs Procedure for Clearance of Imports into India

Goods imported in a vessel/aircraft attract customs duty and unless these are not meant for customs clearance at the port/airport of arrival by particular vessel/aircraft and are intended for transit by the same vessel/aircraft or transhipment to another customs station or to any place outside India, detailed customs clearance formalities of the landed goods have to be followed by the importers. In regard to the transit goods, so long as these are mentioned in import report/IGM for transit to any place outside, Customs allows transit without payment of duty. Similarly, for goods brought in by particular vessel/aircraft for transhipment to another customs station detailed customs clearance formalities at the port/airport of landing are not prescribed and simple transhipment procedure has to be followed by the carrier and the concerned agencies. The customs clearance formalities have to be complied with by the importer after arrival of the goods at the other customs station. There could also be cases of transhipment of the goods after unloading to a port outside India. Here also simpler procedure for transhipment has been prescribed by regulations, and no duty is required to be paid. (Sections 52 to 56 of the Customs are relevant in this regard)

For other goods which are offloaded importers have the option to clear the goods for home consumption after payment of the duties leviable or to clear them for warehousing without immediate discharge of the duties leviable in terms of the warehousing provisions built in the Customs Act. Every importer is required to file in terms of the Section 46 an entry (which is called Bill of entry) for home consumption or warehousing in the form, as prescribed by regulations.

The importer or his authorized agent is required to submit an import general manifest (IGL) to the customs department within 24 hours of the arrival of the conveyance. The manifest includes details of all the goods that are on-board the vessel, including those which are to be trans-shipped and those to be carried to subsequent ports of call.

[25]Enclosures to Import General Manifest:

The amendment made in 1995 (w.e.f. 1-7-1995) introduces a new form for obtaining entry inwards. The forms are designed according to IMO-FAL Convention. The forms have to be filed in prescribed sizes only. Host of enclosures are sought along with these forms. The following declarations have, however, to be filed along-with IGM:

(a) Deck Cargo Declaration / Certificate.

(b) Last port clearance copy.

(c) Amendment application (when relevant).

(d) Income Tax Certificate in case of Export Cargo.

(e) Nil export cargo certificates.

(f) Port Trust "No Demand" certificate.

(g) Immigration certificate.

(h) Application for sign on/sign off of crew (when relevant).

(i) Application for crew baggage checking when they sign on (When relevant).

If the goods are cleared through the EDI system no formal Bill of Entry is filed as it is generated in the computer system, but the importer is required to file a cargo declaration having prescribed particulars required for the bill of entry, where filed, is to be submitted in a set, different copies meant for different purposes and also given different colour scheme, and on the body of the bill of entry the purpose for which it will be used is generally mentioned in the non-EDI declaration.

[25] http://accmumbai.gov.in/aircargo/import/import_procedure.html

The importer clearing the goods for domestic consumption has to file bill of entry in four copies; original and duplicate are meant for customs, third copy for the importer and the fourth copy is meant for the bank for making remittances.

In the non-EDI system along with the bill of entry filed by the importer or his representative the following documents are also generally required:

- Signed invoice
- Packing list
- Bill of Lading or Delivery Order/Airway Bill
- GATT declaration form duly filled in
- Importers/CHA’s declaration
- License wherever necessary
- Letter of Credit/Bank Draft/wherever necessary
- Insurance document
- Industrial License, if required
- Test report in case of chemicals
- Adhoc exemption order
- Catalogue, Technical write up, Literature in case of machineries, spares or
- chemicals as may be applicable
- Separately split up value of spares, components machineries
- Certificate of Origin, if preferential rate of duty is claimed
- No Commission declaration

After verification and completion of the Bill of Entry by the appraiser, the bill is counter-signed by the Assistant Collector and sent to the licence section with an order to the dock staff for examination of the goods before clearance.

The appraising procedure may be either the first check procedure or the second check procedure. Under the first check procedure, the appraiser after initial scrutiny of the documents submitted, returns the Bill of Entry with an order for examination of goods prior to assessment of duty.

Under the second check procedure, after payment of duty, the importer or his agent is required to obtain the duplicate copy of the Bill of Entry from the customs on which the order for examination of goods is given. (The original copy of the Bill of Entry is retained by the customs department.) If the description of goods is found to be the same as declared, then permission for clearance is given by the appraiser. It should be noted that under the second check procedure, the assessment of duty is made prior to examination of the goods.

Example: Arrival of Goods at Air Cargo Complex Mumbai Customs

Air Cargo Complex Mumbai Customs had laid down definite procedures for arrival of goods while importing. Among them, the Master/Agent of the vessel or an aircraft needs to furnish an import manifest within 24 hours for a vessel and 12 hours for an aircraft. Flexibility is also given to submit the import manifest up to 14 days in advance of the arrival of the vessel or the aircraft.

Source: http://accmumbai.gov.in/aircargo/import/import_procedure.html#gen_cond. Year: 2022 Accessed on July 29, 2022

Check Your Progress – 1

1. Which of the following documents is not under the purview of submission in respect of opening of a Letter of Credit by the importer?
   a. Exchange control copy of the import licence
   b. Letter of authority signed by the applicant or licensor
   c. Sales contract between importer and exporter
   d. Advances taken against Letter of Credit
   e. Board resolution for availing import loan
2. The Importer Exporter Code number (IEC) is allotted by which of the following organizations?
   a. Directorate General of Foreign Trade
   b. Department of Industry Policy and Promotion
   c. Export Credit Guarantee Corporation
   d. Foreign Exchange Dealers Association of India
   e. Reserve Bank of India
3. In case of cash import, what is the maximum time (in months) allowed to make the remittances from the date of shipment?
   a. Three
   b. Four
   c. Five
   d. Six
   e. Nine
4. When the Letter of Credit (LC) application is found to be in order after thorough examination, the bank will open the Letter of Credit in favor of the supplier of goods. From the given statements, identify the procedure that does not pertain to the import Letter of Credit.
   a. The LC is advised to the Beneficiary by the Advising Bank
   b. The mode of transmission of LC is normally indicated by the applicant

   c. Documents presented to the Issuing Bank is similar to the one presented by the exporter
   d. The documents are verified by the importer's bank
   e. After verification, the bill amount is credited from the importer's account plus any charges applicable

5. Which of the documents is required to be submitted by the importer to the customs for the clearance of goods in shipment?
   a. Shipping bill
   b. Bill of entry
   c. Foreign exchange control form (SDF)
   d. GR form
   e. Technical standard certificate

20.6 Exchange Control Regulations Governing Imports

Import of goods into India is subject to exchange control regulations which are enumerated below:

FEMA places restriction on the purchase and sale of foreign currency. As per this Act, only Authorized Dealers or those generally or specially permitted by the RBI, can purchase or sell foreign currency. Any foreign exchange that is required for import payment can be acquired only from an Authorized Dealer.

As per FEMA, foreign exchange that is acquired by any person should be utilized for that purpose alone. If the foreign exchange is not used (for any reason) for the intended purpose, such a person is required to surrender the foreign exchange without delay to an Authorized Dealer in foreign exchange. Utilization of such foreign exchange for a purpose other than what was intended will be treated as an offence under the Act.

FEMA also lays down that any person who acquires foreign exchange for importing goods into India but does not import the goods or does not import goods of value or kind or quality or quantity indicated while acquiring the foreign exchange, will be presumed to have been unable to use the foreign exchange. It is presumed that the person had not used for the purpose for which it was acquired or as the case may be. It is understood that the person had used the foreign exchange for a purpose other than the one for which it was acquired. Payment of imports under foreign loans/credits arranged by goi from foreign governments institutions.

In a situation of adverse balance of payments, and where it is necessary to import certain goods, the government of India/the RBI may obtain a line of credit from the central bank of the overseas supplier's country. In such a case, payment may be made either by the letter of commitment method or the reimbursement method.

Under the letter of commitment method, payment is made directly by the loan agency (i.e., the central bank of the supplier) to the supplier of goods. The importer needs to make payment in Indian rupees only to the government of India. The manner of converting the foreign currency payments into Rupees under this method, recovery of payment from the importer and depositing the proceeds to the account of the government of India are intimated through public notices.

Under the reimbursement method, payment is first made through normal banking channels (by the government of India/the RBI to the overseas supplier) and reimbursement is subsequently claimed by the Government of India/the RBI from the credit agency (i.e., the central bank of the overseas supplier).

Advance Remittance

Authorized Dealers may allow advance remittance for import of goods and services without any ceiling subject to the following conditions:

- If the amount of advance remittance exceeds USD 200,000 or its equivalent, any of the following condition is to be fulfilled:
  (i) Import should be under an unconditional, irrevocable standby Letter of Credit.
  (ii) Import should be under a Guarantee from an international bank of repute situated outside India.
  (iii) Import should be supported by a guarantee of an Authorized Dealer in India (these guarantees are issued against the counter-guarantee of an international bank of repute situated outside India).
- Where the amount of advance exceeds USD 500,000 or its equivalent the following aspects are to be fulfilled:
- A guarantee from a bank of international repute situated outside India, or a guarantee from an AD Category-I bank in India, if such a guarantee is issued against the counter-guarantee of a bank of international repute situated outside India, should be obtained from the overseas beneficiary.
- In cases where the importer is unable to obtain Bank Guarantee from overseas suppliers, but the Authorised Dealer branch is satisfied about the bona fide track record of the importer, the requirement of the Bank Guarantee or Standby Letter of Credit may not be insisted upon for advance remittances up to USD 5,000,000.
- Physical import of goods into India is made within six months (three years in case of capital goods) from the date of remittance and the importer gives an undertaking to furnish documentary evidence of import within 15 days from the close of the relevant period.
- In the event of non-import of goods, Authorized Dealer should ensure that the amount of advance remittance is repatriated to India or is utilized for any

other purposes for which release of foreign exchange is permissible under the Act, rules or regulations made there under.

- Credit report on foreign suppliers from reputed credit rating agencies like Equifax, TransUnion, Experian, D&B (Dun & Bradstreet) etc. or foreign correspondents to be obtained in case of advance remittances of over USD 100,000 and it must be satisfactory.

Import Payment only On Behalf of Residents in India

Foreign exchange for import payment can be sold by Authorized Dealer only to persons' resident in India. For this purpose, persons, firms, companies or other organizations' residents in Nepal and Bhutan should be treated as 'Non-Residents'.

Delivery of Import Documents

Authorized Dealers can deliver import documents received by them only to the drawees of the bills who may be the actual importers (including those holding import licences where necessary) or holders of letter of authority.

Due care should be exercised while handling import documents on collection basis on behalf of importer customers with reference to their line of business, financial standing, frequency of import, etc., to establish the genuineness of the import. If the bills are of large value, additional care should be taken to see whether the importer is trading in the concerned items or the items are required for his actual use. In case the importer is not a customer, he should be asked to produce a detailed certificate-cum-report from his bank regarding the genuineness of the imports.

Time Limit for Settlement of Import Payments

Normally, remittances against imports should be completed within six months from the date of shipment. However, importers are permitted to withhold a small part of the cost of goods towards the guarantee of performance etc. Deferred payment arrangements including suppliers and buyers credit providing for payments beyond a period of six months from date of shipment up to a period of less than five years are treated as trade credits. The ADs are expected to follow the procedural guidelines laid down in the Master Circular for trade credits.

Authorized Dealers may also allow payment to be made beyond 6 months from the date of shipment provided the delay is caused due to disputes, financial difficulties etc. Interest in respect of such delayed payments may be permitted at the rates prescribed in the Master Circular on trade credits. All cases of extended payment terms will require prior approval from the Reserve Bank of India.

Remittances against import of books may be allowed without restriction as to time limit, provided interest payment if any, is as per the rates prescribed in the Master Circular on trade credits.

Payment of Commission on Imports

Commission on imports may be of two types. One is commission of overseas supplier's agent in India which is payable in India in Indian Rupees. In such cases, normally overseas supplier prepares invoice for gross amount including the agent's commission which is shown as a deduction to arrive at the net amount remittable to him. He will also authorize payment of commission to the local agent and remittance of the net proceeds to him. Such payments of commission to local agents do not require the RBI's approval but need to be endorsed on Exchange Control (EC) copies of import licences, when held.

Authorized Dealers may on application supported by documentary evidence, also allow remittance of commission to overseas buying agents of Indian importers at rates not exceeding 2.5% of the F.O.B value of goods, either along with the cost of goods or separately. Such remittances should also be endorsed on Exchange Control (EC) copies of import licences, if any.

Payment of Interest on Imports

Authorized Dealers are authorized to make remittances on account of interest accrued on usance bills or overdue interest payable on sight bills for a period not exceeding three years from the date of shipment. The rate of interest should not exceed the rates prescribed in the Master Circular on trade credits.

The Authorised Dealers are allowed to make pre and post due date import payments at their discretion without deducting the proportionate interest for unexpired portion of usance up to 3-4 days if they are satisfied that this is due to the requirement of the supplier and there is no pattern of only prepayment.

All in cost per annum payable for the credit should not exceed LIBOR +350 basis points for credit less than 3 years for the currency of credit.

Application Forms for Remittances Connected with Imports

Applications connected with import remittances, including advance remittances must be made in Form A1 (Annexure). This form is prescribed by the RBI for import payments. It is a simple application for remittance in foreign currency to be made by an Indian importer. It is obligatory for persons, firms and companies making payment towards imports into India to apply in Form A1. There are three variants of Forms A1 printed in three different colors to be used for different types of remittances:

a. Remittance in foreign currency – printed on white paper.
b. Remittance by transfer of Rupees to non-resident bank accounts – on light blue paper.
c. Remittance through Asian Clearing Union – on light yellow paper.

Form A2 (Annexure) should be used in respect of the following payments:

a. Import payments connected with merchanting trade transactions.

b. Payment towards import of technical services/collaboration or any other type of services.

c. Overseas bank charges connected with import transactions, when the remittance is made separately.

d. Installments and interest on short-term foreign currency loans/credit with maturities up to one year and loans raised by export-oriented units on self-liquidation basis.

e. Repayment of loan/credit and payment of other charges requiring RBI approval for remittance.

In case the remittance is within the powers of the Authorized Dealer, the Authorized Dealer will sell the required foreign exchange to the importer provided he is satisfied with the bona fides of the application.

However, if the remittance is outside the purview of the Authorized Dealer, an application in duplicate will be obtained from the importer. This application will be verified as to its correctness and will be certified and forwarded to the RBI for approval. The Authorized Dealer will not sell foreign exchange until a copy of the application (i.e. Form A1 or A2) has been returned by the RBI together with a permit authorizing remittance.

Activity 20.2

One of the local corporate hospitals in Hyderabad is proposing to import MRI Scanning equipment. The cost of the equipment is USD 250k. What is the procedure?

Answer:

Endorsement on Import Licences

Import licences (See Annexure) are required to be endorsed by Authorized Dealers under their stamp and signature giving details of Letters of Credit opened/forward contracts booked/remittances made in foreign currency as well as the amount of insurance, freight and commission paid by the importer locally in rupees.

Also, Authorized Dealers may endorse the value of back-to-back inland Letters of Credit opened by them on behalf of duty-free licence-holders as required in terms of the relevant provisions of the export import policy.

Manner of Rupee Payment

Payment of import bills by the importer should be received by Authorized Dealers either by a debit to the importers account with themselves or by means of a crossed cheque drawn by the importer on his other banks. In no case, should payments against import bills be accepted in cash.

Letters of Authority

Even in a situation where the Exchange Control (EC) copy of the import licence has been issued in the name of a party other than the applicant, Authorized Dealers may open Letters of Credit or make remittances provided such party produces a letter of authority (See Annexure) in his favor from the import licence-holder giving him authority to open Letters of Credit or make payments towards import. Letters of Credit may also be opened by Authorized Dealers on behalf of the agents of the importers in cases where imports are allowed without licence. However, before opening a Letter of Credit, they should confirm, by reference to the import policy that the importers are permitted to utilize the services of agents. In all such cases, the letter of authority holder or the agent will be responsible for production of the customs bill of entry wherever required. An undertaking to this effect will have to be obtained by ADs from the letter of authority holder or the agent.

Attestation of Invoices

Importers are required to submit a copy of the invoice attested by the Authorized Dealer as corroboratory evidence of the value of goods declared on the Bill of Entry at the time of clearance of goods. To enable importers to fulfill this obligation, Authorized Dealers may attest copies of invoices where the Shipping Bills/documents are received through their medium. There may be instances where the importer directly receives the relevant documents and makes payment either before or after clearance of goods. In such cases also, the Authorized Dealers may attest the invoices provided the remittance is made/will be made through their branch.

Imports under Penalty

Authorized Dealers may also permit remittance in a situation where goods are imported without authority but are cleared by the customs authorities upon payment of penalty. In such cases, remittance will be up to the C.I.F value of goods mentioned in the exchange control copy of the customs bill of entry evidencing import of goods into India.

Import into Bond

No import licence is required in case of imports into bond for purposes of re-export. Also, sale of foreign exchange against such imports is not allowed.

Firms and companies in India importing goods into bond for supply to foreign going vessels and sale to diplomatic missions/personnel are granted special facilities by the RBI subject to certain conditions.

Remittances against Replacement Imports

The following procedure is to be followed where goods are short-supplied, damaged, short-landed or lost in transit:

a. Where no Letter of Credit (LC) has been opened, the Exchange Control (EC) copy of the import licence may be treated as valid for the replacement goods, subject to shipment being within the validity period of the licence.

b. In case the Authorized Dealer has already opened a Letter of Credit and where the exchange control copy has already been utilized against the original goods, any endorsement made to the extent of the value of the lost goods may be cancelled and fresh remittance for replacement imports are permitted without reference to the RBI. However, the insurance claim relating to the lost goods should have been settled in favor of the importer. The replacement goods should, however, be shipped within the validity period of the licence.

c. The importer will have to apply to the import trade control authorities for revalidation of licence in case the shipment of replacement goods is to be made after the expiry of the licence.

d. In case, replacement goods for defective imports are being sent by the overseas supplier before the defective goods imported earlier are re-shipped out of India. AD branches may issue guarantees at the request of importer client for dispatch/return of the defective goods, according to their commercial judgment.

Surrender of Import Licences to Exchange Control

When a Letter of Credit is opened, the exchange control copy of the import licence should be retained by the Authorized Dealer. It should be forwarded to the Reserve Bank of India after full utilization along with R-Returns pertaining to the period during which the last remittances under the licences were made.

Import under Foreign Loans / Credits

Any proposal to raise foreign loans/credits for financing import of goods into India will first have to be submitted to the Government of India, Ministry of Finance (Department of Economic Affairs), ECB Division, New Delhi for the necessary clearance. Clearance will be given by the government based on the merits of each case and in conformance with the prevailing government policy.

Import of goods under foreign loans/credits arranged by the Government of India would be governed by the detailed instructions set out in public notices issued by the Directorate General of Foreign Trade or circulars issued by the RBI. Generally, one of the two methods namely letter of commitment method or reimbursement method is followed for payment of imports under foreign loans/credits. Under letter of commitment method (also called direct payment method), payment is made directly by the loan/credit disbursing agency to foreign suppliers, whereas under reimbursement method payment to supplier is made in the first instance by remittance through normal banking channels and reimbursement subsequently claimed by the government of India by submitting prescribed documents.

Remittances in foreign exchange from India or rupee transfers to non-resident accounts are not permitted in case of imports covered by licence issued under letter of commitment method. The manner of converting the foreign currency payments made under the letter of commitment method into rupees and of transferring the funds for credit to the government of India and other regulations incidental thereto will be advised to branches from time to time. At the time of opening, the LC against import licences where the reimbursement method applies, branches should make appropriate stipulations to ensure that the prescribed documents are submitted to them without fail. In cases where bills are received for collection in respect of such import licences, branches should not allow remittances until the required documents are furnished.

When the borrower receives the letter stating the terms and conditions (applicable for borrowing), from the Government of India, he is required to make an application in Form ECB1 (Annexure) to the office of the Reserve Bank of India within whose jurisdiction its head/registered office is situated. When the Reserve Bank of India’s approval is received, the borrower can conclude the loan/credit agreement. Required number of copies of the agreement should be filed with the government. After filing the copies with the government, the borrower should seek permission from the Reserve Bank of India to effect drawal of the loan amount for utilization towards approved purposes.

Each foreign currency loan/credit will be allotted a registration number by the RBI. This number is to be quoted on all returns/statements which are submitted to the RBI. In case the borrower wants to open foreign currency bank accounts in India/abroad for retention of the loan funds pending disbursement, he may apply for permission from the RBI by furnishing relevant information like details of the loan, name and address of the overseas bank, type of account, rate of interest, etc. Issue of financial guarantees in favor of foreign lenders by the ADs require prior approval from the Reserve Bank of India.

Details about the drawal and utilization of the loan amount will have to be furnished to the RBI by means of quarterly statements in Form ECB2 in duplicate.

These statements will have to be submitted till the time the loan is fully repaid. In case there is no drawal/repayment during a particular quarter, a "Nil" statement should be submitted. Borrowers will be penalized in case there is any delay in submitting the quarterly statements.

The RBI will issue an acknowledgement on receipt of the quarterly statements. No remittances towards repayment of the loan/credit will be allowed by the ADs until the statement in form ECB2 (Annexure) has been submitted to the Reserve Bank of India for the last quarter and an acknowledgement obtained from the Reserve Bank of India.

In case of repayment of the loan/credit, the borrower is required to make an application in Form ECB3 (Annexure) to the Authorized Dealer. This form will be forwarded by the Authorized Dealer to the Reserve Bank of India along with necessary supporting documents. Submission of the form and documents should be made well in advance to avoid penalty.

Sub Loans out of Lines of Credit/Loans obtained by Financial Institutions

Term lending institutions like IFCI have been given general permission by the RBI to:

a. Sign agreements with their sub borrowers in India.

b. To accept personal guarantees of directors/ promoters/partners, associates of sub borrowers/companies/firms by way of collateral/interim security provided such guarantees do not involve any direct or indirect outgo of foreign exchange.

Postal Imports

Payments against bills received for collection in respect of imports by post parcel will be made by Authorized Dealers only if the goods so imported are those which are normally dispatched by post-parcel. Parcel receipts should be submitted as evidence of dispatch through post. Authorized Dealers should also take an undertaking from the importers stating that the relevant parcel wrappers will be submitted within three months from the date of remittance.

In case the parcel is already received by the importer, the parcel wrapper should be produced in support of the remittance application. In case the AD is not satisfied about the bona fides of the application or where the goods imported are not normally those which are imported by post, then the AD should refer the same to the Reserve Bank of India for approval.

Authorised Dealer branches may make remittances towards import of books by post parcel by book sellers/publishers against bills received for collection, irrespective of the amounts involved.

Remittances can be made by ADs without prior approval of the Reserve Bank of India. Endorsement on the import licence is required, wherever applicable, in the normal course.

Remittances may also be made even if import licences covering the imports have been issued subsequent to the date of import subject to endorsement on such licences.

Imports through Courier

Imports/Exports through a registered courier service is permitted as per the notification issued by the Department of Revenue. However, importability/ exportability of such items are regulated in accordance with ongoing Foreign Trade Policy.

In case the C.I.F value of goods imported through courier is less than ₹ 1 lakh, the relative bill of entry will have to be submitted by the registered courier service. In case the value exceeds ₹ 1 lakh, importers must submit separate bill of entry as in the case of other imports. Hence, while making payments for imports through courier and where the value is more than ₹ 1 lakh, Authorized Dealers should ensure that the exchange control copy of the bill of entry for home consumption is submitted. Where the value is more than ₹ 1 lakh, a copy of the bill of entry in the prescribed form issued by the customs in the name of the registered courier, duly certified by the Authorized Dealer of the courier should be obtained from the importer.

Import of Equipment by BPO Companies for their Overseas Sites

The Authorised Dealers branches may allow the Business Process Outsourcing (BPO) companies in India to make remittances towards the cost of equipment to be imported and installed at their overseas sites in connection with the setting up of their International Call Centers (ICCs) subject to the following conditions where:

a. The BPO company has obtained necessary approval from the Ministry of Communications and Information Technology, Government of India and other authorities concerned for setting up of the ICC;

b. The remittance is allowed based on the commercial judgment of the Authorised Dealer branches, the bona fide of the transactions, strictly in terms of the contract;

c. The remittance is made directly to the account of the overseas supplier; and

d. The Authorised Dealer had obtained a certificate as evidence of import from the Chief Executive Officer (CEO) or auditor of the importer company that the goods for which remittance was made have been imported and installed at the overseas sites.

Merchanting Trade

The exchange control regulations relating to merchanting trade lays down that goods involved in the transactions are permitted to be imported into India.

Such transaction should not involve foreign exchange outlay from India for a transit period exceeding four months.

All rules, regulations and directions applicable to export out of India (except Export Declaration Form) are complied with in respect of the export leg.

Similarly, all rules, regulations and directions applicable to import (except bill of entry) are complied with in respect of the import leg of merchanting trade transactions.

Authorized Dealers are also required to ensure timely receipt of payment for the export leg of such transactions. The short-term credit is not available for merchanting trade or intermediary trade transactions either by way of suppliers' credit or buyers' credit. The Authorized Dealers have to make sure that the terms of payment for the import leg and the export leg of the transactions are in a manner that the liability for the import leg of the transaction ends by the payment received for the export leg of the transaction. It is done without any delay and the entire merchant trade transaction is completed within a period of 9 months while undertaking bona fide merchanting trade transactions on the behalf their trader clients.

Advance Remittances to Overseas Suppliers

Advance remittance towards imports by merchant exporters may be permitted by Authorized Dealers provided confirmed orders have been received by the merchant exporters from the overseas buyers. In addition, the Authorized Dealer should be convinced about the capabilities of the merchant exporter in meeting his obligations under the order. Also, the transaction should result in adequate profit to the merchant exporter.

Where the amount of advance remittance exceeds USD 300,000, a guarantee from a reputed international bank located outside India should be obtained from the overseas seller.

Forward Exchange Contracts for Imports

In order to cover the exchange risk faced by importers, Authorized Dealers may book forward contracts for imports. However, booking of forward contracts is subject to certain regulations.

Forward contracts for imports can be booked only in respect of persons resident in India. Secondly, forward contracts can be booked only in case of genuine transactions and where there is exposure to exchange risk. Further, the maturity date should be identified and compliance with FEDAI rules is essential. This facility will be available only for valid import transactions and will be allowed for contracts in any permitted currency, i.e. a currency which is freely convertible.

The value of the forward contract should not be more than the value of goods contracted for by the importer or the value of the LC opened by the Authorized Dealer. In case, the contract is on sales terms which are less than CIF terms, and freight/insurance, etc. is paid by the seller and recovered separately on actual basis, forward contract can cover such estimated charges also. In case, local agency commission is paid, such commission should be deducted, and the contract should be booked for net amount payable to overseas seller.

Usually, the customer is given the choice of deciding the period and extent of exposure. Delivery period of forward contract should be linked to the shipment/payment schedule under the contract even though contracts may be booked for shorter maturities. However, the last date of delivery should not exceed six months from the date of shipment/expected shipment date.

Proper verification of the sale contract should be undertaken by the AD at the time of booking forward contract. Where firm orders are placed by the importer, forward contract should be booked only after the overseas supplier has accepted the order. In case bills are already received for collection, the verification of contracts may be dispensed with. Proper endorsements should be made by the Authorized Dealer indicating that forward contract has been booked.

Forward contracts in case of merchanting trade transactions can be booked subject to the condition that contracts are booked simultaneously for both legs of the transactions i.e. import and export.

Cancellation of forward contracts by Authorized Dealers need not be reported to the Reserve Bank of India. However, in case the forward contract that is cancelled is equivalent of US dollars 5,00,000 and above, full particulars of the same should be kept on record for verification by the RBI officials if necessary.

A1 forms are to be used to indicate that remittances have been made under a forward contract.

[26]Evidence of Imports

Where foreign exchange acquired has been utilised for import of goods into India, the AD Category – I bank should ensure that the importer furnishes evidence of import viz., as in IDPMS (import data and monitoring system) Postal Appraisal Form or Customs Assessment Certificate, etc., and satisfy himself that goods equivalent to the value of remittance have been imported. AD bank should ensure that all import remittances outstanding on the notified date of IDPMS are uploaded in IDPMS.

[26] RBI/FED/2016-17/12 FED Master Direction No. 17/2016-17 Master Direction – Import of Goods and Services updated as on 21st November 2022

In terms of the extant regulations, remittances against imports should be completed no later than six months from the date of shipment, except in cases where amounts are withheld towards guarantee of performance, etc. However, in view of the disruptions due to outbreak of COVID-19 pandemic, during 2020 the time period for completion of remittances against normal imports (except in cases where amounts are withheld towards guarantee of performance etc.) has been extended from six months to twelve months from the date of shipment for such imports made on or before July 31, 2020.

Evidence of Import

Based on the AD code declared by the importer, the banks shall download the Bill of Entry (BOE) issued by EDI ports from “BOE Master” in IDPMS. For non-EDI ports, AD banks of the importer shall upload the BoE data in IDPMS as per message format “Manual BoE reporting” on daily basis on receipt of BoE from the customer/Customs Office.

In case of payment after receipt of BoE, the AD bank shall generate ORM for import payments made by the importer customer as per the message format “BOE Settlement”.

Follow-up for Submission of Evidence of Import Bill of Entry

As per exchange control regulations, the importer is required to submit the exchange control copy of the Bill of Entry[27] or post wrapper to the Authorized Dealer within three months from the date of remittance, involving foreign exchange exceeding USD 100,000 or its equivalent. Bill of entry serves as an evidence that the goods are actually been imported into India. The internal inspectors of the bank are required to check the evidence and furnish half-yearly certificates to the RBI.

When the exchange control copy of the bill of entry is received from the importer, the AD should carefully scrutinize it and check if details like description of goods, quantity, value of goods, invoice number and date, details of import licence, correspond to the details submitted by the importer at the time of remittance. If the details correspond, such fact should be entered in the bills register.

When the exchange control copy is received by the Authorized Dealer, an acknowledgement should be issued giving details like name, address of the importer, code number of the importer, number and date of import licence, reference number of the bank’s Letter of Credit, number and date of exchange control copy of the bill of entry and particulars and value of the imported goods.

---

[27] Bill of entry: This document is required to be submitted by the importer to the customs. The clearance of imported goods is effected based on the details provided in this document. The format of the bill of entry is a standardized one and contains details like importer's code number, importer’s name and address, description of the goods imported, quantity, country of origin of goods, customs duty payable, any additional duty payable, etc.

On failure to submit the exchange control copy within the stipulated period (i.e. within three months from the date of remittance) and after the rigorous follow up made for the next 3 months, a reminder should be sent to the importer demanding immediate submission of the documentary evidence. In case the importer defaults, the Authorised Dealers should forward to the RBI a statement on half yearly basis as at the end of June and December of every year, in form BEF (Annexure 18(1)) furnishing details of import transactions, exceeding USD 100,000 in respect of which importers have defaulted in submission of an appropriate document evidencing import within 6 months from the date of remittance. The said half yearly statement should be submitted to the regional office of the RBI under whose jurisdiction the Authorised Dealer is functioning, within 15 days from the end of half year to which the statement relates.

Legal Expenses for Imports

Any payment towards legal expenses relating to imports can be made by Authorized Dealers on behalf of their clients' subject to submission of necessary documentary evidence. Authorized Dealers (ADs) should also satisfy themselves about the chances of success of the case by calling for legal opinion and an estimate of the total likely expenses to be incurred to satisfy themselves with the reasonableness of the charges. Where the payments exceed USD 1,00,000, full details of the payments should be given to the RBI on a quarterly basis.

R-Returns

Authorized Dealers are required to submit details regarding the various transactions in foreign exchange and in rupees undertaken by them to the Reserve Bank of India. Such details are to be submitted in R-Returns on a fortnightly basis. Since R-Returns are a useful source for compilation of the balance of payments data of the country, care should be taken to ensure that the details provided in the R-Returns are complete and accurate in every respect. Moreover, Authorized Dealers are also required to submit the same within the prescribed time schedule. R-Returns vary depending upon the currency in which the transaction has taken place. Hence, the Authorized Dealer must submit different R-Returns depending upon the currency in which the transaction has taken place. For example, an R1 return (white) must be submitted in case the transaction is in Pound Sterling. An R2 return (dark pink) must be submitted in case the currency involved is the US Dollar.

R-Returns should be submitted twice a month at the close of business as on 15th and the last day of the month. If the 15th or the last day is a holiday, the returns should be submitted as at the close of business of the preceding working day. The returns are to be sent to reach the Reserve Bank of India within seven days from the close of the reporting period to which they relate.

Category A branches are those maintaining independent foreign currency accounts with overseas correspondents/branches in their own names. Category B branches are those that are not maintaining independent foreign currency account but are having powers of operating on the accounts maintained abroad by their head/principal offices or any other link offices. Category C branches are those which handle foreign exchange business through an office or branch in category A or B but do not have powers to operate on the accounts maintained abroad by their head/principal offices.

Every transaction that affects the position of foreign currency assets and liabilities has to be reported to the Reserve Bank of India. Transactions involving foreign exchange take place by debits and credits to the Nostro accounts (maintained by Authorized Dealers with foreign banks) and Vostro accounts (maintained by foreign banks with Authorized Dealers in India) respectively, and all debits and credits effected are to be reported to the Reserve Bank of India. R-Returns are basically of two types: The R-Return (Nostro) and the R-Return (Vostro). R-Returns (Nostro) are required to be submitted by all category A and B branches of Authorized Dealers. The R-Returns (Nostro) of Category C branches will be routed through the category A and B branches. R-Returns (Vostro) are required to be submitted by offices/branches of AD maintaining accounts of non-resident banks. Category C branches and those offices/branches of Authorized Dealers not maintaining accounts of non-resident banks are not required to submit the R-Return (Vostro).

Example: ₹ 5K Crore Xiomi Funds Seized for FEMA Violation

The Enforcement Directorate (ED) of Govt. of India seized about ₹ 5K Crore fund of Xiomi Technology India Pvt Ltd., due to alleged violation of Foreign Exchange Management Act (FEMA). The ED claimed that Xiomi India, wholly owned subsidiary of China-based Xiaomi group, which procures manufactured mobile sets and other products did not account for any merchandising import for the tune of ₹ 5,521.27 crores that was remitted abroad favouring the parent Xiaomi group.

Source: https://www.businesstoday.in/latest/story/ed-seizes-rs-5551-cr-of-xiaomi-funds-for-fema-violation-331912-2022-04-30, Author: Business Today Website Accessed on July 29, 2022

Check Your Progress - 2

6. What is the maximum time allowed for settlement of import dues on delayed payments, usance bills?
   a. Six months
   b. Three months
   c. Three years
   d. Four years
   e. Nine months

7. Which of the following entities play a vital role in financing imports, ensuring that importers comply with trade and exchange regulations?
   a. Scheduled banks
   b. Commercial banks
   c. Regional rural banks
   d. Foreign exchange commission
   e. Reserve Bank of India
8. Which of the following is not a requisite content on account of import remittances in Form 2 (annexure) as prescribed by the RBI?
   a. Import payment connected with merchanting trade transactions
   b. Overseas bank charges connected with import transactions
   c. Installment and interest on short-term foreign currency loans/credit with maturity up to one year
   d. Payment by transfer of Rupees to non-resident bank accounts
   e. Repayment of loan/credit and payment of other charges that requires RBI approval for remittance
9. Which of the following is required in lieu of import licence, if the goods are imported for the purpose of re-export?
   a. Physical goods
   b. Service
   c. Non-listed goods
   d. Gem and Jewelry
   e. Bonds
10. What is the frequency of submission of statement by the importer to RBI when the payments on legal expenses for imports exceed USD 100,000?
    a. Monthly
    b. Quarterly
    c. Fortnightly
    d. Half-yearly
    e. Annually

20.7 Summary

- Commercial banks have a vital role to play in not only financing imports but also ensuring that importers are complying with the trade and exchange regulations.
- The predominant activity under import financing is opening of import Letters of Credit on behalf of importers favoring overseas suppliers.

- At the time of opening an import LC, a bank ensures that the intended importer is known to the bank; he is in the line of business that needs the proposed goods for carrying out his business; he is permitted to import the said goods by way of either using an import licence or its import is permitted under OGL, etc.
- Banks issue Deferred Payment Guarantee in favor of an overseas seller who is supplying capital goods on long-term credit. By this facility, an importer can procure goods and make use of it to generate additional cash flows which can be used to redeem the installments.
- Every importer who has acquired foreign exchange must use it for the intended purpose and provide evidence to the effect that the intended goods are brought into the country by submitting Bill of Entry issued by customs authorities.
- The AD Category – I bank should ensure that the importer furnishes evidence of import viz., as in IDPMS (import data and monitoring system) and other related documents.
- In terms of the extant regulations, remittances against imports should be completed no later than six months from the date of shipment, except in cases where amounts are withheld towards guarantee of performance, etc.
- In view of the disruptions due to outbreak of COVID-19 pandemic, during 2020 the time period for completion of remittances against normal imports (except in cases where amounts are withheld towards guarantee of performance etc.) has been extended from six months to twelve months from the date of shipment for such imports made on or before July 31, 2020.
- The importer has to deliver import manifest within a timeframe of the arrival of the vessel carrying the import.
- Enclosures to import general manifest are defined. The customs clearance formalities have to be complied with by the importer after arrival of the goods at the other customs station. In the non-EDI system, the importer had to file the bill of entry along with the prescribed documents. The Union Budget, 2017 abolished Research and Development Cess ('R&D Cess') effective April 1, 2017

20.8 Glossary

Beneficiary of LC is the seller of goods who is to receive payment from the buyer. The LC is opened in seller’s favor to enable buyer to receive payment on submission of the stipulated documents.

Cash in Advance is the payment method for goods in which the buyer pays cash to the seller before shipment of the goods.

Certificate of Origin is the certified document detailing the origin of goods used in foreign commerce.

Clean Bill of Lading is a document specifying that the carrier receives the goods in apparent good order and condition.

Forward Rate Agreement is an agreement under which the seller assures the buyer certain interest rate on a notional sum for a pre-determined term, which is with reference to a pre-selected market rate, at the end of a specified period. The difference between the agreed rate and the actual market rate prevailing at the end of the specified period is paid by the seller to the buyer if the agreed rate is higher than the market rate, and vice versa.

Import Licence is a licence required and issued by the DGFT authorizing the entry of foreign goods into the country.

Import refers to bringing foreign goods or services into a country.

Importer Exporter Code is the code number issued by the DGFT which is required to be indicated on export declaration forms submitted by the exporter.

Nostro Account is a bank's account with a correspondent bank located in a foreign country.

Pro forma Invoice is prepared by an exporter before the shipment of merchandise informing the buyer of the kinds of goods to be sent, their value and important specifications such as size, quantity and weight.

Vostro Account refers to correspondent banks account in the host country. For example, an Indian Bank X is having US $ account in Citi Bank New York, Citi Bank's account in Indian rupees is Vostro account of Citi Bank.

20.9 Self-Assessment Test

1. Briefly explain the customary activities involved in necessitating the import finance.
2. Enumerate on the procedural aspects that is obligatory in case of opening an import Letter of Credit.
3. Describe the legal requisite compliance which the importer should be aware of in relation to exchange control aspects in import Letter of Credit.
4. Explain the custom procedure followed by importers for clearance of imports into India as stated by the RBI.
5. State the regulatory norm that is pre-requisite to the exchange control copy of the import licence document.
6. "Import of goods into India is subject to exchange control regulations under the FEMA (Foreign Exchange Management Act)." - Explain.
7. Discuss in detail the remittance and settlement mode in import payments.

20.10 Suggested Readings/Reference Materials

1. Francis Cherunilam, International Business - Text and Cases, 6th Edition, PHI Learning.
2. P G Apte (2020), International Financial Management, McGraw Hill Education (India) Private Limited.
3. Madhu Vij (2021). International Financial Management – Text and Cases. 4th edition. Taxmann.
4. Charles W. L. Hill, G. Tomas M. Hult (2021). International Business. 12th edition. McGraw Hill Education (India) Private Limited.
5. Choel S. Eun & Bruce G. Resnick (2022). International Financial Management. 8th edition. McGraw Hill Education (India) Private Limited.
6. K. Aswathappa (2020). International Business. 7th edition. McGraw Hill Education (India) Private Limited.

20.11 Answers to Check Your Progress Questions

1. (d) Advances taken against Letter of Credit

Advances taken against Letter of Credit / Packing Credit is not a requisite in case of submission of relevant documents for the purpose of opening of a Letter of Credit by the importer. Because packing credit is a loan/advance provided to exporter against the Letter of Credit.

2. (a) Directorate General of Foreign Trade

The Import-Export Code number (IEC) is allotted by Directorate General of Foreign Trade (DGFT). This 10-digit number is required to be procured by all the importers and exporters.

3. (d) Six

In the case of imports on cash basis, remittance should be completed within six months from the date of shipment. However, in a situation where there is undrawn balance, payment for such amount can exceed six months, but no interest will be paid on such amount which is withheld.

4. (e) After verification, the bill amount is credited from the importer's account plus any charges applicable

After verification, the bill amount is credited from the importer's account plus any charges applicable does not pertain to opening of import Letter of Credit. After due verification, the required bill amount is debited from the importer's account to the supplier's account.

5. (b) **Bill of Entry**

Bill of Entry is a document that is required to be submitted by the importer to the customs for the clearance of goods in shipment.

6. (c) **Three years**

The time settlement of import dues on delayed payments, usance bills or overdue interest is payable only for a period, not beyond three years from the date of shipment at the rates prescribed, that changes as per the amendments of master notifications given by the RBI from time to time.

7. (b) **Commercial Banks**

Commercial banks play a vital role in financing imports, ensuring that importers comply with trade and exchange regulations.

8. (d) **Payment by transfer of Rupees to non-resident bank accounts**

Payment or remittances by transfer of rupees to non-resident bank accounts is not under the purview of Form 2 (annexure) as prescribed by the RBI whereas it is to be filled in against Form 1 (annexure).

9. (e) **Bonds**

Import licence is not required in case of import of bonds that are imported for the purpose of re-export. When goods are warehoused, the importer is required to execute a bond equal to twice the amount of duty assessed on the goods.

10. (b) **Quarterly**

Any payment towards legal expenses relating to imports can be made by Authorized Dealers on behalf of their clients, subject to submission of necessary documentary evidences. Where the payments exceed USD 1,00,000, full details of the payments should be given to the RBI on a quarterly basis.

International Finance

Course Structure

Block 1: Fundamentals of International Finance	
Unit 1	Introduction to International Finance
Unit 2	Theories of International Trade
Unit 3	International Trade Finance in India
Unit 4	Balance of Payments
Block 2: Foreign Exchange Transactions	
Unit 5	International Monetary System
Unit 6	The Foreign Exchange Market
Unit 7	Exchange Rate Determination
Unit 8	Exchange Rate Forecasting
Block 3: Exchange Risk Management	
Unit 9	Introduction to Exchange Risk
Unit 10	Management of Exchange Risk
Unit 11	International Project Appraisal
Block 4: International Financial Management	
Unit 12	International Financial Markets and Instruments
Unit 13	International Equity Investments
Unit 14	Short-term Financial Management
Unit 15	International Accounting and Taxation
Block 5: International Trade	
Unit 16	Trade Blocks
Unit 17	Foreign Trade Policy
Unit 18	Documentary Credits
Unit 19	Export Finance and Exchange Control Regulations Governing Exports
Unit 20	Import Finance and Exchange Control Regulations Relating to Import Finance