



**WESTERN INDIA
REGIONAL COUNCIL
OF THE INSTITUTE
OF CHARTERED
ACCOUNTANTS OF
INDIA**

**EXPORT & IMPORT
OF GOODS &
SERVICES**

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Export of goods and services

Gamut of laws

- ▶ Customs Act
- ▶ Foreign Trade (Regulation & Development) Act, 1993
- ▶ Export Import Policy
- ▶ Trade Notices
- ▶ Foreign Exchange Management Act
 - Notification No: FEMA 23/2000 – RB dt. May 3, 2000
 - Circulars

FEMA 1999

- ▶ Sec 7- Export of Goods & Services
- ▶ (1) Every exporter of goods shall:
 - (a) furnish to the Reserve Bank or to such other authority a declaration in such form & in such manner as may be specified, containing true & correct material particulars, including the amt. representing the full export value or, if the full export value of the goods is not ascertainable at the time of export, the value which the exporter having regard to the prevailing market conditions, expects to receive on the sale of the goods in a market outside India.
 - (b) furnish to the Reserve Bank such other information as may be required by the Reserve Bank for the purpose of ensuring the realisation of the export proceeds by such exporter.

FEMA 1999 – Section 7

- ▶ (2) The Reserve Bank may, for the purpose of ensuring that the full export value of the goods or such reduced value of the goods as the Reserve Bank determines, having regard to the prevailing market conditions, is received without any delay, direct any exporter to comply with such requirements as it deems fit.
- ▶ (3) Every exporter of services shall furnish to the Reserve Bank or to such authorities a declaration in such form & in such manner as may be specified, containing the true & correct material particulars in relation to payment for such services.

Definitions of Export

As per FEMA – Section 2(L):

- 1) The taking out of India to a place outside India any goods,
- 2) Provision of services from India to any person outside India

As per Notification No.23

Export includes 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 case of software, also includes transmission through any electronic media

Definition of Export.. Continued

As per Foreign Trade (Development & Regulation) Act, 1992

“Import” and “Export” mean respectively bringing into, or taking out of, India any goods by land, sea or air

Export of goods and services

- ▶ Master Circular No. 14/2012-13 dated July 2, 2012
 - Part I - Introduction
 - Part II - General guidelines for Exports
 - Part III – Operational Guidelines for AD Category – I banks.
 - Annexure –I
 - Current Account Transaction Rules
 - Annexure –II
 - Notification No: 23 / 2000- RB dated 3rd May 2000. – Exports of goods & services.
 - Annexure – III
 - Notification No: 14 / 2000- RB dated 3rd May 2000 – Manner of Receipt of payment.

Introduction

- ▶ Export Trade regulated by GOI, Ministry of Commerce
- ▶ Policies and procedures announced by the DGFT.
- ▶ ADs to conduct export transactions in conformity with:-
 - Exim Policy/Rules in vogue
 - Notification No. FEMA 23 dated 3rd May, 2000.
 - Notification No. FEMA 6 Export and Import of Currency) Regulations.
 - Export of Indian currency of value exceeding Rs.7500/- will require prior permission of Reserve Bank.
 - Notification No. FEMA 8- (Guarantees) Regulations.
 - Generally permitted to issue guarantees on account of exports out of India.

Introduction

- Directions issued by Reserve Bank under FEMA.
- Strictly observe GOI Notification No. G.S.R.381(E) dated May 3, 2000, [Foreign Exchange Management (Current Account Transactions) Rules, 2000]
 - Schedule I – Prohibited Transactions
 - Schedule II – Transaction requiring prior approval of the GOI.
 - Schedule III -Transactions requiring prior approval of the RBI.

Trade and Exchange Control Procedures

- **Types of Declarations**
- Form GR / SDF- Applicable to Export of goods (including S/W in physical form) otherwise than by Post – To Commissioner of Customs
- Form SDF- Applicable when exports are declared to Customs Offices under Electronic Data Interchange (EDI) – To A.D.
- Form PP- Applicable when exports is by Post
- Form SOFTEX- Applicable when export of software is not in physical form – To officials of Ministry of IT at STPI / SEZ
- If no form prescribed – export services without declaration – liable to realise foreign exchange

Trade and Exchange Control Procedures

- ▶ Declaration in GR/PP/SDF/Softex
 - Exemption from Declarations
 - Trade samples/Publicity Materials – free of cost.
 - Personal effects of travellers
 - Ship stores/transshipment cargoes/Certain orders of Central government
 - Exports not exceeding US \$ 25,000 or its equivalent
 - Gift of goods not exceeding Rs.5 lakhs
 - Aircrafts/aircraft engines / spare parts sent outside for overhauling /repairs abroad subject to their re-import within a period of six months
 - goods imported free of cost on re-export basis

Exemption from Declaration

- goods not exceeding U.S.\$ 1000 or its equivalent in value per transaction exported to Myanmar under the Barter Trade Agreement
- Following goods permitted by Dev. Comm. Of the EPZ, EHTP, ESTP or FTZ to be re-exported:
 - Imported goods found defective for the purpose of replacement by foreign suppliers / collaborators.
 - Goods imported from foreign suppliers / collaborators on loan basis.
 - Goods imported from foreign suppliers / collaborators free of cost, found surplus after production operations.

Exemption from Declaration

- Replacement of goods exported free of charge in accordance with the Exim Policy.
- Goods sent outside India for testing subject to re-import into India.
- Defective goods sent outside India for repair and re-import provided goods are accompanied by Certificate from A.D. that goods are for repair and re-import and export doesn't involve any transaction in foreign exchange
- Exports permitted by the Reserve Bank, on application made to it, subject to the terms and conditions, if any, as stipulated in the permission.

Waiver from filing declaration

- ▶ Export of goods free of cost for export promotion
 - Limit – 2% of avg. of annual exports of the previous 3 financial years subject to ceiling of Rs. 5 lakhs.
 - Status Holder Exporters – Limit of Rs. 10 lakhs or 2% of annual export realisation during preceding 3 licensing years whichever is higher.
- ▶ Export of goods not involving any foreign exchange transaction requires waiver of declaration from RBI.

Procedure Of Export

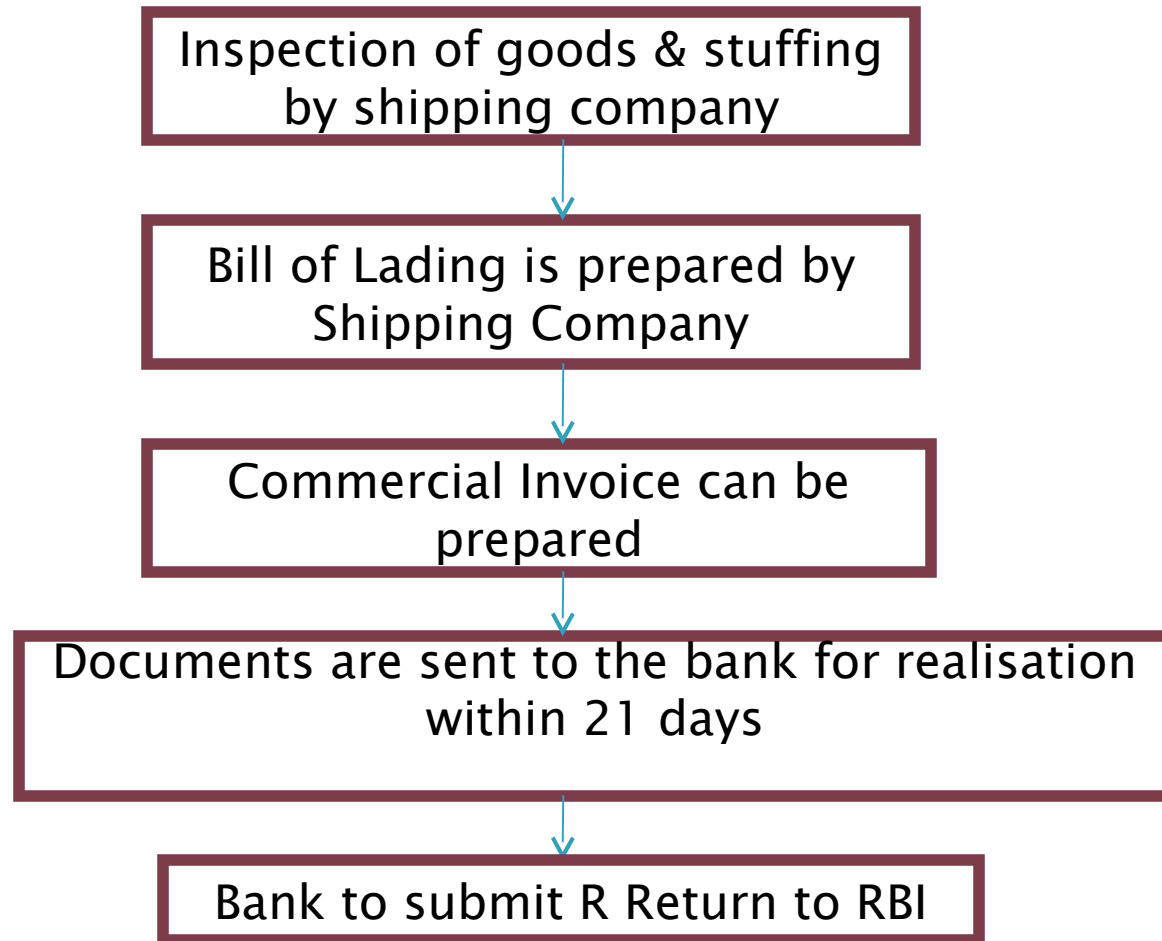
First prepare custom invoice along with packing list

Based on above Customs Department will generate 3 copies of shipping bill which is also declaration under EDI.

One copy is sent to RBI directly by Customs dept.

Then the materials are sent to port/shipping line along with the instructions for preparing Bill of Lading

Procedure Of Export



Manner of Receipt and Payment

- ▶ Notification No. 14 -Manner of Receipt & Payment) Regulations, 2000.
 - Through ADs
 - May also be received in the following manner :
 - In the form of bank draft, cheque, pay order.
 - Foreign currency notes/foreign currency travellers' cheques during visit to India.
 - Payment out of funds in the FCNR/NRE account.
 - International Credit Cards of the buyer.
 - Transactions with a person resident in Nepal or Bhutan – payment in rupees permitted.
 - Person resident in Nepal – Permitted by Nepal authority – make payment in foreign exchange through the ACU mechanism
 - Gem & Jewellery units in SEZs and EOUs - settlement in the form of precious metals i.e Gold / Silver / Platinum by the Gem & Jewellery units in SEZs and EOUs.
 - Re-import into India, within the period specified for realisation of the export value shall be deemed to be realisation in full export value of such goods

Period of realisation of Exports

- ▶ By Status Holder Exporters/100% EOU /EHTP /STP /BTP
 - 12 months from the date of export. (Normally 6 mths, extended through circular up to 31/03/2013)
- ▶ In other cases realize & repatriate Full export value of goods or software
 - within 12 months from the date of export. (Normally 6 mths, extended through circular)
- ▶ Goods or software exported by SEZ – limitation of 12 months does not apply i.e. no specific time period
- ▶ Goods exported to a warehouse outside India – 15 months from the date of export.
- ▶ In any other case – within 12 months from the date of export.
- ▶ AD dealer may for sufficient and reasonably cause extend the period.

Set off of export receivables against import payables

- ▶ Import is as per Foreign Trade policy in force.
- ▶ Invoice/Bill of lading/Airway bill & Bill of entry for home consumption - submitted by the importer to AD Bank.
- ▶ Payment for the import is still outstanding in the books of the importer.
- ▶ Transactions of sale & purchase to be reported separately in 'R' return.
- ▶ GR form will be released by the AD bank only after entire exports proceeds are adjusted / received.
- ▶ Same overseas buyer & supplier.
- ▶ Set off is not permitted for transaction with ACU countries

Foreign Currency Accounts

- ▶ Participation in International exhibition / trade fair (Notification No: 10)
 - General permission to open temporary foreign account abroad.
 - Deposit the foreign exchange obtained on sale of goods.
 - Close the account within 1 month from the date of closure of exhibition / trade fair and repatriate the amount.

Foreign Currency Accounts

- ▶ For exporters having good track record
 - Application in Form EFC to RBI for opening foreign currency account with banks in India & outside India.
 - If account to be opened in India – application to be submitted to the branch at which the account is to be maintained.
 - If account to be maintained abroad – give details of the bank with which the account is to be maintained.

Foreign Currency Accounts

- ▶ Overseas office / branch
 - Indian entity can open, hold & maintain a foreign currency account with a bank outside India.
 - Remittance for normal business operations of the said office / branch by making remittance for the purpose of normal business operations.
- ▶ SEZ Unit
 - Open, hold and maintain a Foreign Currency account in India with an AD Category – I bank

Foreign Currency Accounts

- ▶ Project / Service Exporter
 - PRII can open, hold and maintain foreign currency accounts with a bank outside India
 - Terms and conditions in the memorandum PEM
- ▶ Diamond Dollar Account (DDA)
 - Firms & companies dealing in purchase / sale of rough or cut & polished diamonds, etc.
 - Track record of 2 years in export / import of India of diamonds, coloured gemstones, etc.
 - Avg. annual turnover of Rs. 3 crores during the preceding 3 licensing years (April to March)
 - Not more than 5 DDA accounts can be opened.
 - Application to be made to AD.

Foreign Currency Accounts

- ▶ **Exchange Earners' Foreign Currency (EEFC) Account**
 - PRII can open EEFC account
 - Credit 100% of foreign exchange earnings by all categories of foreign exchange earners subject to
 - Convert into rupees before end of next calendar month
 - Non-Interest bearing current account
 - PRII are permitted to include resident close relative as joint holder
 - No credit facilities (fund/non-fund based) is permitted
 - Permitted credit –
 - inward remittance through normal banking channel excluding foreign currency loan or investment received from outside India or amount received for meeting specific obligation.
 - Payments received in foreign exchange by an unit in DTA for supplying goods to unit in SEZ.

EEFC Account

- AD may permit the exporters to extend trade related loans/advances to overseas importers out of their EEFC balance without any ceiling.
- Permitted to repay packing credit accounts availed whether in rupee or foreign currency account.

Advance payment against Exports

- ▶ Shipment of goods - within 1 year from the date of receipt of advance.
- ▶ Rate of interest - does not exceed LIBOR + 100 basis point.
- ▶ Documents - routed through AD through whom the advance payment is received.
- ▶ If exporter does not make shipment or ship's partly within 1 year
 - No remittance towards refund of unutilized advance is permitted after 1 year without RBI permission
- ▶ AD authorised to grant permission if shipment to be made after 1 year.
- ▶ Refund of advance payment – first from EEFC account and then from purchase of foreign exchange from the market.

Trade Fair / Exhibitions abroad

- ▶ Firm / companies / other organisation can take goods for exhibition and sale outside India with RBI permission.
- ▶ Unsold exhibit items:
 - sell outside the exhibition / trade fair in the same country or
 - in a third country.
- ▶ Items can be sold at discounted value.
- ▶ Unsold goods – gift - 5000/- per exhibition / trade fair.

Trade Fair / Exhibitions abroad

- ▶ AD may approve GR Forms of export items for display or display cum sale subject to the following conditions:
 - Exporter shall produce Bill of entry within 1 month of re-import into India of the unsold items.
 - Sale proceeds of item sold is repatriated to India in accordance with Notification No:14/2000-RB dt.03/05/2000.
 - Exporter shall report to AD the method of disposal of all items exported as well as the repatriation of proceeds to India.
 - Such transaction will be subject to 100% audit by their internal inspectors / auditors.

Exports of Goods for re-exports

- ▶ AD may consider request from exporters for granting GR approval – where goods are exported for re-import after repairs / maintenance / testing / calibration, etc.
- ▶ Exporter will produce Bill of Entry within 1 month of re-import of the exported item from India.
- ▶ Goods exported for testing are destroyed – AD to obtain certificate by testing agency that the goods have been destroyed during testing in lieu of Bill of entry.

Part Drawings / Undrawn Balances

- ▶ Certain lines of export trade –
 - ▶ small part of the invoice value is undrawn
 - ▶ due to difference in weight, quality, etc.
 - ▶ to be ascertained after arrival & inspection, weight or analysis of the goods.
 - ▶ AD may negotiate the bills provided:
 - Amount of undrawn balance is normal in the line of export trade.
 - Maximum of 10% of the export value is undrawn.
 - Undertaking from the exporter that he will surrender / account for the balance proceeds of the shipment within the period prescribed for realization.

Part Drawings / Undrawn Balances

- ▶ Exporter unable to arrange for repatriation of undrawn balance
 - AD should satisfy that the exporter has realised:
 - At least the value for which the bill was initially drawn (excluding undrawn balance) or
 - 90% of the value declared on GR/PP/SDF Form
 - Whichever is more and
 - a period of 1 year has elapsed from the date of shipment.

Consignment Exports

- ▶ Goods exported on consignment basis –
 - AD forward shipping documents to his overseas branch / correspondent.
 - AD to instruct overseas branch / correspondent
 - to deliver them only against trust receipt or
 - undertaking to deliver sale proceeds by a specified date within the prescribed period for realization of proceeds of the export.
- ▶ Above procedure to be followed – bill for part of the estimated value is drawn in advance against the exports.
- ▶ Agent / consignee may deduct from sale proceeds:
 - Expenses normally incurred towards receipt, storage and sale of the goods e.g. landing charges, warehouse rent, handling charges, etc.
 - Remit the net proceeds to the exporter.

Consignment Exports

- ▶ AD to verify the accounts statements with supporting.
- ▶ Freight & Marine Insurance must be arranged in India.
- ▶ In case of export of books – exporters allowed to abandon the books – value of unsold books to be reduced form the export proceeds.

Opening / hiring of Warehouses abroad

- ▶ AD will grant permission subject to following conditions:
 - Export o/s not to exceed 5% of the exports made during the previous F.Y.
 - Minimum export turnover is \$ 1,00,000/- during the last F.Y.
 - Period of realisation should be as applicable.
 - All transactions should be routed through the designated branch of AD Banks.
 - Initial permission for 1 year – renewal to be considered on fulfillment of above conditions.

Direct dispatch of documents by the exporter

- ▶ AD should normally dispatch shipping documents to their overseas branches / correspondents.
- ▶ AD can dispatch documents directly to consignee or their agents resident in the country of final destination in following cases:
 - Advance payment / irrevocable L/C has been received for the full value of the export shipment.
 - Sales contract/ L/C provides for dispatch of documents direct to the consignee.
 - Exporter is the regular customer of the AD & arrangements have been made for realisation of export proceeds.
 - Value of the goods / software is not more than Rs. 25,000/- & not declared on GR/SDF/PP/SOFTEX form.

Direct dispatch of documents by the exporter

- ▶ **Status Holder Exporters / Units in SEZ**
 - Export proceeds are repatriated through AD named in GR Form.
 - Duplicate copy of GR Form is submitted to AD within 21 days from the date of export for monitoring purposes.
- ▶ **Regularize dispatch of documents by other exporters**
 - Goods up to \$ 1 million or its equivalent.
 - Export proceeds have been realised in full.
 - Exporter is a regular customer of bank for at least 6 months.
 - Exporter's account is fully compliant with KYC/AML guidelines.
 - AD is satisfied with the bonafides of the transaction.
- ▶ If in doubt AD should file Suspicious Transaction Report with Financial Intelligence Unit in India.

Invoicing of Software Exports

- ▶ Long duration contracts –
 - ▶ bill periodically i.e. at least once in a month or on reaching the milestone as provided in the contract.
 - ▶ last Bill - raise within 15 days of completion of the contract.
- ▶ Combined SOFTEX form can be raised for all the invoices raised on a particular overseas client including advance remittances received in a month.
- ▶ “one shot operation”, - invoice to be raised within 15 days from the date of transmission.
- ▶ Exporter to submit SOFTEX in triplicate to the designated office of STPI/EPZ/FTZ/SEZ for valuation not later than 30 days from the date of invoice.

Short shipments and Shut out Shipments

- ▶ In case of short shipments:
 - Give notice of short-shipment to the customs.
 - Obtain certified short-shipment notice from the customs.
 - Submit the certificate to AD.
- ▶ In case of shut out and delay to re-ship
 - Exporter to give notice to customs.
 - Attach unused duplicate copy of GR form and the shipping bill.
 - Customs will verify the notice and forward it along with unused GR form to RBI.
 - Original GR form will be cancelled.
 - If shipment is made subsequently – fresh set of GR form should be completed.

Certain exports requiring prior approval

- ▶ Counter Trade Arrangement – Counter Trade proposals involving adjustments of value of goods imported into India against value of goods exported from India.
- ▶ Export of goods on Lease, Hire & ultimate re-import.
- ▶ Export of goods on elongated credit terms.

Exports of goods by SEZ

- ▶ SEZ are permitted to undertake job work abroad & export goods from that country subject to:
 - Processing/manufacturing charges are suitable loaded in the export price & are borne by the ultimate buyer.
 - Exporter has made all efforts for realisation of full export proceeds
- ▶ AD may permit units in DTAs to purchase foreign exchange for making payment for goods supplied by them to SEZ.

Project Exports / Service Exports

- ▶ Meaning of Project 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.
- ▶ Approval of AD / Exim Bank / Working group at post-award stage is required before undertaking execution of such contracts.
- ▶ Service contracts are laid down in the revised memorandum of Instructions on Project and service exports.

Exports to neighbouring countries

- ▶ Exports to neighbouring countries by Rail, Road or River
- ▶ Original Form GR / SDF to be submitted as follows:
 - Exports by barges/ country craft / road transport - form to be submitted at the custom house station at the border.
 - Exports by rail - custom staff has been posted at certain designated railway station for attending to custom formalities.
 - In case of goods loaded at railway station other than designated station - exporters to present GR/SDF Forms at the Border Land Customs Station where customs formalities are completed.

Obligation of AD

- ▶ To maintain Export Bill Register in physical or Electronic form.
- ▶ Follow up of overdue bills.
 - If exporter does not recover within 12 months or applies for extension, AD to report to RBI.
 - AD should not part with the duplicate copy of GR/ SDF/ SOFTEX/ PP Form.
- Form XOS to be submitted for o/s more than 6 months within 15 days from the end of half year (June & Dec.)

Reduction in Invoice Value

- ▶ AD permitted to approve reduction subject to:
 - Reduction does not exceed 25% of the invoice value.
 - It does not relate to export of commodities subject to floor price stipulations.
 - Exporter's is not on the caution list of RBI.
 - Exporter is advised to surrender proportionate export incentives availed of, if any.
- ▶ Exporter in the business of > 3 years:
 - Reduction permitted without any ceiling.
 - Track record being satisfactory
 - Export o/s does not exceed 5% of the average annual export realisation during preceding 3 F.Y.

Reduction in Invoice Value

- ▶ Reduction on account of Prepayment of Usance Bills
 - AD permitted to allow reduction in value on account of Usance Bills.
 - Discount is on account of cash discount to overseas buyers for prepayment of the usance bills.
 - Maximum amount of reduction – proportionate interest on the unexpired period of usance.
 - Interest calculated at the rate of interest stipulated in the export contract or
 - If interest rate is not stipulated - at the prime rate / LIBOR of the currency of invoice.

Extension of time

- ▶ AD permitted to extend the period of realisation.
 - Beyond the period of 12 months from the date of export.
 - Extension can be granted up to a period of 6 months at a time irrespective of the invoice value.
- ▶ Export transaction is not under investigation.
- ▶ AD is satisfied that exporter has not been able to realise export proceeds for reasons beyond his control.
- ▶ Exporter submits a declaration that the export proceeds will be realised during the extended period.
- ▶ Total outstanding does not exceed:
 - USD 1 million or
 - 10% of the average export realizations during the preceding 3 FY.
 - Whichever is higher.
- ▶ If suit filed by exporter abroad against the buyer – extension may be granted irrespective of the amount involved.
- ▶ Application in Form ETX.

Write off of Unrealized export bills

- ▶ Write off of unrealized export bills is permitted subject to following limits:
 - Self write off by an exporter (other than Status Holder Exporter) 5%
 - Self write off by Statue Holder Exporters 10%
 - Write off by AD Bank 10%
of the total export proceeds realized during the previous calendar year.
- ▶ Write is subject to following conditions:
 - The relevant amount is o/s for > 1 year.
 - Satisfactory documentary evidence furnished in support of the exporter having made all the efforts to realise the dues.

Write off of Unrealized export bills

- ▶ Overseas buyer has been declared insolvent.
- ▶ Overseas buyer is not traceable over a long period of time.
- ▶ Goods exported have been auctioned or destroyed by Ports/Customs/Health authorities in the importing country.
- ▶ Unrealized amount is settled through the intervention of the Indian Embassy or similar organisation.
- ▶ Unrealized amount represents the undrawn balance of an export bill (not exceeding 10% of the invoice value) remaining outstanding & turned out to be unrealizable despite all efforts made by the exporter.

Write off of Unrealized export bills

- ▶ Cost of resorting to legal action high
- ▶ Exporter will not be able to execute the decree.
- ▶ Exporter has surrendered proportionate export incentives.

Write off of Unrealized export bills

- ▶ In case of self write off, the exporter should submit to the concerned AD a CA certificate to be submitted indicating:
 - the export realisation in the preceding calendar year
 - Amount of write off availed during the year.
 - Export benefits, if any, availed of by the exporter have been surrendered.
- ▶ Following are not permitted for write-off
 - Exports made to countries with externalization problems.
 - GR/SDF forms are under investigation as also the outstanding bills which are matter of civil/ criminal suit.

Write off by AD – Payment of claims by ECGC & Private Insurance Companies

- ▶ Request from the exporter to AD for write off
- ▶ Documentary evidence from ECGC & private insurance companies confirming the claim in respect of o/s bills settled by them.
- ▶ Such write off will not be restricted to limit of 10%.
- ▶ Surrender in such cases, if any, in such cases will be provided in the Foreign Trade Policy.
- ▶ Claims settled in rupees should not be construed as export realisation in foreign exchange.

Write off in other cases

- ▶ Other Cases – RBI approval

- ▶ SHIPMENT LOST IN TRANSIT
 - AD - insurance claim to be made at the earliest
 - Claim payable abroad
 - AD must collect the full amount of claim due on the lost shipment through its overseas branch / correspondent.
 - Release the duplicate copy of GR/SDF/PP form only after the amount has been collected.
 - Certificate of the amount of claim received should be furnished on the reverse of the duplicate copy.
 - Amounts settled directly – AD to ensure that the claim are repatriated to India by exporters.

Agency commission on Exports

- ▶ AD can permit payment of commission
 - ▶ either by remittance or
 - ▶ by deduction from invoice value
- Amount of commission is declared on GR/SDF/PP/SOFTEX Form & accepted by the custom authorities.
- In case commission is not declared on GR/SDF/PP/SOFTEX Form –
 - AD to satisfy the reason for not declaring commission on the form
 - Valid agreement/written understanding between the exporters and/or beneficiary for payment of commission exists.
- The relative shipment has already been made.

Agency commission on Exports – not permitted

- ▶ Payment of commission is prohibited on exports –
 - Made by Indian Partners towards equity participation in an overseas joint venture / WOS.
 - Export under Rupee Credit Route except commission up to 10% of invoice value of exports of tea & tobacco.

Refund of Export Proceeds

- ▶ AD may consider requests for refund of export proceeds of goods exported from India and being re-imported on account of poor quality.
- ▶ AD are required to:
 - Exercise due diligence regarding the track record of the exporter.
 - Verify the bonafides of the transactions.
 - Certificate from DGFT/Custom authorities – incentive availed / proportionate incentive have been surrendered.
 - Goods will be re-imported within 3 months from the date of remittance.
 - Procedures applicable to normal imports are adhered to.

**IMPORTS OF
GOODS
AND SERVICES**

General Guidelines

- ▶ Where specific guidelines do not exist:
 - AD may be governed by normal trade practices.
- ▶ AD must adhere to KYC guidelines issued by RBI.

- ▶ FORM A-1
 - Application for making import payments exceeding US \$ 5000
- ▶ For other remittance – application to be made in Form A-2.

Import Licenses

- ▶ Goods included in the negative list – licence required under the Foreign Trade Policy.
- ▶ Other goods – AD may freely open L/c & allow remittance for imports.
- ▶ **OBLIGATION OF PURCHASER OF FOREIGN EXCHANGE:**
 - Person acquiring foreign exchange –
 - use it either for the purpose mentioned in the application or
 - for any other purpose permitted under the Act, Rules or Regulations.
 - Foreign exchange utilised for import of goods – Proof regarding import viz.
 - Bill of entry, Postal appraisal form or custom authorities certificate, etc. should be submitted.
 - Payment for import – credit to non-resident account of the overseas exporter maintained with a bank in India is permitted

Time Limit for settlement of Import Payments

- ▶ Remittance against import – within 6 months.
- ▶ Amount withheld towards guarantee of performance – no time limit.
- ▶ Settlement of import dues delayed due to disputes, financial difficulties, etc.
- ▶ Interest on Import Bills
 - Overdue interest for a period less than 3 years from the date of shipment
 - Rate prescribed for trade credit

Supplier's / Buyer's Credit

- ▶ Import of Rough / Cut & Polished Diamonds
- ▶ Supplier's / Buyer's Credit including Usance period of L/c
 - Should not exceed 90 days from the date of shipment.

Time limit for deferred payment arrangements

- ▶ Deferred payment arrangements:
 - Includes suppliers and buyers credits
 - Payment beyond 6 months but less than 3 years
 - Treated as trade credits for procedural aspects
 - Payment beyond 3 years
 - ECB guidelines to be followed.
- ▶ Time limit for Import of Books
 - No time limit for remittance for import of books.
 - Interest payment – as prescribed for general imports.

Import of Foreign Exchange / Indian Rupees

- ▶ Notification No: FEMA 6 / RB-2000 dt. 03/05/2000
- ▶ A person may send into India without limit foreign exchange in any form other than currency notes, bank notes & travellers cheques.
- ▶ Bring into India as follows
 - No formalities up to US\$ 10,000/- or its equivalent – currency notes, bank notes or travellers cheques.
 - Currency notes not to exceed US\$ 5,000/-.
- ▶ Above US\$ 10,000/- or US\$ 5,000/- - CDF form

Advance Remittances

- ▶ Advance remittance for import of goods permitted subject to:
 - If advance remittance > US\$ 2,00,000/- or its equivalent, obtain
 - Irrevocable L/C or
 - guarantee from an International bank of repute situated outside India or
 - Guarantee of an AD bank in India.
 - If importer (other than PSU, Govt. of India/State, Public sector company) unable to obtain bank guarantee from overseas supplier:
 - AD satisfied about the track record & bonafides of the importer – bank guarantee may not be insisted if advance remittance < US\$ 50,00,000/-.
 - AD to frame their own guidelines & suitable policy framed by bank's Board of Directors.

Advance Remittances

- ▶ Public Sector Company or a Department / Undertaking of the Government of India / State Government-
 - If not in a position to obtain a guarantee from an international bank of repute
 - Advance exceeding US\$ 1,00,000/- waiver from Ministry of Finance

Advance Remittance for the Import of Services

- ▶ AD permitted to allow advance remittance for import of services:
 - Without any ceiling
 - Amount of advance > US\$ 5,00,000/- - a guarantee of international bank of repute situated outside India or a guarantee from AD required.
- ▶ In case of Public Sector Company....
 - Approval from Ministry of Finance required
 - For import of services without bank guarantee exceeding US\$ 1,00,000/- or its equivalent would be required.
- ▶ AD to follow up to ensure that the beneficiary of the advance remittance fulfills his obligation under the contract or agreement – otherwise amount should be repatriated to India.

Remittances against Replacement Imports

- ▶ Goods are short-supplied, damaged, short-landed or lost in transit:
 - Exchange Control copy of the import licence utilised to cover opening of L/C against the original good which have been lost,
 - The original endorsement to the extent of the value of lost goods may be cancelled by the AD.
 - Fresh remittance for replacement imports may be permitted without reference to RBI.
 - Insurance claim relating to lost goods has been settled in favour of the importer.
 - Consignment being replaced is shipped within the validity period of license.
- ▶ Guarantee for Replacement Import
 - Replacement goods for defective import are sent by the overseas supplier, before the goods imported earlier are reshipped out of India.
 - AD may issue guarantee for dispatch / return of the defective goods.

Receipt of Import Bills / Documents

- ▶ Receipt of Import Documents directly by the Importer:
- ▶ AD should remit if the documents are received directly in the following circumstances:
 - Value of import does not exceed US\$ 3,00,000/-.
 - Import bills received by WOS of foreign companies from their principals
 - Import bills received by Status Holder Exporters / 100% EOU / Units in SEZ / PSU and Limited Companies.
 - Import bills received by Limited Companies viz., Public Limited, deemed public limited & private limited companies.

Receipt of Import Bills / Documents

- ▶ Receipt of Import Documents directly by the importer in case of specified sectors
 - Banks permitted to allow remittance for imports up to US\$ 3,00,000/- in case of
 - Rough diamonds, rough precious and semi-precious stones.
 - Documentary evidence is submitted by the importer at the time of remittance.
 - Import would be subject to the prevailing Foreign Trade Policy
 - Transaction is based on commercial judgment of AD.
 - AD is satisfied about the bonafides of the transactions.
 - AD should follow the KYC guidelines & carry out due diligence exercise.

Receipt of Import Bills / Documents

- ▶ Receipt of documents by the AD directly from overseas supplier
 - AD is satisfied about the financial standing / status & track record of the importer customer.
 - AD should obtain a report of each individual overseas supplier from the overseas banker of a reputed credit agency.
 - Report need not be obtained if invoice value < US\$ 3,00,000/-

Evidence of Imports

- ▶ Import exceeding US\$ 1,00,000/-
- ▶ Obligatory for AD to obtain proof of import
 - Exchange control copy of Bill of Entry for home consumption.
 - Exchange control copy of Bill of Entry for warehousing in case of 100% EOU.
 - Customs Assessment Certificate or Postal Appraisal Form where the import has been made by post.
 - Import on D/A basis
 - Production of evidence at the time of remittance.
 - If consignment is not received – additional 3 months to importer for submitting the import evidence.

Evidence of Imports

- ▶ Evidence of import in lieu of Bill of Entry
- ▶ Certificate from CEO or auditor of the company that the goods for which the remittance is already imported.
 - Remittance is less than US\$ 1,00,000/- or less.
 - Importer is a
 - Company listed on a stock exchange in India and net worth is more than 100 crores.
 - public sector company or an undertaking of the Govt. of India or its departments.
 - Autonomous bodies like Indian Institute of Science / Indian Institute of Technology, etc. who are audited by CAG can also import without Bill of Entry.

Evidence of Imports

- ▶ Non- Physical Imports
- ▶ Import of software or data through internet / datacom channels or
- ▶ Drawings & designs through e-mail / fax
 - A certificate from CA that the software / data / drawing / design has been received by the importer to be obtained.
 - Importers to inform Custom authorities regarding the import.

Reporting by AD

- ▶ Import evidence > US\$ 1,00,000/- not submitted:
 - ▶ Within 3 months of remittance
 - ▶ AD to report in BEF statement (June & December) within 15 days of the close of the half year.
- ▶ Imports < US\$ 1,00,000/-
 - AD may not follow up for evidence of imports.
 - AD is satisfied about the genuineness of transactions.
 - AD is satisfied about the bonafides of the importer.
 - Suitable policy to be framed by bank's BOD.
 - AD permitted to set their own internal guidelines.

Merchanting Trade

- ▶ Merchanting trade involves both import & export of goods.
- ▶ The goods imported are directly shipped to the final customer's destination. The goods do not touch the Indian shore at all.
- ▶ Goods involved are permitted to be imported into India.
- ▶ Entire merchant trade transaction is completed within 6 months.
- ▶ Transactions do not involve foreign exchange outlay for > 3 months.
- ▶ Payment is received in time for the export leg.
- ▶ Payment of export leg precedes the payment for import leg – liability of import is extinguished by the payment received for export leg .
- ▶ Short term credit like supplier's credit or buyer's credit is not available for transactions pertaining to merchanting trade.

Thank
you



CA Rajesh L. Shah