PONDICHERRY UNIVERSITY

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DIRECTORATE OF DISTANCE EDUCATION

EXIM Financing and Documentation

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MBA - INTERNATIONAL BUSINESS

III Semester

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EXIM Financing and Documentation

Objective

- To provide an insight into various documents used in EXIM financing, and
- To enhance the practical knowledge of sources of finance and incentives available in the market

Unit - I

Introduction - Export documentation; Foreign exchange regulations; ISO 9000 series and other internationally accepted quality certificates; Quality control and pre-shipment inspection; Export trade control; Marine insurance; Commercial practices.

Unit - II

Export Procedures - General excise clearances; Role of clearing and following agents; shipment of export cargo; Export credit; Export credit guarantee and policies; Forward exchange cover; Finance for export on deferred payment terms; Duty drawbacks.

Unit - III

Import Procedures - Import licensing policy; Actual user licensing; Replenishment licensing; Import-export pass book; Capital goods licensing; Export houses and trading houses.

Unit - IV

Export Incentives - Overview of export incentives-EPCG, Duty drawbacks, duty exemption schemes, tax incentives; Procedures and documentation – Duty entitlement Pass Book Scheme

Unit - V

Trading Houses - Export and trading houses schemes – criteria, procedures and documentation; Policy and procedures for EOU/FTZ/EPZ/SEZ units.

References

Cherian and Parab, EXPORT MARKETING, *Himalaya Publishing House,* New Delhi

EXPORT – IMPORT MANUAL, *Nabhi Publication,* New Delhi

Government of India, EXPORT-IMPORT POLICY, PROCEDURES, ETC. *(Volumes I, II and II)* New Delhi

Government of India, HANDBOOK OF PROCEDURES, *Import and Export Promotion*, New Delhi.

Rathod, Rathor and Jani, INTERNATIONAL MARKETING, *Himalaya Publishing House,* New Delhi.

UNIT - I

Unit Structure

Lesson 1.1 - Introduction to EXIM Financing

Learning Objectives

- To understand the concepts of EXIM finance, its function and global financial market.
- To study the scope of EXIM Finance.
- To list out the needs of EXIM Finance.
- To analyse the EXIM financial functions.
- To examine the emerging challengers in global financial market.

Preliminaries

International (Exports / Imports) Trade

Every country in the globe has to depend on others for some purpose or other. In the modern world the wants are increasing and they can not be satisfied within a country. All products/services cannot be provided within a country's limit. Crossing the boundaries of countries or even crossing the boundaries of the world will become the order of the globe, to fulfil its needs and demands.

Nature has distributed the factors of production unequally over different counties and so certain countries are endowed with certain resources abundantly. Countries differ in terms of climatic conditions, natural resources, mineral resources and mines, labour and capital resources, technological competencies, entrepreneurial and managerial capabilities and many other variables which are essential for producing goods and services. Hence, different countries become experts and efficient in certain production / services whereas theory are not so in several others.

There fore countries depend on each other and get the goods and services from the countries which are more efficient than themselves. Thus **international trade in the form of exports and imports is inevitable for satisfaction of the people and their survival too.**

There are several theories of international trade about which you may be already aware. These theories indicate or explain why export import is taking place. Just to mention some of them are

- Absolute cost advantage theory
- Comparative cost theory
- Factor proportion theory
- Human capital approach
- Natural resources theory
- R and D on product life cycle theory
- Scale economies theory

Thus, the international trade is necessitated by so many complex variables / factors and it is clear that international trade cannot be neglected for development of a country.

EXIM Finance

The Export / Import trade cannot function smoothly, efficiently and effectively unless new techniques, methods and instruments have been evolved in the field of international finance.

The international trade is growing faster than the world output. India is also realised the need for international trade and introduced economic liberalization and favourable EXIM policy etc from 1991-92 onwards. The capital flow and direct investment across the countries have increase enormously in tune with the growth of international trade. The fast growth of multinational, national corporations has place at the disposal at the disposal of world large and varied quantum of goods / services.

In order to cope with the growth of international trade in leaps and bounds, the international monetary and fiscal systems have also developed fast and are improving their sophistication. A number of important innovations like. Letter of Credit, Bill of Exchange have taken place in international payment and credit mechanisms which have facilitated free exchange of goods and services.

Scope of EXIM Finace

The future for EXIM finance is bright and brilliant because the export / import trade is catching fire and growing with accelerated pace. Naturally, the EXIM finance should also develop faster to match the needs of international trade. Various aspects of export / import trade which will increase the scope of EXIM finance are discussed now.

Scope of EXIM Finance

Facilitates more International Trade / Export

There is high competition to increase the exports of the countries and naturally the concerned countries take efforts to provide much credits and facilities in collaboration with national and multinational financial institutions.

Difference in Technological Development

The technological development is not uniformly good in all countries. In less developed countries, technological know-how is less and so they have to pay heavy charge for utilizing the services of the experts. Huge finance is required to make such payments and this process of transfer of technology is continuous. One country or other will be advancing in one field or other and the countries which have not mastered the technology have to pay for it. Thus, this aspect also creates increasing scope for EXIM finance.

Easy terms and Condition of Credit Makes Export / Import Easier

When the exporters could get finance in easier terms, they will be selling goods and services on easier terms to the importers. The national / international institutions come to help the exporters / importers and such assistance enables the EXIM traders to utilize more of EXIM finance.

Source of Economic Development

Developing countries need more EXIM finance to improve their economy, through development projects. Such projects require huge EXIM finance in various forms of goods and services. Hence there is a vast scope for further progress of EXIM finance.

To reduce Adverse Balance of Payment

In the initial stages of development there is chain action of adverse economy. Borrowings for developmental activities and repayment, pushes the balance of payment to adverse conditions. Even to meet such situation EXIM finance comes to the rescue of the countries. Further the export assistance would help to improve their exports and economy also.

EXIM Finance as a Factor of Production

Under agreements of international finance, manufacturers can get finance / credit for new materials, heavy duty capital goods on deferred payment and could improve their production. When production improves, it will reflect the country's better economy also.

Sales Promotion

Activates like, organization of trade fair, exhibitions, large scale advertisement publicity and other sales promotion measures need adequate international finance and assistance.

Better Consumer Service

In the context of awakening of the consumers, manufacturers have to spend more on product modification, improvement of quality, increasing use of products better and suitable pricing, after sales service, all these activities require EXIM international financial assistance in some form or other (example: for using technical know how in the area).

To Meet Increasing Costs

In spite of all fiscal and monetary measures, the cost of production, distribution, documentation, all require more and more finance. International finance helps to overcome this problem and to improve their exports and economy.

Source of Improving Exports

Apart form production, distribution, documentation etc, the exports can be increased only be improving the export promotional activities including sophisticated production techniques and improved quality products etc. Here again international finance has a role to play.

To Meet, Short, Medium, and Long-Term Financial Needs

Manufactures need such finance to improve their business unless the EXIM finance comes to the help of the exporters / importers, they will all be in trouble. Such credits help them to devote on export promotion activities without worrying on such credits.

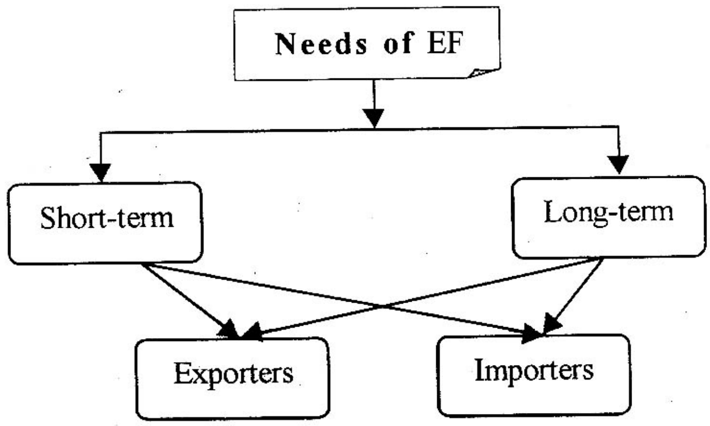
International Payments Made Easier

Export / Import transactions require funds in different currencies for payment and settlement. The modern instruments like LC, Bills of exchange, documentary credits as international finance through banks and other institutions make the international payments easier.

Thus there is ample scope for the fast growth and development of EXIM finance because of its involvement in all developmental programmers and international trade.

Need for EXIM Finance

The scope of expansion / growth is based on needs of any country, the EXIM finance is needed in all activities of export/import short, medium and long-term basis. These needs are analysed on these two dimensions.



Needs for EXIM Finance

Need of Short-Term Finance to Exports

Since the export activity involves huge international finance, the success of it depends on providing such credit/finance to importers. The exporter gets his export based needs from the banks for the purposes of

- Procuring raw materials
- Manufacturing process or making advances to other producers
- from whom exportable goods are ordered
- To meet the expenses of packing, handling, internal transport, insurance and warehousing charges
- Shipment charges

Need of Short-Term Finance to Importers

Mostly the short-term finances are provided by the exporter and hence the importers do not require much short-term finance generally. However, an importer may require short-term finance/credit for the following:

- For payment of advance to the exporter
- For meeting the shipping charges, insurance etc when he undertakes them
- To pay duty in obtaining import license and other import formalities.

Need of Long-Term Finance for Exporter/Importer

The long-term finance is equally essential to the exporter and importer. Developing countries need long-term finance from the point of manufacturing to the stage of sales, for various purposes

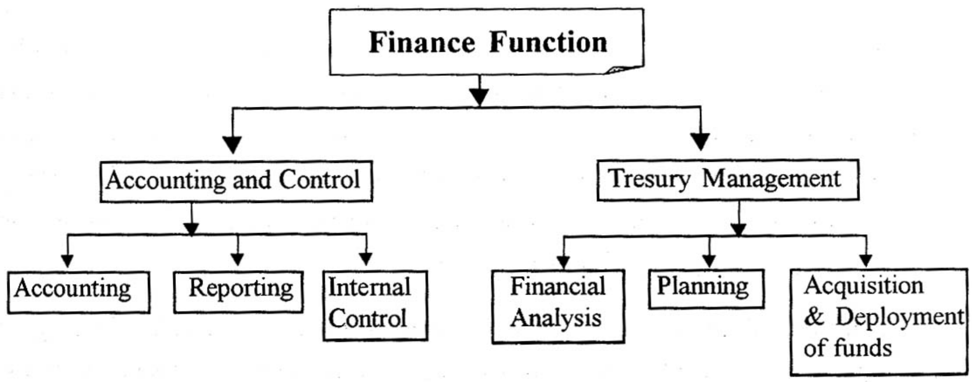
- Import-export of capital goods.
- To provide finance on liberal terms to importer
- To carry out export promotion programmes involving huge sums
- Establishment of new enterprises
- Capital investment in other countries

Check Your Progress. 1

1. State any two resources variations of different countries.
2. State any two theories of international trade
3. Mention any three advantages of EXIM financing
4. Draw a flow chart indicating needing EXIM financing

Finance Function

As discussed earlier, a number of significant innovations have been introduced in



International payment and credit mechanisms which have facilitated the easier exchange of goods and services. This leads to the study of functions of EXIM finance.

The finance function has two roles to playas indicated in Fig 1.3

1) Accounting and control and
2) Treasury management

These two are not independent of each other. These two functions are interlinked and any action in one area will have definite impact on the other area. For example, if the treasurer takes some decision, it will have implication on the controller and so also the efforts of the controller could be reflected in treasury management. Some of the tasks relating to controller are:

- Accounting
- Reporting
- Internal control

Some of the tasks of the treasurer are

- Financial analysis
- Planning
- Acquisition and deployment of funds

The core of treasury management is acquisition and allocation of financial resource so as to minimise cost and maximise the return consistent with the level of financial risks acceptable to the firm/corporation.

In non-financial companies, financial management can be confined to short and long-term flows of funds arising out of operational requirements.

In such concerns, active efforts to take advantage of market conditions to generate profits by creating financial flows unrelated to operations need not be taken. But the treasurer can effectively *exploit market imperfections* and the firm's superior forecasting ability to generate purely financial gains. However, there is a complexity and challenge of international EXIM finance and it is due to wide variety of instruments, products, funding options and investment vehicles which are available for both reactive and pro-active management.

EXIM finance control and management functions are quite challenging and complex with multiplicity of solutions depending upon the given conditions.

Emerging Challenges in a Global Financial Market

EXIM finance being international by nature is a complex system which may further get complicated due to new methods, strategies and procedure through innovation. Hence global financial market is emerging with challenges for global financial managers. They should be shrewd, alert and active in meeting the challenges. Some of the challenges are discussed hereunder.

Knowledge of up-to-date information

There are many variables in the global financial management which will be changing over time and therefore it is necessary that up-to-date information is promptly known to the manager

The areas which may change are

- Foreign exchange rates
- Credit conditions at home and abroad
- Industrial tax
- Changing foreign trade policies and connected policies relating to industry and investments

- Development of new financial instruments
- New modes of communication

Analysing the complex interrelationship

Apart form trying to get latest information on the above variables/ areas, the manager should be able to analyse the inter-relationship among them and the impact of reactions on the corporate body and the competitors

Adaptation of Firms Finance Function

Adaptation to the changing needs is a trait to survive because the theory says "survival of the fittest" only. So the manager should see that their firm is fittest in the field by adopting proper changes and by absorbing necessary adaptations.

It could be in the following areas:

- Product-market mix
- Opening up of a -sector or an industry, so far not taken up by the firm.
- Increased Pace of diversification
- Adopting changes in operating results
- Substantial reorientation in a major competitors strategies measures
- Exploration of innovative funding strategies and
- Changes in dividend policy

Take Necessary Measures to Rectify Failures/Mistakes

In a fast changing highly competitive world, mistakes and failures, may bring in catastrophe and mistakes may also be unavoidable. In such circumstances, fast and alert action to remedy the mistakes and failures should be taken to reduce their adverse impact. A tactful manager could tackle such failures in lightning speed so that the competitors may not know such a thing has happened. If time is given, they may adopt a strategy to win over the firm.' *Catch the opportunities offered*' is the maxim to be followed.

In a highly competitive world opportunities are volatile and may be grabbed by the opponent in no time. So, design and implement effective strategies to catch opportunities in the market. With such brief introduction on the EXIM finance, in this lesson, the different types of export documentation.

Check Your Progress 2

1. The two major functions of finance and (1) ------- (2)-------
2. List out the tasks of the treasurer of a concern
3. Normally short item finance is for __________days
4. Write any two areas of change relating to emerging challenges

Summary

In the subject on EXIM Financing and Documentation, all information on international trade (exports / imports) are provided in brief so that you could become knowledgeable manager in international trade. The nature, scope and need of EXIM finance are discussed in this lesson apart from the financial functions which should be well understood by the managers of export organization. The emerging challenges are indicated so as to enable the manager to face and tackle challenges.

Keywords

EXIM finance	:	Finance required for export / import
International Trade	:	Export / Import of goods and services
Short-term finance	:	Up to 180days (subject to extension by the concerned authority)
Medium and long–term	:	The number of years vary. Some classify, 1 to 3 years as medium term. Some classify 3 to 20 years as medium and long-term
Finance functions	:	It consists of control and treasury management functions.
Control function	:	Keeping accounts, reporting and internal controlling

Treasury Management : Analysis, Planning, Acquisition and Deployment of funds.

Answer

1. Natural resources, labour, Capital etc.
2. Absolute cost advantage theory, factor proportion theory
3. Source of economic development, serves as a factor of production, provides better consumer service.
4. See fig-1.2
5. (1) Accounting and control (2) Treasury management
6. (1) Financial Analyse (2) Planning (3) Acquisition and development of fund.
7. 7. 180.
8. 8. Foreign exchange rates, credit conditions.

Questions

1. Why International Trade is important for the development of a country?
2. What is the relation between International (export/import) and EXIM finance?
3. Discuss the scope of EXIM finance?
4. What are the needs of EXIM finance for exporters and importers?
5. What are the functions of EXIM finance?
6. What are the emerging challenges for the global financial managers?
7. Globalisation is the only way to survive in the modern market, discuss.
8. Distinguish
   a) Control function of finance
   b) Treasury management function of finance

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Lesson 1.2 - Export Documentation

Learning Objectives

- To explain uses of principal and auxiliary documents for export- Principal documents; invoice, bill of exchange; Auxiliary documents; letter of credit (LC), certificate of origin, packing list, Inspection certificate, shipping bill, Mates receipt.
- To identify the documents for claiming export assistance-application for registration, import license, cash assistance, duty drawback, AR-4 form, drawback of shipping bill, transport assistance.
- To compare the difference between principal and auxiliary documents

Introduction

In international trade, documentation and procedures play a significant role. Full knowledge and accurate compliance of procedures and documentation formalities are essential. Inadequate understanding of the various formalities results in delays; and prolonged correspondence, adversely affecting the business and cash flow, due to delays in realisation of export proceeds and other incentives. Without prompt money flow, the trade will face total blow.

Peculiar Nature

The movement of goods in international trade is associated with a number of documents. The number of documents and related procedures have multiplied over time making international trade complex and cumbersome. The essentials of documentation arise primarily due to certain peculiarities of international trade and its transactions.

It is not like the domestic trade. The buyers and sellers are separated by long distance in overseas trade transactions. This necessitates entering into a formal contract laying down duties and responsibilities of buyers and sellers respectively. Otherwise, there will be a lot of confusion and dispute. Further, some intermediation becomes inevitable.

Intermediaries

No international trade transactions can be completed without the assistance of at least *three intermediaries.*

A carrier who undertakes to deliver the goods to the buyer on behalf of seller.

An insurance company that covers the risks arising out of hazards of long voyage and a banker who collects the sale proceeds from the buyer and hands over the same to the exporter

There are other intermediaries involved in foreign trade

- Freight forwarders
- Freight brokers
- Chambers of commerce

Documentation and connected formalities become necessary to ensure compliance of contract obligations of the concerned parties such as the exporter, importer and intermediaries. International trade is regulated everywhere. In India, several documents have been prescribed for proper export trade control, Foreign Exchange Regulations, Quality Control and Pre-shipment Inspection, Central Excise etc.

Major Documents of Export

The export documents can be classified into three major categories:

(1) Principal Documents
(2) Auxiliary Documents
(3) Documents for claiming Export Assistance

Principal Documents

Definition

The documents which are used all over the world by the exporters and form the essential link in foreign trade between the exporter and the importer and are used to control payment, title and transportation are *called principal documents.*

It may also include certain documents which are required under Foreign Exchange Management Act. The documents classified under principal documents for exports are explained below.

Export Invoice

The Need

An invoice is the basic document which gives full details of the contents of the shipment and serves as seller's bill of goods and sets out the terms of sale. An invoice usually means a Commercial invoice. An exporter must prepare this document which will fully identify the overseas shipment and serve as a basis for the preparation of all other documents.

There is no standard form for an invoice and it is the exporter's choice to design his own form. The invoice is prepared for the buyer abroad. Any special requirement of the importer must be duly complied with.

Components

The specimen invoice given below indicates the components of invoice

The following are the essential details which should be available in the invoice

- Name and address of the exporter
- Invoice number and date
- Buyer's and Seller's Order numbers
- Name and address of the overseas customer Name of the vessel and sailing date

Invoice
(with Certificate of Origin)
Specimen

(Name and Address of Exporter in India)

Invoice No ____________ Pro-invoice No ________ Date ______________

G.R.I. No ____________ Dated B/L No___________Dated______________

Insurance Policy No _______ Dated __________with_________________

(Name of Company)

Shipping Bill No. __________ Dated ____________

Invoice of goods forwarded by instructions and risk

of Messrs. per ______________________ per _______________________

(Name of foreign importer)

from ________________________ to ___________________________

(Port of shipment)

Draft No ______________________ Dated________Tenor_____________

(DP/DP term)

Through _________________

(Name of exporter's bank)

Drawn on ____________________

__________________(Name of Importer)

Under Order NO_________________ Dated ______________________

Shipping Marks	Description	Date	Amount

for (Name of exporter)
Signature
Designation

Certificate of Origin

I, the undersigned, ___________________of______________________

(Designation) (Name of the Chamber of Commerce) hereby certify that the reverse declaration was made before me and that the goods are of Indian origin.

for (Name of Chamber of Commerce)

Signature

- Unit price and total value
- Terms of payment
- Insurance reference
- Customs and consular declaration

- Shipping marks and number on packages
- Quantities and description of commodities
- Net weight and gross weight as well as measurement in metric units Specification of packing
- Terms of sale (FOB., CIC., C&F, FAS, etc,)
- Bill of lading number
- Letter of credit number and date.
- Import licence number and date.

Types of Export Invoices

The main types of export invoices are as follows

(i) *Proforma Invoice:* Proforma Invoice is a preliminary, provisional, temporary invoice for an anticipated shipment which mayor may not take place. Such invoices serve some useful functions.

The overseas buyer is in a position to deal with certain requirements before placing the order, etc. obtaining an import licence.

It can be supplied to the bank when a Letter of Credit is to be opened by the overseas buyer with the instructions that the letter of credit be opened in accordance with the invoice.

(ii) *Combined Certificate of Origin and Value.* This is required by Common wealth countries. The exporter should make inquiries as to the particular form which satisfies the requirements of the port of destination as well as the particular good being exported. The statement of the value of the goods made by the exporter is of great use in determining the import duty which should be paid at the destination.

(iii) *Consular Invoice:* Sometimes the importer requires the invoice to be certified by the *consulate of his country* residing in the *exporter's country*. Consular invoice facilitates the clearing of goods through the customer at the destination and serves as authentication of the particulars in it.

(iv) *Invoice Certified by a Recognized Chamber of Commerce:* If the importer has to pay duty on the current domestic value of the goods, he would require the invoice certified by the recognized chamber of commerce of the exporter's country.

(V) *Legalized Invoice:* There is no specific form prescribed for legalized invoice. Mexico needs a legalized invoice. Normally, invoice is acceptable for legalization. *Four copies* are required along with legalization fee. Three copies will be generally sent to the exporter and one copy will be retained by the Mission.

(vi) *Customs Invoice:* Countries like Canada and the United States of America need customs invoice. This is needed so that goods could enter at preferential tariff rates.

Bill of Lading

Definition

A Bill of Lading is a document issued and signed by a shipping company or its agents acknowledging that the goods mentioned in the bill of lading have been duly received for shipment, or shipped on board a vessel, and undertaking to deliver the goods in the same order and condition as received, to the consignee, or his order or assignee, provided that freight and other charges specified in the bill of lading have been duly paid.

The specimen Bill of lading is shown in the next page.

Purposes

A Bill of lading serves the following purposes:

- It is a receipt for goods received by the shipping company.
- It contains the terms of the contract between the shipper and the shipping company, between stated points at a specified charge; and
- It is a certificate of ownership to the goods.
- The requirements which must be fulfilled to make the bill of lading negotiable:
- It must be made out to the order of the shipper.
- It must be signed by the steamship company.
- It must be endorsed in blank by the shipper.

BILL OF LADING
Specimen

LINEAR BILL OF LADING

Shipper M/s. TAMILNADU SMALL INDUSTRIES CORPORATION LTD CHENNAI.	Reference No. Bill No.
Consigned to order of ORDER	OWNERS: DMe-7 INDIA OCEAN SHIPPING CORPORATION, MONROVIA (LIBERIA) MANASERS. FAZAL AND SONS (HK) LTD., 777, CENTRAL BUILDING. QUEENS ROAD. HONG KONG.
Notify address M/s. K. Polywoods (Kenya) Ltd., P.O. Box 241 ELDORET (KENYA)	

Vessel	Port of loading	
KALAM	CHENNAI	
Port of discharge	**Freight payable at**	**Number of Original Bs/L**
MOMBASA	DESTINATION	THREE/3

PARTICULARS FURNISHED BY SHIPPERS

Marks and No. of Packages	Description of Packages and goods	Gross Weight Gr. Wt	Measurement
PASSIC MOMBASA 10101	100 Wodden case only GRI CGRA No. 021802 Date 19-7-88 6000 Kg. Bifurcated Rivets for Tea Chests	Net.Wt.Kgs. 6000.00	Gauge 12.

Irrevocable Letter of Credit No. 00005432/606/123 Dt. 8 May . 2001

(Freight Payable at Destination) COPY NOT NEGOTIABLE

M. Tons 6.000
@ US% <T> 65% <T> PMT
<T> US% <T> 390.00

SHIPPED on board in apparent good order and condition, weight measure, marks, numbers, quality, contents and value unknown fro carriage to the port of discharge or so near thereunto as the Vessel may safely get and lie always afloat, to be delivered in the like good order and condition at the aforesaid Port unto consignees or their Assigns, they paying freight as per note on provisions contained in this Bill of Lading.

In accepting this Bill of Lading the merchant expressly accepts and agrees to all its stipulations on both pages, whether written, printed, stamped, or otherwise One oriniginal Bill of Lading must be surrendered duly endorsed or otherwise incorporated, as fully as if they were all signed by the merchant.

In WITNESS whereof the Master of the said Vessel has signed the number of original Bills of Lading stated above, all of this tenor and date, one of which being accomplished the others to stand void.

Place and date of issue

Chennai 15th May, 2001

Signed for the Master by
For Raman & Co. (P) Ltd.,
Sd/-
(AS AGENTS)

Bill of Exchange

Definition

It is defined as "an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to which it is addressed to pay on demand or at a fixed or determinable future time a sum of money, to or to the order of a specified person, or to bearer

Foreign Bill of Exchange
Specimen
(Name and Address of Exporter in India)

No. Pondicherry,

Amount

On Demand / At ....days sight please pay to the order

of ....the sum of ....

(Name of exporter's bank) (Amount in words)

against our Invoice No. ....dated ....ex..............

(Name of ship)

.........................under Indent No. ....dated ....of ....

(Name of foreign Importer)

To

(Name and address of importer) (Seal)

Signature of drawer

Types

The bill is called a sight draft if it is made out payable at sight i.e. on demand.

If it is payable *'at a fixed or determinable future time'* it is called *term draft* or *usance draft* because the buyer is receiving a *period of credit*, known as the *tenor of the bill.* The buyer signifies an agreement to pay on the due date by writing an acceptance across the face of the bill. The specimen Bill of Exchange is shown below the name and the address of the exporter should be given at the top of the bill.

Parties

There are three parties to a Bill Exchange. They are:

The Drawer (Exporter) (Seller): The person who executes the Bill of Exchange, therefore, the person to whom payment is due.

The Drawee (Importer) (Buyer): The person on whom the bill of exchange is drawn and who is required to meet the terms of the document.

The Payee: The payee is the party who receives payment.

It may be noted that the words *bill* and *draft* are used to mean the Bill of Exchange.

GR/PP/VPP/COD Forms

Regulations

GRJPP/VPP/COD Forms are submitted to the customs authorities according to the exchange control regulations. Section 18 of foreign Exchange Regulations Act, 1973 and para 11 B. 1 of Exchange Control Manual 1987 states that all exporters other than those exporting to Nepal and Bhutan are required to submit a declaration in the prescribed from duly supported by such evidence as may be prescribed or so specified and true in all material particulars.

Value of Goods

It should also include the details of the amount representing:

The full export value of the goods; or

If the full export value of the goods is not ascertained at the time of export, the value which the exporter, having (regard to the prevailing market conditions expects to receive on the sale of goods in the overseas markets, and affirms in the said declaration that the full export value of the goods (whether ascertained at the time of export or not) has been, or will within the prescribed period be, paid in the prescribed manner.

Purposes

The specific purpose for which the specific forms should be used are as given below

GR; for all shipments (except by post)

PP; for exports by post parcel

PP/COD; for collection of proceeds through post office. COD means cash on Delivery.

Submission

The forms should be submitted in duplicate. The original copy is meant for the customs authorities and the duplicate is lodged with an authorized dealer (AD) along with other documents for realisation of export proceeds from the foreign buyer. The copy which is retained by the customs authorities is sent to the Exchange Control department of the Reserve Bank of India; RBI the duplicate submitted to the AD, is also sent to the RBI after the documents are negotiated.

Check your Progress. 1

1. Major classes of documents for export are …………
2. State any two types of invoice
3. State true or false
   (a) A Bill of lading in another name for bill of exchange
   (b) The shipping company acknowledges the goods mentioned in the Bill of lading (BOL)
   (c) PP form is used for collection of proceeds

Auxiliary Documents

The documents which are required in any shipment or for that matter used in the preparation of the principal documents are called auxiliary documents. These include documentary Letter of Credit (LC), Certificate of Measurement. Certificate of Origin, Packing list, etc.,

Letter of Credit

Definition

A commercial letter of credit is issued by a bank at the request of a buyer of merchandise whereby the bank itself undertakes to honour drafts drawn upon it by the seller of the merchandise concerned. Thus, the letter of credit, (LC) substitutes the bank's promise to pay for that of the importer. All the requirements specified in the LC must be met including the furnishing of documents, delivery dates, product specification, etc. before the seller can receive payment.

The three essential parties to commercial letter of credit are:

- The opener or importer or the buyer who opens the credit
- The issuer-the bank that issues the letter of credit, and
- The beneficiary-the seller in whose favour the credit is opened.

The specimen LC is shown in the next *two pages*.

Types of LC

There are several types of LCs. Required according to the specific requirements in the foreign trade. Some of them are described below.

Revocable and Irrevocable LC

Now-a-days revocable letter of credit is rather rare because it means that the terms of the credit can be cancelled or amended by an overseas buyer through the issuing banker without prior notice to the exporter. Even when the buyer becomes a bankrupt it cannot be revoked; only when the seller agrees it can be revoked.

The issuing banker is at liability to revoke even without giving notice. An irrevocable LC is never confirmed. If it provides for the documents and if the draft is accepted for payment within the prescribed time, the issuing banker loses his right to revoke.

Majority of letters of credit are irrevocable which means that once the buyer's conditions in the letter have been agreed to by an exporter, they constitute a definite undertaking by the buyer's bank and cannot be revoked without the exporter's agreement.

If it is not confirmed the LC is unconfirmed.

Confirmed and Unconfirmed LC

A Confirmed LC carries the confirmation of another bank, generally, in the country of the exporter. This type of confirmation binds the confirming banker to negotiate the drafts drawn under the credit provided the terms and conditions thereof are fulfilled.

Without Recourse and with Recourse

A 'without recourse to drawer' LC is one under which the negotiating bank cannot have a recourse against the exporter if the draft is subsequently not taken up or reimbursed by the issuing bank provided, of course, the negotiation is without recourse.

LC Sight and Usance

Documentary credit may provide for payment at sight or for acceptance of a usance bill of exchange by either issuing bank in a buyer's country or the correspondent bank in exporter's country. If the LC is not an at sight LC, it will be a usance LC.

Transferable LC

A transferable LC is one which can be transferred by the beneficiary named therein favour of another party. A credit can be transferred only when it is expressly designated as transferable by the issuing bank.

LETTER OF CREDIT (Specimen)

: Head Office Chennai
: Tamilnadu, India : BANK
: stamp :
TELEX NO.
CABLE ....
CONFIRMATION OF OUR SHORT CABLE / TELEX Dated ....

ORIGINAL
NO. 5687
PLACE : ....
DATE ....

Irrevocable Documentary Credit
Applicant

Advising Bank

Issuing Bank's No.
Beneficiary
Amount not exceeding :
in Figures :
In words :
Expiry Date
For Shipment... For negotiation...
In the country of beneficiary

Dear Sirs,

We hereby issue our irrevocable documentary credit in your favour available upto the aggreate sum not exceeding ....by nogotiation/ acceptance/ payment of your sight / ....days usance drafts to be drawn on ....and bearing the clause. Drawn under Documentary Credit No..........of Syndicate Bank covering full ....in-voice value or shipments despatches purporting to be .... Drafts are to be accompained by the following documents in English in duplicate unless otherwise specified.

Signed commercial invoices in .... for a value not exceedign LC amount and quoting import Licence No. ....dated..............

Importer's code No. ....and certifying that the goods are as per order/Indent No..........of...........

Certificate of ....origin certifying that the goods are as per order/Indent No........................

Full set, clean "On Board" Ocean Bill-of Lading made out of order and bank endorsed marked "Freight Prepaid " "Freight payable at destination" and notify Syndicate bank ....A/c............. bearing our LC No.. Flight No. and date.

Airway Bill/Air consignment note in the name of syndicate Bank .... marked "Freight Prepaid"/"Freight payable at distination" and notify Syndicate Bank....A/C ....bearing our LC No. Flight No. and date

Marine insurance policy/certificate dated not later than date of Bill of Lading made into order and Bank endorsed for 10% over invoice value covering institute cargo clause (A) institute war clause (cargo) and institute clause (Cargo) with claims payable in India in the same currency as the draft irrespective of percentage. Transhipment risks must be covered if goods are subject to transhipment.

Insurance buyer's uses

This certificate/sponsored certificate issued by ....specifying.

Packing List

Shipment:	Partial Shipment	Transhipment
From:	Allowed	Allowed
To:	Not Allowed	Not Allowed

We undertake that drafts drawn and presented in conformity with the terms of this credit will be duly honoured.

ADDITIONAL CONDITIONS FORMING PART OF THE L/C AND DIRECTIONS TO THE NEGOTIATION BANK ARE GIVEN ON THE REVERSE OF THIS CREDIT.

....

Authorised Signature Authorised Signature

Except as otherwise expressly stated this credit is subject to the Uniform Customs and Practice for Documentary Credits (1983) revisions & International Chamber of Commerce Publication No. 400.

OVERLEAF PORTION

Additional Conditions:

1. Negotiation involving incoice exceeding LC amount is strictly prohibited.
2. All Bank charges outside India are for beneficiary's account.
3. All documents must be dated on/or later than the date of this letter of credit.
4. In case freight amount is seperately added in teh invoice the original freight bell or memo issued by Steamship company/Airline company must accompany teh shipping document, or actual freight amount must be certified by the streamship company/Airline with negotiable copy of Lading/Airline Bill.
5. Transport Documents of the following types are not acceptable.
   a. Copies produced by reprographic or other systems even if marked as originals.
   b. Short form or blank-back transport documents.
   c. Transport Documents indicating as the consignor of the goods, a party other than the beneficiary of the credit.
6. Shipment should be by conference vessels, which are not more than 15 years old and which are on the classed list of Lloyd's Register of .... A certificate by the shipping line to this effect should accompany the document.
7. In case of FOB or C & F shipments where insurance in Buyer's care particualrs of shipment should be Telexed to applicant and a copy of the telex should accompany the document.
8. Non-Negotiable copies of documents should be air mailed to applicant and a certificate to that effect should accompany documents.
9. Negotiation under this credit is restricted to the advising bank.
10. Documents must be presented to the negotiating bank within ....days from the date of shipment.

Directions to Negotiating Bank

1. The amount of each drawing must be endorsed below.
2. All documents are to be despatched in two sets by consecutive registered air mails to us.
3. In reimbursement

We will credit your account with .... under advice to you. Debit our.........office account with you under advice to them and to us.

Claim from

On receipt of documents we shall credit your non-convertible Rupee

Accounts with a Bank in India as designated by you.

4. For negotiating exceeding US $100,00/- or equivalent value 48 hours advance telex/cable notice to be given to Syndicate Bank. International Division, Bombay-21 including the name of the Bank from whom reimbursement is claimed.

....

Authorised signature Authorised signature Space

for endorsement & Negotiations :

Date	Amount	Balance	Negotiation Bank's stamp

Checking the LC

Exporters are encouraged to check LC carefully to make that there is no misunderstanding later. The beneficiary should check for the following:

- The correct title has been used in addressing the beneficiary
- The correct title of the buyer has been used.
- The amount is sufficient, taking into consideration the terms of the sale and possible addition of any charges.
- The tenor of the drafts is the same as your quotation to the buyer,
- The credit is available at the banking institution or in the location requested by you.
- The document are required in the credit in accordance with the arrangements with the buyer, and can such documents be furnished
- The description of the merchandise is correct. (Check unit price trade definition, point of shipment, and destination).
- Any special instructions which may appear in the credit are agreeable
- The expiration. date and place of expiration are correctly givt.'1\
- The credit is confirmed by a domestic bank, or an unconfirmed
- Credit is enough.
- The letter of credit permit & partial shipments or transshipments
- If necessary.

Certificate of Origin

Certificate of origin serves as an evidence to show the actual country of origin of the goods. It is signed in the exporting country by the consul of the importing country or by the exporter or by the Chamber of Commerce on the basis of required regulation.

The specimen certificate of origin is shown in the next page.

Packing List

Packing list should contain, item by item, the contents of cases or containers of a shipment, with its weight and description set forth in such a manner as to permit checks of the contents by the customs on arrival at the port of destination and by the recipient. The packing list must be made in accordance with the instructions of the customer.

Inspection Certificate

As per the Export Act, 1963, the exporter has to submit an application in the prescribed form in *duplicate,* sending the original to Export, Inspection Agency and duplicate to the Export Inspection Council, seven days in advance of the expected date of shipment. The application form contains details of shipment. including technical requirement including specifications as stipulated in the export contract. The goods are inspected and certificate issued, if found in order after inspection.

Shipping Bill

A Shipping bill is required by the customs. There are separate forms of shipping bills for free good, and goods for which there is a claim for drawback of duty.

It is prepared in duplicate. It is only after the shipping bill is stamped by the customs that the cargo is allowed to be carted to the docks. There are a number of items such as the name of the vessel, master or agent,' country of destination, description of goods, quantity and weight, value, etc., which are included in this form.

Mate's Receipt

The commanding officer of the ship will issue a receipt called the "mate's receipt" for goods. When the cargo is loaded on the ship. It is first handed over to the port trust authorities so that all port dues are paid by the exporter to the port trust. After making payment of all port dues, the merchant or agent will collect the mate receipt from the port trust.

No. **456231**

CERTIFICATE OF ORIGIN

SPECIMEN

Marks	No.	Package	Quality or Weight	Description of goods	Value (in Rs.)

I/We hereby declare that the above goods were produced in India

____________________ state and are sent to ______________________ from

_______________________________ ON OR ABOUT the ____________

__________________________ Address of shipper:

____

____

Shipper ____________________

(Signature)

I, the undersigned, Secretary of the Pondicherry Chamber of Commerce, hereby certify that the above declaration was made by __________________________

____________________ of ______________________________________

____

Pondicherry, the ____________________ 2001.

Secretary

Pondicherry Chamber of Commerce

Business Travel Application for Foreign Exchange

Applications for grant of foreign exchange allotment to meet the maintenance, travelling and entertainment expenses of businessmen proceeding abroad on ground of business, should be made to the office of the Reserve Bank in whose jurisdiction the Head Office of the firm, on whose behalf the travel is undertaken, is situated.

Documents for Claiming Export Assistance

In order to claim Export Assistance, the exporter has to complete certain formalities as per the procedure laid down and furnish required information in various forms and documents prescribed by the Government. Export Promotion Council, etc. for claiming export assistance. The necessary documents required for submission for claiming export assistance are discussed in the ensuing paragraphs.

Application for Registration

Registered exporters are required to register themselves with appropriate registering *authority such as Export Promotion Councils, Commodity Boards and Chief Coritroller of imports and Exports* for availing the benefit of export assistance. The application for registration should be accompanied by a certificate from the exporter. banker in regard to his financial soundness. If the firm is having branches, the application for registration should be made only by the Head Offices. The registration authority shall, if satisfied, issue a **certificate of registration** to the exporter.

Import Licence for Raw Materials Intermediates Including Components and Spares

Application for import licence should be made only by the registered exporters whether merchant-exporter or man~facturer-expor1er, in the prescribed form to the licensing authority under whose jurisdiction the Head Office of the registered exporter is situated.

Application for import licence will be made in respect of the exports made during the preceding period according to the procedure laid down.

The application should reach the licensing authority within one month after the period to which the exports relate and should be accompanied by the following documents:

(i) Treasury challan showing the payment of application fee.

(ii) The documents of export in the name of the registered exporter are require as mentioned below:

 (a) Shipping bill duly authenticated by customs:

 (b) Bill of Lading:

 (c) Invoices duly attested by the negotiating bank.

(iii) Original with a certified copy of the valid actual user licence on which the items applied for are based.

Cash Assistance on Selected Export Products

Government gives cash assistance to promote exports of certain export products. The purpose of the assistance is to neutralize the disadvantages, which result from prices and high import duties, so that they could meet competition in the foreign markets. Application for grant of cash assistance should be made in the prescribed form and sent along with shipping bill duly authenticated by customs, bill of lading, and invoices duly attested by the negotiating bank.

Drawback of Import and Excise Duties

The scheme of drawback of import and excise duties has been formulated by the Government with the object of relieving the Indian exporter of the burden of import and excise duties on the products exported, so as to put him on par, in the matter of competitive position, with foreign competitors.

General Surety for Executing Bond (Form B-1)

The excisable goods can be exported outside India either under claim for rebate of excise or under Bond. The difference between these two procedures is that in the case of former the duty is first paid and its refund claimed after export, and in the latter case, the goods are allowed to be exported without payment of duty provided a bond is executed in Form B-1 (General Security).

AR-4 Form

Each consignment is required to be presented to the Central Excise Officer having jurisdiction over the factory together with an application in form AR-4 for claiming rebate of excise duty. On the basis of the endorsement of the collector or concerned officer's endorsement the exporter will claim the rebate of excise duty if he has already paid, or discharged his obligation to that extent in case he has executed the bond.

Drawback Shipping Bill

Shippers are required to give the details of the goods intended to be exported under claim of drawback in a shipping bill which should clearly be marked "Under claim for drawback" in order to take advantage of the drawback of import duty on the products exported. Four copies of the drawback-shipping bill are normally prepared. Exporters should furnish the information under the various columns in the drawback-shipping bill so that the drawback is allowed early.

Drawback Bill

Drawback bill is required in addition to the shipping bill. It furnishes information about the date of presentation of original bill of entry, number and date of the drawback shipping bill, marks and number on the packages, description of goods, weight and quantity of the goods, amount of drawback etc. This has to be certified by the Collector of Customs to the effect that the amount of the bill does not exceed the amount of import duty paid on the goods specified therein and drawback has not been allowed on the same article in any previous bill.

Transport Assistance

Railways give freight concession on export cargoes in respect of certain commodities. In order to claim the refund of the railway freight, each export consignment should be accompanied by declaration in the prescribed form by the exporter that the goods are meant for export. The declaration should mention the name and other particulars of the consignee. Endorsement on different copies of the declaration form will be made by:

(i) The Station Master of the accepting station to the effect that the goods described in the declaration from have been received for movement from station to station.

(ii) The station master of the port station to the effect that the goods described in the declaration form have been moved from the station to the port for export; and

(iii) The customs authorities at the port to the effect that the goods have actually been exported. On the production of these documents to the appropriate railway authorities, one gets refund of 50 percent or less, as the case may be, of the railway freight paid by the exporter.

Check Your Progress 2

1. LC is a principal documents True/False
2. Shipping bill and bill of lading are same True/False
3. Write any two types of LC
4. What is the purpose of AR-4 form?

Summary

The success of export/import finally depends on the proper use of the documents and following correct form and action at every stage. You should be thoroughly familiar with forms.

All principal documents, auxiliary documents, forms for export assistance are explained with specimen forms for export assistance are explained with specimen forms. There could be slight variation in format by different companies. Collect more specimen form your friend working in an export company or by making a personal visit.

Keywords

Bill of Exchange : It is an unconditional order by a person to pay the stated amount to him or to the person ordered by him

Certificate of origin : Indicates the origin of goods

COD : Cash on Delivery

Drawee (Importer)	:	The person on whom the bill is drawn and who is required to meet the terms of document
Drawer (Exporter)	:	The person who executes the bill of exchange and to whom payment is due.
Export invoice	:	Given full details of the contents of the shipment. It is like a commercial bill of good.
Inspection Certificate	:	Issued after in spoken of the quality of goods by Export Inspection agency/Export Inspection Council
LC (Letter of Credit)	:	Issued as a guarantee by the Importers Bank
Mates Receipt	:	Issued by commanding officer of the ship. It is not equal to bill of leading
Packing List	:	List giving term by item, the extents, cases, containers, with weight and description
Payee	:	The party who receive the payment
VPP	:	Value Payable Parcel

Answers

1. Principal, Auxiliary, and for export assistance
2. Proforma invoice, consular invoice
3. (a) False (b) True (c) False
4. 4. False
5. 5. False
6. Confirmed LC, Transferable LC
7. To claim rebate of excise duty from CEO

Questions

1. Could you put forth your agreements for the need of any three principal documents
2. “Proper documents are essential to minimise dispute in foreign

trade" Discuss the validity of the agreement

3. What do you mean by principal document explain any 3 of them
4. Why auxiliary documents are required explain with two examples
5. Narrate the Procedure to claim duty drawback
6. What are the documents which must accompany an export shipment. Describe them briefly
7. Write short notes on

    (a) Certificate of origin(DOUBT)

    (b) Inspection certificate

    (c) Packing List

    (d) Shipping Bill

    (e) Mater's Receipt

****

Lesson 1.3 - Foreign Exchange Regulations

Learning Objectives

- To understand the concepts under foreign exchange regulations,
- To analyse the sections of FERA / FEMA
- To various restrictions of FERA
- To list out the transactions regulated infer under exchange control
- To Recognise the objective on methods of exchange control
- To analyze the measure of exchange control of recepts and payment
- To explain the concept of LERMS and its management

Introduction

Trade among different countries of the world is known from the past and exchange of goods and services among different nations have been taking place form ancient days. In the initial stages, international trade was based on barter-exchange of goods and service for goods and services. However in the present global scenario, one cannot imagine trading on barter basis. Every country in the world has a currency of its own which is the legal tender in the country of issue but not outside its territory. Hence when trade takes place, the settlement is done by exchange of currencies.

In the present interdependent World, it is impossible for a country to remain self sufficient and deny itself the advantages of comparative cost. This in turn gives birth to the exchange and the whole world has become a global village and hence there is need to exchange currencies for trade.

The need for foreign exchange arises for settlement of trade and non trade transactions. The exchange rate played important role in influencing the forex (foreign exchange) transactions and the stability of the currency in the global market. Hence there is need to enact all regulations to control forex transactions.

The Foreign Exchange Regulations Act was evolved based on British system first in 1947 and then modified in 1973. It underwent many changes to match with the increasing demand for simplification. When economic liberalization was introduced an amendment act was legislated in 1993.

The system of Foreign Exchange Control must be effective to strengthen and stabilize the national economy but at the same time, it should be simple to adopt and transparent to avoid misuse of the regulations.

Let us examine the major sections of FERA and the subject which they deal in order to get an overall glimpse of the FERA 1993.

Foreign Exchange

The mechanism of converting currency of one country into another country's currency is known as Foreign exchange forex.

In India Sec. 2 (h) of the Foreign Exchange Regulation Act (as amended by the Foreign Exchange Regulation Amendment Act, 1993) defines "Foreign exchange" as Foreign currency and includes.

(a) All deposits, credits and balances payable in any foreign currency, and any drafts, traveller's cheques, letters of credit and Bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency.

(b) Any instrument payable, at the option of the drawee or holder thereof or any other party thereto either in Indian currency or in foreign currency or partly in one and partly in the other.

Foreign exchange includes foreign currency, balances abroad, the instruments claimable in foreign currency payable abroad.

An Overview of FERA

The Purpose

The act was legislated to consolidate and amend the laws regulating certain payment dealings in foreign exchange and securities, transactions indirectly affecting foreign exchange and the import and export of currency and bullion, for the conservation of the foreign exchange reserves and proper utilization thereof in the interests of the economic development of the country.

Sections

1. *Short title, extent, application and commencement*
2. *Definitions:* All connected definitions starting from 'Appellate Board' to 'transfer' are given.
3. *Classes of officers of Enforcement:* Starting from the Directors of Enforcement to Assistant Directors of Enforcement along with other officers who may be appointed have the powers
4. *Appointment and powers of officers of Enforcement are explained*
5. *Entrustment of functions of Directors or other officer of Enforcement* is given
6. *Authorised Dealers in Foreign Exchange;* How they are appointed and their role and functions are explained
7. *Money changers: Apart from Ads,* RBI authorizes money changers with restricted functions
8. *Restrictions on dealing in Foreign Exchange:* Transactions which can be done and which should not be done are stated.
9. *Restrictions on payment:* This section elaborately gives details on what are the payments and who could make such payments.
10. *Blocked Accounts:* The Blocked account is defined and how it should be operated is also stated
11. *Restrictions regarding assets held by non-residents.*
12. *Special Accounts:* 11 & 12 Both omitted by Amendment Act 1993 w.e.f 8-1-93
13. *Restrictions on import and export of certain currency and bullion* Currency and bullion cannot be imported/exported freely.
14. *Acquisition by Central Government of foreign exchange.* The central Government has authority to transact on forex in order to control the exchange rate, movement etc.

15. *Power of Central Government to direct payment in foreign currency* in certain cases is explained. Omitted by Amendment.
16. *Duty of persons entitled to receive foreign exchange* etc. Without the general/specific permission of RBI no transaction could be made
17. *Power to regulate uses* etc of imported gold and silver is explained, omitted by Amendment.
18. *Payment for exported goods*. The detailed procedure for getting payment for exported goods is explained. In the context of Foreign Trade, this section must be thoroughly understood by exporters for adopting the correct procedures.
19. *Payment for lease, hire, or other arrangement:* Inserted by amendment Act 1993.
20. *Restrictions on payment* in respect of certain securities
21. *Custody of securities:* 20 & 21, Both omitted by Amendment Act 1993
22. *Restrictions on issue of bearer securities is explained.*
23. *Acquisition by Central Government of foreign securities:* omitted by the Amendment Act 1993
24. *Restrictions on Settlement etc:* This is relating to settlement of properties which should not be done without the permission of RBI when the person is resident outside India
25. *Restrictions on holding of immovable property* outside India
26. *Certain provisions* as to guarantee in respect of debit or other obligation The pervious relating to companies has been substituted by this, by Amendment Act 1993
27. *Restrictions on persons resident in India,* associating themselves with or participating in concerns outside India: (omitted)
28. *Restrictions on the appointment of certain persons and companies* as agents or technical or management advisers in India: The definition of agent, company, processing are also explained along with details on restrictions
29. *Restrictions on establishment of place of business in India A* person resident outside India cannot start business without the permission of the RBI. The procedures are narrated in detail.

30. *Prior permission of RBI required for taking up employment etc* in India by nationals of foreign state Even employment of foreign nationals involves forex movement and hence restricted
31. *Restrictions on acquisition, holding etc of immovable property* in India Any person who is not a citizen of India, cannot freely acquire properties. The restrictions are explained
32. *Restriction of booking of passages outside India* and restrictions on foreign travels: omitted by Amendment Act 1993
33. *Power to call for Information*. This is very vital because the adoption of regulations can be verified only on the basis of facts and figures.
34. *Power to search suspected persons and to seize documents*. Most of the people using foreign exchange are rich and could try to defy the enforcement officers. Hence they should have statutory powers to search and seize documents to produce as evidence in the case of offence.
35. *Power to arrest*: Otherwise the culprits may stay outside and try to distort the evidences
36. *Power to stop and search conveyance:* The culprits may try to escape in vehicles/ship/plane and hence this power becomes essential.
37. *Power to search premises:* They may hide material evidences in premises/house/factory/office
38. *Power to seize documents.* Even on knowing certain documents would be useful the enforcement officers can seize the documents
39. *Power to examine persons*. This enables to enquire, search individuals
40. *Power to summon person to give evidence and produce documents*. It is also related to getting the document by calling individuals.
41. *Custody of documents*: Officers can have the documents for a period not exceeding one year
42. *Encashment of cheque, draft, etc:* The procedure for encashment is explained
43. *Inspection:* Who could inspect and how they could inspect are explained
44. *Prohibition of disclosure of documents/information except in*

certain cases: Keeping secrecy is essential for effective control and implementation of regulations.

45. *Power of police officers* and other officers to enter, search etc. sometimes police and other officers help is necessary for enforcement. This provision helps in this regard
46. *Procedure in respect of foreign exchange* or any other goods seized by police officers: In order to avoid untoward behaviour of police officers and to guide them in the case of seizure, detailed procedures have been formulated
47. *Contracts in evasion of the Act* Such contracts should not be made.
48. *False statements*: No false statement should be given by any body connected with forex
49. *Failure to comply with conditions* subject to which permission or licences have been given or granted under the Act to be contravention of the Acts: Failure to comply with conditions will be treated as contravention
50. *Penalty for contravention* is explained
51. *Power to Adjudicate*: Enquiry can be held in the prescribed manner
52. *Appeal to Appellate Board*: Freedom to appeal is given to know the truth.
53. *Powers of the adjudicating officer and the Appellate Board to summon witnesses*: The Board has powers to summon witnesses
54. *Appeal to High Court*: over and above the board, appeal to High court is permitted.
55. *Continuance of proceedings in the event of death or insolvency*. The procedure in such events to be followed is explained
56. *Offences and prosecutions: When offence is proved*, the procedure for prosecution is stated
57. *Penalty for contravention of order made by adjudicating officer*, Appellate Board, High Court is imprisonment for a term extending up to two years with fine or both may be imposed
58. *Vexatious search*: False information etc will also attract prisonment up to two years with/without fine

59. *Presumption of culpable mental state which means*, intention, motive, knowledge of fact and belief etc. but it shall be a defense for the accused to prove that he was not so.
60. *Power to tender immunity from prosecution*: Procedure to provide immunity is explained.
61. *Cognizance of offences*: Once offences are cognized, the culprits are punishable under code of criminal procedure (CCP) 1898.
62. *Certain offences to be non-cognizable*: Subject to provisions of section 45 and notwithstanding anything contained in the CCP, an offence punishable under section 56 shall be decided to be non-cognizable
63. *Confiscation of currency:* security etc can also be done
64. *Preparation*: Attempt etc These are also treated as contraventions.
65. *Corrections of clerical errors* can be done if found before 2 years.
66. *Application of section* 360 of the CCP 1973 and of the probation of offenders Act 1958. This is applicable to persons below 18 years of age
67. *Application of the customs Act 1962.*
68. *Offences by companies* are explained
69. *Power of court to publish name:* place of business etc of companies convicted under the Act is described
70. *Recovery of sums due to Government* can be done as if it were an arrear of land revenue.
71. *Burden of proof in certain cases* would be on the accused.
72. *Presumption as to documents* in certain cases where any document is produced/furnished/seized. The signature/handwriting of the documents can be presumed as that of accused
73. *Supplemental provisions* in which the RBIs powers to declare residents etc are explained
74. *Penalty for contravention of direction of Reserve Bank* or failure to file returns is added.
75. *Delegation of powers* and the procedures are explained.
76. *Power of Central Government to give directions* is stated.

77. *Factors to be taken into account by the Central Government and the RBI*, while giving or granting permission or licence under the Act are narrated.
78. *Certain officers to assist officers of enforcement*: Officers of customs, central excise police, State Government officers, local authority, can help them
79. *Bar of legal proceedings*. Central Govt./RBI the enforcement officers are immune to legal proceedings
80. *Power to make Rules*. The Central Government has power to make rules.
81. *Power to remove difficulties* is explained.
82. *Repeal and saving*: The previous FERA of 1947 is repealed

These heading with brief comments give a birds-eye-view of the FERA 1973 which has been amended in 1993 taking into consideration the new developments due to liberalization of Indian Economy around 1991-92.

Sections 11, 12, 15, 17, 20, 21 and 32 have been omitted by the Amendment Act 1993 w.e.f. 8-10-93.

Sections 18A, 73A have been added afresh.

Section 26 has been substituted by the previous one

In order to get a complete picture about the FERA, you may get any one of latest bare Act, published by several agencies like Commercial Law Publishers (India) pvt. Ltd. The amendment details will be incorporated in such updated bare Act books and comments and case studies will also be available under relevant sections.

It may be noted that the FERA has since been named as FEMA (Foreign Exchange Management Act).

In addition to the general rules under the Foreign Exchange regulations specific rules have been arrange we will discuss that here *Publication of names rules 1975,* have been framed with the following sections:

1. Short title
2. Definitions
3. Publication of names and other particular of persons
4. Publication under rule 3 to be made after specified period

Another legislation entitled *Foreign Exchange Regulations (Authentication of Documents) Rules 1976* has been framed with two section one is on short title and the other is on authority for authentication and manner of authentication of documents.

The Foreign Exchange Regulation (Encashment of Draft, cheque or other instrument) Rules 1997 have been published under GSR 553 dt 15-04-1977 with the following sections:

1. Short title and commencement
2. Definitions
3. Delivery of draft, cheque or other instrument for encashment
4. Encashment of draft, cheque or other instrument
5. Indemnity
6. Direction for payment of the proceeds
7. Payment of the proceeds and interest

The Government of India has published further rules and clarifications under FERA apart from the 1993 amendment act. Foreign exchange regulations rules (1974) was notified G.S.R 80 dt 1.1.74 which deals on the following subjects:

Sections

1. Short title and commencement
2. Definitions
3. Service of direction, orders or notices made or issued under the Act, or these rules or under any order or notification made there under
4. Indication of import-export code number
5. Form of declarations
6. Authority to whom declaration to be furnished

7. Evidence in support of declaration
8. Period within which export value of goods to be realized
9. Manner of payment of export value of goods 10 & 11 omitted
10. Application for permission to practice any profession or carry on any occupation, trade or business in India Along with VII schedules have been given, out-of-which, schedules IV, V & VII have been omitted.

Transactions Regulated by Exchange Control

In a nut-shell, the following types of transactions having international financial implications are regulated by FERA 1973 as amended in 1993.

- Purchase, sale and other dealings in foreign exchange and maintenance of balances at foreign centers.
- Procedure for conducting export business
- Export-import of securities
- Export-import formalities
- Procedure for realization of proceeds of exports
- Payments to Non-residents or to their accounts in India.
- Transfer of securities between residents and non-residents.
- Acquisition, holding of foreign securities
- Foreign travel with exchange
- Export and import of currency, cheques, drafts, travelers' cheques and other financial instruments, securities etc.,
- Activities in India of branches of Foreign firms and companies and foreign nationals
- Foreign direct investment and portfolio investment in India including investment by non-resident Indian nationals, persons of Indian origin and corporate bodies predominantly owned by such persons.
- Appointment of non-resident and foreign nationals and foreign companies as agents in India.

- Setting up of Joint ventures/Subsidiaries outside India by Indian companies.
- Acquisition, holding and disposal of immovable property in India by foreign nationals and foreign companies
- Acquisition, holding and disposal of immovable property outside India by Indian nationals resident in India.

Now let us see briefly how the regulatory system was evolved over a period and how the control functions are carried out

Check Your Progress 1

1. The first forex Regulation was framed in ____________________ (year)
2. After independence FERA was encoded in ___________________ (year)
3. State any two transaction regulated under FERA.

Forex Control in India

How Regulation Was Introduced?

BK Choudhury traces the historic development as follows:

Exchange control system was introduced in India during the Second World War, on September 3, 1939, as an adjunct to the British system to help the U.K.'s war efforts. It embraced the transactions between India and the then on-sterling area countries.

At the end of the war, *the huge sterling balance accumulated on India's account in London during the war years were frozen by the U.K. Government, though India, after Independence, needed foreign exchange most to meet the requirements of her developing economy.*

The country's sources of foreign exchange earnings were limited to the exports of a few traditional commodities like tea, jute, etc. Hence, the freezing of the sterling balance vis-à-vis the needed imports of plant and machinery, raw materials, foodstuffs, etc., *led to large deficits in*

India's balance of payments, even when the country's foreign balances were supplemented by borrowings from abroad. So, to conserve the country's scarce foreign exchange resources for use to the best national advantage according to a scheme of priorities and to correct the balance of payments deficits, the war time control was continued. This was done using the provisions of Article XIV of the IMF Agreement, as a peace time control system under the *Foreign Exchange Regulation Act, 1947,* effective March 25, 1947. This has since been replaced by the *Foreign Exchange Regulation Act, 1973,* now amended under *Foreign Exchange Regulation (Amendment) Act 1993*. The operations of the Exchange Control system have now come to encompass transactions with all countries outside India excepting Nepal and Bhutan.

Definition

Exchange Control means *official interference in the foreign exchange dealings of a country.* The control may extend over a wide area, covering the import and export of goods and services, remittances from the country, inflow and outflow of capital, rate of exchange, methods of payment, maintenance of balance at foreign centers, acquisition and holding of foreign securities, financial relationship between residents and non-residents, etc.,

Exchange control, in short, involves a *rationing of foreign exchange among various competing demands for it,* and is effected through control of receipts, or of payments, or of both as in India.

The control of receipts is intended to centralize the country's means of external payments in a common pool in the hands of its monetary authorities to facilitate judicious use thereof. The control of payments is intended to restrain the demand for foreign exchange broadly in consonance with the national interest within the limits of available resources.

Objectives

The main objects of exchange control are to maintain the value of the country's currency in terms of other currencies and to bring about and maintain as far as practicable equilibrium in the country's balance of payments.

Methods

Besides the *control on the import and export of goods,* the other methods used for exchange control are:

a. *Control of the exchange rate,* i.e., fixing the exchange rate of the country's currency in terms of other currencies, exchange pegging,

b. *Fixing currency areas,* i.e., fixing the currencies in which payments for imports and exports should be made and received, to and from specified countries. Such fixing, by restricting the convertibility of home currency in terms of other currencies, helps the growth of foreign exchange resources in approved currencies considered necessary in the national interest.

c. *Bilateral agreements,* i.e., trade agreements between two countries contracted principally for the purpose of avoiding the balance of payments deficits.

Administration

The Exchange Control policy is determined by the Ministry of Foreign Trade, Government of India, on the basis of the *Foreign Exchange Regulation Act, 1973,* amended under *Foreign Exchange Regulation (Amendment) Act, 1993.* while the day-to-day administration thereof is left to the Reserve Bank. To achieve the objectives of the Control, the Exchange Control Department works hand in hand with the Trade Control authorities who control the import and export of goods.

Control of Exchange Earning

i. *Surrender of forex through exports:* For the purpose of control of foreign exchange, every person, firm, company or authority in India earning foreign expressed in any currency other than the currency of Nepal or Bhutan by the export of goods or services or in any other way is required to surrender the foreign exchange to an authorized dealer and obtain payment in rupees *within three months* from the date of acquisition thereof.

ii. By its notification No. FERA 47/77-RB and FERA 48/77-RB of 24th November 1977 under Sections 8 and 9 of the FERA 1973, respectively, the Reserve Bank has made it obligatory for any person acquiring foreign exchange by way of income on assets held outside India, inheritance, settlement, gift, remuneration for services or by wayof payments made on behalf of persons resident outside India, or any foreign exchange sent to or brought into India-to offer the same for sale to an authorized dealer within seven days from the date of receipt in or being brought to India.

The following are, however, *exceptions* to the general rule:

a. Foreign exchange held by authorized dealers.
b. Foreign exchange held or acquired by persons from business or any other purpose within the scope of authorisation by the Reserve Bank.
c. Foreign exchange and any income there on earned by persons under employment, business or vocation outside India taken up or commenced while they were resident outside India and such stay outside India was for a continuous period of not less than one year.
d. Foreign exchange held in the form of coins.
e. Foreign currency or currencies held for numismatic purpose up to a total of U.S. $500.
f. Foreign currency or currencies held for personal purposes up to the total value of U.S. $ 500.
g. Foreign currency or currencies held for personal purposes up to the total value of U.S. $500 or its equivalent.

(ii) *Declare export value:* Though the export of goods other than those essentially needed for use within the country as listed in Schedule I to *the Export (Control) Order, 1968,* or under deferred payment arrangements is free, i.e., may be made without any permit or licence, exporters are required to declare the *export value of the goods before they are shipped* and to lodge the shipping documents for collection of the export proceeds with an authorized dealer. The authorized dealer, in his turn, has to report the collection (or non-collection) to the Reserve Bank in due course.

(iii) Fixing currencies for receipt: The Reserve Bank has listed the currencies in which payment for exports can be received. Thus, the export of goods from shipment till the receiving of payment as well as the currency in which such payments can be received is under control.

Control Over Spending

(i) Import of goods The spending of foreign exchange is almost fully controlled. Except for the few items listed in the Open General Licenc e (OGL) in operation for the time being, goods can be imported from outside India only against a licence. Such licences are issued by the Director General of Foreign Trade, while the receipt into India of goods of a value equivalent to the amount of foreign currency paid out abroad is looked after by the Reserve Bank.

The import policy is announced annually by the Central Government, and the import license, granted by the Director General of Foreign Trade permitting import of goods, carries with it permission to pay for them, while the Reserve Bank prescribe, more correctly has prescribed, the currencies as well as the manner in which payment should be made.

iii. For the import of services, or for remittances otherwise than in payment of imported goods, or for the foreign exchange required for foreign travel, the licensing authority is the Reserve Bank and in some cases, the Government of India. The control is exercised through permits granted by the Reserve Bank against an application in a prescribed form.

iv. The issue of foreign exchange in any form. Such as traveller's cheques, notes, coins etc. to persons resident in India even under instructions from an overseas branch/correspondent of an authorized dealer requires prior permission of the Reserve Bank.

Let us have a brief view of exchange market in India.

Foreign Exchange Market in India

There is no physical market for foreign exchange and the Banks having forex business dealing with import/export customers, deal with each other through telephones, telex, Reuter system etc., and thus create a market for foreign exchange. In view of modern advancement of communication technology, the market is developing fast. But, care should be taken to curb misuse. Such markets exist in India in Bombay. New Delhi, Calcutta, Madras, Bangalore, Hyderabad etc., the most important center being Bombay. Indian Forex market has been growing faster in the recent past to match the global market, a well functioning market with greater depth and maturity. The major currencies traded in our forex market are U.S. Dollar (USD), Pound Sterling (GBP), Deutschemark (DM), Japanese Yen (JPY), French Francs (FRF), Swiss francs (CHF) etc.,

Modified Liberalised Exchange Rate Management System (LERMS)

The Balance of payment problems and the liquidity crisis in 1990 and 1991 brought about reforms in the economy with liberalization, sweeping all sectors including forex front. On March 1, 1992, RBI announced a new system of exchange rate known as Liberalised Exchange Rate Management System (LERMS).

With the introduction of LERMS in March 1992 U.S. dollar was adopted as intervention currency in the place of pound sterling. The rupee was partially with the introduction of dual exchange rate system. 60% foreign exchange remittances including export earnings were converted at market rates determined by the forces of demand and supply and the balance 40% were to be converted at official rate which was the rate quoted by RBI.

The 60% portion can be retained by the authorized dealer to sell in the market while the 40% is to be surrendered to the RBI. Certain imports by Government and import of life saving drugs were to be met at the market rates.

The dual exchange rate was abolished from March 1993 and the rupee was allowed to float relatively and the external value of rupee was determined entirely by the forces of demand and supply in the market.

The official rate was abolished. The external value of rupees is calculated on the basis of market rates and even the RBI rates are quoted on the basis of market rate.

How Managed?

The Liberalised Exchange Rate Management System (LERMS) which became effective from 1st March 1992 has been modified with effect from March 1, 1993. The main features of the new arrangement are discussed below.

All foreign exchange transactions (receipts/payments both under current and capital accounts of Balance of payments) would be put through by authorized dealers at *market-determined rates of exchange.* Foreign exchange receipts payments would, however, be subject to exchange control regulations. Foreign exchange receipts should be surrendered by residents to authorized dealers except where residents have been permitted, either under a general or special permission of RBI, to retain them either with banks in India, or abroad.

Authorised dealers will be free to retain the entire foreign exchange receipts surrendered to them for being sold for permissible transactions and are not required to surrender to RBI any portion of such receipts.

Government of India has issued a general order in super cession of all its pervious orders. Under Section 40 of the RBI Act, 1934, Pursuant to the order, RBI will sell to any authorized person at its offices/branches referred to there in, U.S. doller for meeting foreign currency payments at its exchange rate based on the market rate, only for such purposes as are approved by the Central Government.

RBI will buy spot U.S. dollar from any authorized person at its offices/branches referred to in the aforesaid order at its exchange rate. RBI will not ordinarily buy spot Pound Sterling. Deutsche Mark or Japanese Yen. It will not ordinarily buy forward any currency. Any offer of foreign currency to the Reserve Bank will be governed by the provisions of the Exchange Control Manual.

No forward sale in any currency will be made by the RBI to authorized dealers. But will, be prepared to enter into swap transactions under which it will buy U.S. dollar spot and forward for two to six months.

The purchases/sales of U.S. dollar will be made by the RBI in multiples of U.S. dollar 5,000, with a minimum of U.S. dollar 25,000

Advantages

The new system is a step towards full convertibility of current account transactions with a view to reap the benefits to integrating the Indian economy with the world economy.

The exchange rate reflects the true value of rupee as the rate is decided by the market forces of demand and supply.

This system has removed a lot of trade restrictions and exchange controls.

The expatriate Indians (NRI's)could get market exchange rates for their remittances which made capital inflows more attractive for NRI's

This system was a great boon to the exporters as it provided incentive in the form of higher rate.

This system, along with relaxation in exchange controls made *havala* business less attractive.

The modified LERMS is a further step in the direction of freeing external transactions from cumbersome administrative controls. However LERMS doesn't mean complete abolition of trade and exchange control but LERMS has opened up the economy and has brought about greater transparency in the exchange rate system.

Check Your Progress 2

5. What are major methods of forex control?
6. Who determines the Exchange control policy?
7. Foreign exchange held in the form of coin must be handed over to

Authorised Deater True/False

8. The exchange rate reflects________________of rupees, when decoded by Market forces

Summary

In the context of export import financing, these is need for foreign exchange regulations and the control of forex, as otherwise it may affect the very basis of development. Hence the foreign exchange regulation have been formulated used for forex the FERA(FEMA) as amended in 1993. Tracing an historic perspective of evolving FERA, the objective methods, control of earnings and spending, the forced market in India, modified LERMS and its management are discussed.

Keywords

EXIM : Export Import

Forex : Foreign Exchange

FERA : Foreign Exchange Regulation Act (Now Known as Foreign exchange Management Act)

LERMS : Liberalised Exchange Rate Management system(1992)

Answers

(1) 1947

(2) 1973

(3) (i) Payments to Non – Residents to their accounts in India (ii) Foreign Travel with exchange

(4) (i) Control of the exchange rate (ii) Fixing currency areas (iii) Bilateral agreements

(5) The Ministry of Foreign Trade

(6) False

(7) The True value.

Questions

1. What is the need for controlling foreign exchange
2. How forex regulations have been evolved

3. Comment an few sections of FERA 1973 as amended in 1993
4. Consolidate the powers of Govt. of India Under FERA 1973 (as amended in 1993) (Get some bear Acts book and analyse)
5. Explain LERMS
6. What are the advantages of modified LERMS

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Lesson 1.4 - ISO 9000 Series and Other Certification

Learning Objectives

- To list out various needs of standards
- To recall the meaning / expansion of ISO
- To state the historic perspective of ISO 9000
- To enumerate the benefits to the society
- To analyse the hallmark features
- To identify the link between WTO AND ISO
- To synthesize the various applications of ISO
- To differentiate different certificates of 9000 series
- To recognize the 20 elements of ISO 9000 system
- To distinguish ISO 9000 and Balridge certificate
- To explain the management of the ISO
- To analyse the process of development of standards.
- To recall ISO'S partners

Introduction

Standards make an enormous contribution to most aspects of our lives although very often, that contribution is invisible. It is when there is an absence of standards, their importance is brought home *i.e* conspicuous by absence.

For example, as purchasers or users of products, we soon notice when they turn out to be of poor quality, do not fit, are incompatible with equipment we already have, are unreliable or dangerous. When products meet our expectations, we tend to take this for granted.

ISO (International Organization for Standardization) is the world's largest developer of standards. Although ISO principle activity is the development of technical standards, ISO standards also have important *economic and social repercussions*. ISO standards make a positive difference not just to engineers and manufacturers for whom they solve basic problems in production and distribution but to *society as a whole*.

They are very useful to *industrial and business* organizations of all types, to governments, and other *regulatory bodies* to *trade officials* to *conformity assessment professionals* to suppliers and *customers* of products and services in both public and private sectors and ultimately, to *people* in general in their roles as *consumers* and end *users.*

ISO standards contribute to making the development, manufacturing and supply of products and services more *efficient, safer and cleaner*. They make *trade* between countries *easier* and *fairer*. They provide governments with a *technical base* for health, safety and environmental legislation. They aid in *transferring* technology to developing countries. ISO standards also serve to *safeguard consumers,* and users in general, of products and services – as well as to make their lives simples.

When systems, machinery and devices work well and safely – then it is because they conform to standards. And the organization responsible for many thousands of the standards which benefit society worldwide is ISO.

Importance of Conformity

"Conformity assessment" means checking the products, materials, services, systems or people measure up to the specifications of a relevant standard. Today, many products require testing for conformance with specifications or compliance with safety or other regulations before they can be put on many markets. The voluntary criteria contained in these guides and standards represent an international consensus on what constitutes best practice. Their use contributes to the consistency and coherence of conformity assessment worldwide and so facilitates trade across borders.

What is ISO

ISO is a network of the national standards institutes of 157 countries on the basis of one member per country with a Central Secretariat in Geneva, Switzerland, that coordinates the system.

ISO is a non - government organization: its members are not, as is the case in the united nations system, delegations of national governments. Nevertheless, ISO occupies a special position between the public and private sectors.

Therefore, ISO is able to act as a *bridging organization* in which a consensus can be reached on solutions that meet both the requirements of business and the broader needs of society, such as the needs of stakeholder groups like consumers and users.

Meaning of ISO and Uniform Name

Because "international organization for standardization" would have different abbreviations in different languages ("IOS" in English, "OIN" in French for *organization international de normalization*), it was decided at the outset to use a word derived from the Greek ISOS, meaning "equal". Therefore, whatever is the country whatever the language be, the short form of the organisation's name is always ISO.

Brief Historic Perspective

International standardization began in the electro technical field the International Electrochemical Commission (IEC) was established in 1906. Pioneering work in other fields was carried out by the international federation of the national standardizing associations (ISA), which was set up in 1926. The emphasis within ISA was laid heavily on mechanical engineering. ISA's activities came to an end in 1942.

In 1946, delegates from 25 countries met in London and decided to create a new international organization, of which the object would be "to facilitate the international coordination and unification of industrial standards". The new organization, ISO, officially began operations on *23 February 1947*.

There is another version of the Americans. Historians there claim, that ISO 9000 originated from the quality standards of the US dept of defence (MIL-Q98558) in the 1950's.

The British standards institution adopted these standards and expanded them to include the entire business process in 1979 and called them British Standards 5750. The international organization for standardization adopted it in 1987 and called it the ISO 9000 Series.

Benefit to Society

For businesses, Businesses using international standards are increasingly free to compete on many more markets around the world.

For customers, The world wide compatibility of technology which is achieved when products and services are based on international standards brings them an increasingly wide choice of offers, and they also benefit from the effects of competition among suppliers.

For governments, International standards provide the technological and scientific bases emphasising health, safety and environmental legislation.

For trade officials, International Standards are the technical means by which political trade agreements can be put into practice removing technical barriers created by divergent national and regional standards.

For developing countries, International Standards give developing countries a basis for making the right decisions when investing their scarce resources by adopting the state of the art technological know how in the form of standards.

For consumers, Conformity of products and services to International Standards provides assurance about their quality, safety and reliability.

For everyone, International Standards can contribute to the quality of life in general by ensuring that the transport, machinery and tools we use are safe.

For the planet, We inhabit, International Standards on air, water and soil quality, and on emissions of gases and radiation, can contribute to efforts to *preserve the environment.*

Hall Mark Features of the Iso Brand

Equal Footing

Every participating ISO Member Institute (full members) has the right to take part in the development of any standard which it judges to be important to its country's economy. No matter what the size or strength of that economy, each participating member in ISO has one *vote*. ISO's activities are thus carried out in a democratic framework where each country is on an equal footing to influence the direction of ISO's work at the strategic level, as well as the technical content of its individual standards.

Voluntary

ISO standards are voluntary. As a non-governmental organization, ISO has no legal authority to enforce their implementation. Some ISO standards *may be adopted* as regulatory framework by legislation by their own decision. ISO itself does not regulate or legislate. However, they may become *a market requirement,* as has happened in the case of ISO 9000 quality management systems, or of dimensions of freight containers and bank cards.

Market -Driven

ISO develops only those standards for which there is a market requirements. The work is carried out by experts from the industrial, technical and business sectors which have asked for the standards and which subsequently put them to use. It may include representatives of government agencies, consumer organizations, academia and testing laboratories.

Consensus

Although ISO standards are voluntary, the fact that they are developed in response to market demand, and are based on consensus among the interested parties, ensures widespread applicability of the standards. Standards are reviewed every five years to make it a state of the out standard agreed by all.

Worldwide

ISO standards are technical agreements which provides the framework for compatible technology worldwide. Developing technical consensus on this international scale is major operation. In all, there are some 3000 ISO technical groups (technical committees, subcommittees, working groups etc.) in which some 50000 exports participate annually to develop ISO standards.

ISO and World Wide

ISO – together with IEC (International Electronic Commission) and ITU (International telecommunication union) – has built a strategic partnership with the WTO (World Wide Organisation) with the common goal of promoting a free and fair global trading system.

The political agreements reached within the framework of the WTO require underpinning by technical agreements.

The WTO's agreement on technical barriers to trade (TBT) includes the code of good practice for the preparation, adoption and applications of standards. The TBT Agreement recognizes the important contribution that International Standards and conformity assessment systems can make to improving efficiency of production and facilitating international trade.

Therefore, where International Standards exists or their completion is imminent, the code states that standardizing bodies should use them as a basis for standards they develop.

ISO and Developing Countries

ISO standards represent a *reservoir of technology*. Developing countries, with their scarce resources, stand to gain from this wealth of knowledge.

For them, ISO standards are an important means both of acquiring technological know-how that is backed by international consensus as the state of the art and of raising their capability to export and compete on globe markets. The whole spectrum of ISO's activities in favour of developing countries is encompassed in the ISO Action plan for developing countries 2005-2010. ISO has a policy committee on developing country matters, DEVCO, with a membership of nearly 117 standards institutes from both industrialized and developing countries.

Wide Applications / Uses of Iso Standards

Between 1947 and the present day, ISO published more than 15000 International Standards. ISO-work programme ranges form standards for traditional activities, such as agriculture and construction, through mechanical engineering to medical devices, to the newest information technology developments, such as the digital coding of audio-visual signals for multimedia applications

Standardization of screw threads helps to keep chairs, children's bicycles and aircraft together and solves the repair and maintenance problems caused by a lack of standardization. Standards make technology transfer easier.

Without the standardized dimensions of *freight containers*, international trade would be slower and more expensive. Without the standardization of telephone and banking cards, life would be more complicated.

Standardized *symbols* provide danger warnings and information across linguistic frontiers consensus on grades of various materials give a common reference for suppliers and clients in business dealings.

Agreement on a sufficient number of *variations of a product* to meet most current applications allows economies of scale with *cost benefits* for both producers and consumers. An example is the standardization of paper sizes.

Standardization of performance or *safety requirements* of diverse equipment makes sure that users needs are met while allowing individual manufacturers the freedom to design their own solution on how to meet those needs.

Standardizations *protocols* allow computer from different vendors to "talk" to each other. Standardizations documents speed up the transit of goods, or identify sensitive or dangerous cargoes that may be handled by people speaking different languages. Standardization of connections and interfaces of all types ensures the compatibility of equipment of diverse origins and the inter-operability of different technologies.

Agreement on *test methods* allows meaningful comparisons of products, or plays an important part in controlling pollution – whether by noise, vibration or emissions. Safety standards for machinery protect people at work, at play, at sea.. and at the dentist's.

Without ISO standards on *quantities* and *units,* shopping and trade would be haphazard, science would be unscientific and technological development would be handicapped.

More than half a million organizations is more 149 countries are implementing ISO 9000 which provides a framework for quality management throughout the processes of producing and delivering products and services for the customer.

Check Your Progress 1

1. (a) ISO is a govt. organization True/False (b) ISO 14000 is for maintaining quality in business True/false
2. ISO officially began operations in 23 Feb ________________
3. ISO 9000 series was adopted in __________________
4. How ISO is beneficial to the consumers?
5. From 1947 to the present day more than ________________ International standards have been published

Different Types of Certificates

ISO 9000 and ISO 14000

The ISO 9000 and ISO 14000 families are among ISO's most widely known standards ever. ISO 9000 has become an international reference for quality requirements in business to business dealings, and ISO 14000 looks set to achieve at least as much, if not more, in helping organizations to meet their *environmental challenges.*

The vast majority of ISO standards are highly specific to a particular product, material or process. However, the standards that have earned the ISO 9000 and ISO 14000 families a world wide reputation are known as *"generic management system standards".*

ISO 9000 Series

The book production Operating Management by R.P.Chase et, al. lucidly explains the elements of the series. ISO 9000 consists of five primary parts numbered as 9000 through 9004.

ISO 9000 Series Systems and Guidelines for Use

Quality System

9001: Model for Quality Assurance in Design, Production Installation, and Servicing. (To be used when conformance to specified requirements is to be assured by the supplier during several stages which may include design/development, production, installation, and servicing)

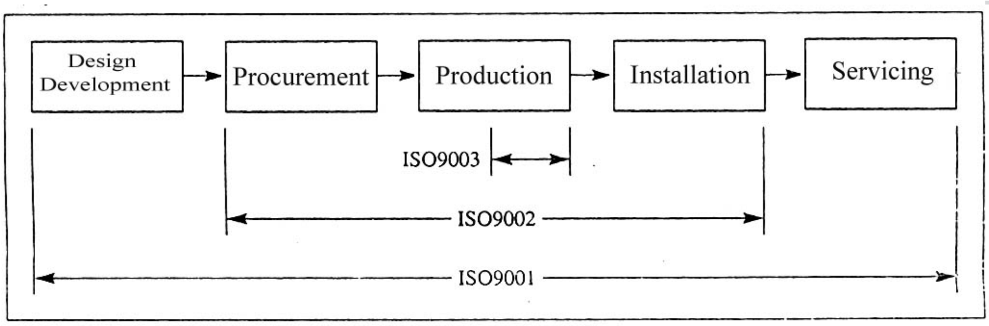
9002: Model for Quality Assurance in Production and Installation. (To be used when conformance to specified requirements is to be assured by the supplier during production and installation)

9003: Model for Quality Assurance in Final Inspection Test. (To be used when conformance to specified requirements is to be assured by the supplier solely at final inspection and test)

Guidelines for Use

9000: Quality Management and Quality Assurance Standards. Guidelines for Selection and Use.

9004: Quality Management and Quality System Element-Guidelines for Performance Improvement.



(ISO 9000 Standards and Their Areas of Application in Production Flow)

If we were to display them on a continuum of an operating firm, the series would range from design and development through procurement, production, installation, and servicing. While ISO 9000 and 9004 only establish guidelines for operation, ISO 9001, 9002, and 9003 are well-defined standards.

Quite a bit of work and expense may be needed to be accredited at the highest level, which is 9001. Furthermore, some firms may not need ISO 9001 accreditation. For example, note that in the figure, ISO 9003 covers quality in production's final inspection and testing. A firm can be accredited at this level of final production only. This would essentially guarantee the firm's quality of final output and be attractive to customers. A broader accreditation would be 9002, which extends from purchasing and production through installation.

There are 20 elements in the ISO 9000 standards that relate to how the system operates and how well it is performing. These are contained in section 4 of the ISO 9000 Guidelines. Each of these elements applies in varying degrees to the three standards 9001, 9002, and 9003. (ISO 9001 contains all of them.)

The 20 Elements to be Addressed in an ISO 9000 Quality System

1. Management Responsibility
2. Quality System
3. Contract Review
4. Design Control
5. Document Control

6. Purchasing
7. Customer-Supplied Material
8. Product Identification and Traceability
9. Process Control
10. Inspection and Testing
11. Inspection, Measuring, and Test Equipment
12. Inspection and Test Status
13. Control of Nonconforming Product
14. Corrective Action
15. Handing, Storage, Packaging, and Delivery
16. Quality Records
17. Internal Quality Audits
18. Training
19. Servicing
20. Statistical Techniques

ISO 9000 is somewhat intentionally vague. A firm interprets the requirements as they relate to its business. From a practical and useful standpoint for businesses, ISO 9000 is valuable to firms because it provides a framework so they can assess where they are and where they would like to be The ISO intended the 9000 series to be more than a standard, reflecting a well organized operation with trained, motivated people. There are so many sub divisions: ISO 10006: 1997 is guidelines to quality in Project Management ISO/TS 16949: 1999 is specific to automotive industry

ISO 9000 and Balridge Criteria

ISO focuses closely on internal process, especially manufacturing, sales, administration technical service and support. The Balridge places more emphasis on customer satisfaction and business results. So it is called to adopt first ISO 9000 and their approach for Balridge, which awards a few points for quality control under ISO series.

Where to Find Information on Standards

ISO's entire portfolio of standards is listed in the ISO catalogue which can be accessed online. The site also provides access to the world standards services network (WSSN) which is a network of publicly accessible web services of standards organizations around the world. Through these website, WSSN provides information on international, regional and national standardization and related activities and services.

In fact, there are several hundred thousand standards and technical regulations in the world containing special requirements for a particular country or region. Finding information about these, or about related conformity assessment activities, can be a heavy task. Isonet, the ISO information network, can ease the problem.

In many countries, the isonet and WTO enquiry points are one and the same. WTO/TBT wants to have national enquiry point in member countries

Who can join ISO

Membership of ISO is open to National Standards Institutes most representatives of standardization in their country (one member in each country). Full members, known as "member bodies", each have one vote, whatever the size or strength of the economy of the country concerned. In addition, ISO has *two categories* of membership for countries which do not yet have a fully developed national standards activity. They pay reduced membership fees. *"correspondent members"* are entitled to participate in any policy or technical body as observers, with *no voting rights. "subscriber members"* are institutes from countries with *very small economies* that nevertheless wish to maintain contact with international standardization.

Management of ISO

All strategic decisions are referred to the ISO members, who meet for an annual general assembly. The proposals put to the members are developed by the ISO council, drawn from the membership as a whole, which resembles the board of directors of a business organization. ISO council meets two times a year and its membership is rotated to ensure that it is representative of ISO's membership operations are managed by a secretary – general, which is a permanent appointment. The secretary – general reports to the ISO council, the latter being chaired by the president who is a prominent figure in standardization or in business, elected two years. The secretary- general based at ISO central secretariat in Geneva, Switzerland, with a compact staff which provides administrative and technical support to the ISO members, coordinates the decentralized standards development programme and publishes the output.

How the Iso is Finished

ISO's national members pay subscriptions that meet the operational cost of ISO's central secretariat. The subscription paid by each member is in proportion to the country's *gross national income* and trade figures. Another source of revenue is the *sale of standards*. The main costs are borne by the member bodies which manage the specific standards development projects and the business organizations which provides experts to participate in the technical work.

The Standards Development Process

How Decided

What happens is that the need for a standard is felt by an industry or business sector which communicates the requirements to one of ISO's national members. The work item is assigned to an existing technical committee or to new technical committee ISO only launches the development of new standards for which there is clearly a market requirement.

Special committee: CASCO (conformity assessment); COPOLCO (Consumer policy), and DEVCO (developing country matters). These committees help to ensure that the specific technical work is aligned with broader market and stakeholder group interests.

Who Develops

ISO standards are developed by technical committees comprising experts from the industrial, technical and business sectors which have asked for the standards, and which subsequently put them to use. In addition others with relevant knowledge, such as representatives of government agencies, testing laboratories, consumer associations, environmentalists, academic circles and so on.

How Developed

The national delegations of experts of a technical committee meet to discuss, debate and argue until they reach consensus on a draft agreement. This is then circulated as a Draft International Standard (DIS) to ISO's membership as a whole for comment and balloting. They ascertain views of connected people. If the voting is in favour, the document, with eventual modifications, is circulated to the ISO members as a Final Draft International Standard (FDIS). If that vote is positive, the document is then published as an international standard. Every working day of the year, an average of ten ISO meetings are taking place somewhere in the world.

ISO's Partners

International Partners

ISO collaborates with its partners in international standardization, the IEC (International Electrotechnical Commission) and ITU (International Telecommunication Union). The three organization, all based in Geneva, Switzerland have formed the World Standards Cooperation in order to better coordinate their activities, as well as the implementation of International Standards.

ISO is one of the few non-governmental organizations having an observer status in the World Trade Organization. Its contribution is increasingly solicited in relation to the elimination of technical barriers to trade.

ISO collaborates with the United Nations Organization and its specialized agencies and commissions, particularly those involved in the harmonization of regulations and public policies like WHO, UNCTAD, UNIDO, WMO (Maritime Organization Tourism) and ISO's technical committees have formal liaison relations with some 580 international and regional organizations.

ISO is now an institutional member of the World Economic Forum, has increased its collaboration with NGOs representing societal or professional interests, such as Consumers International, the World

Business Council on sustainable Development or the international Federation of Standards Users (IFAN) and collaborates regularly with the major international organizations involved in metrology, quality and conformity assessment.

Regional Partners

Many of ISO's members also belong to regional standardization organizations. This makes it easier for ISO to build bridges with regional standardization activities throughout the world. ISO has recognized regional standards organizations

Check Your Progress 2

1. ISO 9000 consists of __________ primary parts from ___________ to ____________
2. ISO 9000 is model for ________________________________
3. Expansion of WSSN is ________________________________
4. "Correspondent" members have voting rights (True/False)
5. The Major types of partners of ISO are _________________________

Summary

What is ISO, and how it functions why and how it was started etc., are discussed. ISO 9000 series formally launched 1987, are useful for international business, govt. consumers customers, trade officials, developing countries and to the planet by reducing environment pollution. How ISO and WTO Coordinate for Maintenance of Standards what are the different types of ISO 9000 series are discussed. ISO/4000 to meet the challenges of their environment. For the sake of the practical application when you became a manager, details on who can join ISO, and from where to get more information are also discussed

The management, finance systems of ISO are described apart from explain up the whole process of developing standards by ISO. It is a scientific, transparent process. Finally how ISO collaborates Coordinates with international and regional organizations in also described.

Keywords

ISO	:	International Organisation for Standards some, use it as International Standard, Organisation as expansion of ISO
WTO	:	World Trade Organisation
ISO9000 series	:	It consists of 5 standards 9000 to 9004 of which 9001 to 9003 one specific nature
IEC	:	International Electrotechnical Commission
ITU	:	International Telecommunication Union
TBT	:	Technical Barriers on Trade
DIS	:	Draft International Standards
WMO	:	World Maritime Organisation
WSSN	:	World Standards Service Network

Answers

1. (a) false (b) false
2. 1947
3. 1987
4. Conformity of products and services to International Standards provides assurance about their quality safety and reliability
5. 15000
6. Five, 9000 to 9004
7. Quality Assurance in Final Inspection Test
8. World Standards Service Network
9. False
10. International and Regional

Questions

1. What are needs for Standards?
2. What is ISO?
3. What are the benefits to Society?
4. What are hall mark features of ISO brand?
5. Bring out the Coordination between ISO and LTO

6. How ISO's useful for developing countries
7. What are the wide applications of ISO standards?
8. What are different types of Certification Differentiate the Operational areas.
9. Compare ISO and Badridge award?
10. Where from information an ISO can be obtained?
11. Who can join ISO?
12. How the Standards are developed explain in detail?
13. Who are International Partners?
14. Who are regional Partners?

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Lesson 1.5 - Quality Control and Reshipment Inspection

Learning Objectives

- To recall what is quality
- To list out dimensions of quality
- To distinguish inspection of production and preshipment inspection
- To explain scope of using quality control techniques
- To recognize countries requesting PSI
- To analyse the process of PSI
- To illustrate SQC
- To find relation between WTO and preshipment inspection
- To recall definition of PSI
- To list out services provided by EIC

Introduction

What is Quality?

Quality has become one of the most important factors of consumers decision in selecting a product among competing products (services). This phenomenon is wide spread regardless of the fact whether the consumer is an individual organisation, retail store, or a military defense programme.

The quality of products / services can be evaluated in several ways. It is important to identify different dimensions of quality Garrin (1987) discusses eight components or dimensions of quality as follows.

1. Performance (will the product do intended job?)
2. Reliability (how often does the product fail?)
3. Durability (How long does the product last?)
4. Serviceability (How easy is it to repair the products?)
5. Aesthetics (How the product looks like?)

6. Features (What does the product do?)
7. Perceived Quality (what is the reputation of the company?)
8. Conformance to standards (Is the product made exactly as the design indented

Performance and *conformance* to standards are too major aspects which could be evaluated through some objective measurements; next, durability could also be tested through some methods. The others are additional aspects to augment the quality of a product / service. The evaluation of quality helps to control quality

Quality Control

Quality may be affected due two types of causes:

(i) Measurable / identifiable causes

(ii) Infinitesimal, unidentifiable chances causes. The first one can be easily controlled by identifying the causes or by measuring the deficiency and the rectifying them. In the case of chance causes, we have to adopt special methods to minimize the effect of chance causes. Quality control segregates the measurable or identifiable causes from chance cause and adopts methods to minimise the influence of chance causes reflected as variance.

Scope of Using Quality Control Techniques

Quality Control methods can be introduced in any plant size. Since it is fundamental attack on adjusting methods and operations to predetermined limits of variability, it can be adopted even to a single process or plant. The size of the plant merely determines the size and organization of the quality control scheme or department.

Meaning of Quality – Quality in this context does not mean achieving the highest quality or maintaining it irrespective of the need for such quality and the cost of it. Quality control means several things

1. To lay down the desirable norm or standard of quality expected of the article or product or service. This factor again is composed of two attributes.

a. The nature of the product.

b. The consumer or user satisfaction that is expected of it. Thus for a sophisticated machine tool are an automobile part or aircraft component or a ball bearing the highest precision, quality and rigid tolerance are necessary. For an ordinary kerosene stove the different components need not observe such rigid quality standard.

2. To lay down the desirable quality. Each article carries with it a quality assurance. Quality control seeks to establish production condition by which variations form the expected quality standard are minimized.

3. Cost and quality have to be optimally matched. In fact almost any quality can be achieved if the price is paid for it No businessman aims at achieving quality at any cost. Good business consists in *co-ordinating cost* and *quality* which leaves the best margin between cost and sales.

4. The next point is to ensure that both excess quality and under-quality is avoided. Also the range and frequency of variability is minimized form the prescribes quality standard.

Aim of Quality Control – The Quality Control Technique (also called Statistical Quality Control because statistical methods are applied) aims at systematizing the data collection and data processing method on the shop floor from which objective interpretation can be made and conclusions drawn with measurable variances from the standard or ideal quality.

Quality control aims at *prevention.* In this sense it is to be distinguished from inspection. *Acceptance inspection* or control inspection operates by correcting methods and operations through observed results. *Quality control* aims at laying down norms of quality and establishing working condition which reduce the chance of variability and therefore aid conformity of result with the predetermined norm.

The benefits of quality Control can be summed up thus-

1) *Reducing faulty manufacture* and therefore improving material usage, scrap rejection, Spoilage and minimizing re-work cost, this

leads to better consumer satisfaction, consumer reliability, reduced complaints and lower after sales services.

2) Through *better assurance standards* a greater degree of standardization and inter-changeability is achieved, both within the own work and also among outside users of the components, spare parts or intermediary stores supplied by the company.

3) Reduction in inspection cost.

4) By *stabilising quality* higher sales is obtained at the same price or an equal sale at a higher price. Assurance of quality and the goodwill for the brand name reduces selling and advertisement cost.

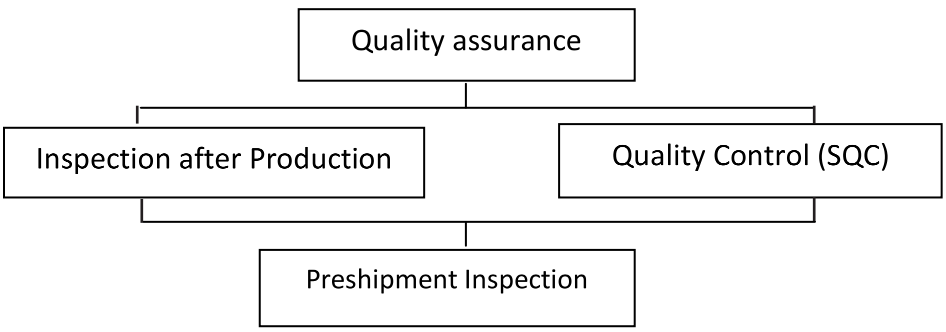
5) It helps *design efficiency* by standardizing quality and identifying variables which operate in the quality area.

6) It leads to *improvement in prices, methods and operation* by bringing out where improvement or modification is necessary.

7) It *improves quality-consciousness* and a healthy rivalry for achievable quality in the works.

Quality Assurance

Quality assurance can be done in two ways (1) inspection after production to identify defectives and rectify or reject them (2) adopting quality control methods like statistical quality control (SQC) to minimize the deficiency. In the case of foreign trade there is third aspect known as *preshipment inspection.*



Quality control versus acceptance inspection-inspection after the production is completed is costly and sometimes inexpedient. Sample inspection or test checks of finished product may not bring out the defects in all the units produced. With more standardization the result of sample testing may improve but can never reach 100% satisfaction. In production, inter-stage or inter-operation inspection would be necessary to avoid faculty components being passed on the next process or being marketed, to be finally rejected by the user. Further, it is not possible to detect all the faults in inspection.

Where faults can only be assessed by destructive inspection such as, the firing test or the user test of ammunition or drop test for petroleum barrels etc., hundred per cent screening test is impossible.

Moreover, defects detected in inspection is always after manufacture which leaves no room for correction. *Quality control*, on the other hand, offers a means of *dynamic control* which *prevents* rather than corrects faults developing later on.

It detects and isolates the factors and causes which develop fault and tries to eliminate them. Quality control prevents complacence and uncertainty in product quality. It is a source of assurance to the producers and a mark of confidence to the users.

Uses of inspection – there is no doubt that screening inspection is costly and inexpedient in many cases. However the results of acceptance or screening inspection can be used for improvement and control. Some of these uses are—

1) To detect a mistake or fault at an early stage of operation. if faulty material or a faulty component is passed on, without inspection, to the next process-subsequent labour, overheads and any materials added thereon would be wasted.

2) To screen good products which can be marked out from rejects, seconds or poor quality products.

3) To select items for re-work and to assign re-work cost.

4) To separate scrap, wastage or spoilage.

5) To judge whether fault is due to the machine or method or process or bad material or faulty workmanship. This is the cue of suggesting changes in process or equipment; also the basis for locating bad workers from good or modifying or improving equipment.

6) To identify the controllable causes of variation or faults from the uncontrollable or chance causes.

7) They suggest variation in standards, specification or tolerances of the product. if the variance is minor and inherent in the process and the product can be accepted with this minor variation, a change in the standard or specification may be indicated

8) Improving the method or process. If the variances are due to wrong machine adjustments or faulty equipment it may be corrected.

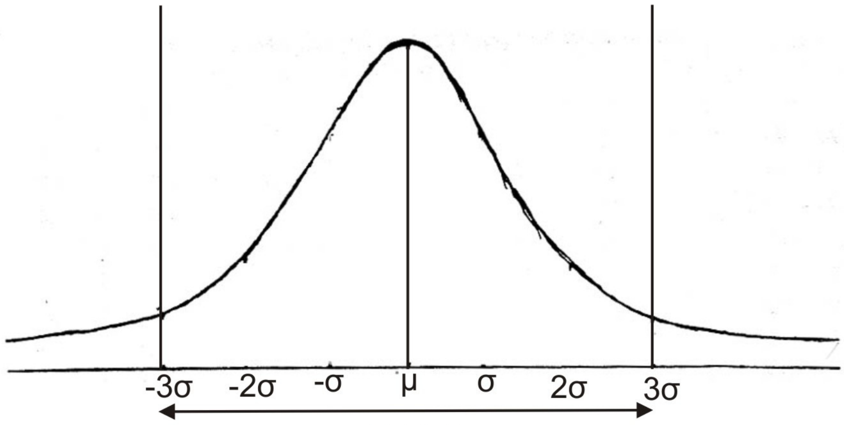
9) Caution and quality consciousness in staff and workmen. As workmen are paid for the good pieces which pass inspection, acceptance inspection provides a moral check or deterrent against loose or faulty work.

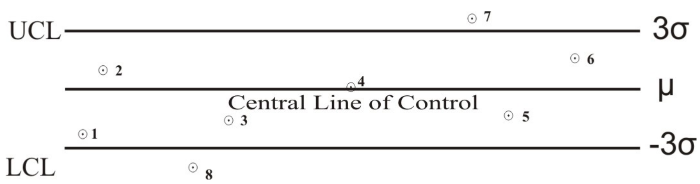
Thus, inspection is a tool of management control and should be used as such.

Statistical Quality Control (SQC)

Suppose we have to produce a part which should weigh only 100mg. In production all items may be 100mg.some may be 101 or105mg or others may be 99 or 95mg.We may find on the basis of experience. it may not affect the efficiency of the part, if it lies between 97mg to 103mg. But every time we cannot *arbitrarily* decide a experiments with the defective parts. All production should normally *conform to the statistical normal distribution* which you have studied in statistics. If 100 units are produced in a sample and the average weight or x=100mg, we can find the standard deviation() of the sample.In the quality production there will not be much variance i.e the value will be less. So 3 may be taken as the basis of *variance unit* because in a normal distribution 99.73% of the units are within 3 difference. In that case, the rejection will be only 0.27% which will be in terms of specification, not suitable for use.

Using the normal distribution properties the control chart could be *scientifically decided* instead of arbitrarily our self fixing the difference (variation) limits.





In the control chart method of SQC, we fix 3 as the upper control limit(UCL)and -3 as the lower control limit(LCL). The units which are within this range are selected (units 1 to 6).Units which exceed either the UCL or LCL,example units 7 to 8, are rejected.

If this technique is used in a process it is called statistical process control (SPC).In general it is called statistical quality control. This method is scientific in nature mean (and (standard deviation) could be accurately measured using samples and then adopted for SQC

Some organistaions which use several (hundreds of) parts, use 6 as the limit because, if one part is efficient at 0.9973 level, for using 100parts, this will be reduced as shown below

$0.9973*0.99973*\ldots\ldots 0.9973=(0.9973)^{100} = 0.7631$ which means totally putting all 100 parts together the efficiency/quality level will be on 76.31% which is dangerous In order avoid such deficiency 66 level is used (Motorolo used this level). Thus the SQC is a vast field with several complex concepts and innumerable applications. If you are interested study books on SQC.

Now we will study about preshipment Inspection

Check your Progress - 1

1. Which are two major aspects quality dimensions which could be evaluated
2. SQC is applicable to control defects caused by chance causes (True/ False
3. Desirable norm/ standard of quality is composed of (a) ………………… (b)………………………
4. Normally the Upper and Lower limits of SQC are fixed at…………… level

Preshipment Inspection

Definition of Preshipment Inspection

Certification of the value, quality, and/or identity of traded goods done in the exporting country by specialized agencies or firms on behalf of the importing country. Traditionally used as a means *to prevent over-or under-invoicing*, it is now being used as a security measure. OR

To ensure that the quantity and quality of goods to be traded conform to the *specifications* of the contract.

Pre-shipment inspections (PSI) are required when mandated by the government of the importing country. Governments assert that pre-shipment inspections ensure that the price charged by the exporter reflects the true value of the goods, prevent substandard goods from entering their country, and mitigate attempts to avoid the payment of customs duties.

Countries Which Request Pre-Shipment Inspections

Angola, Bangladesh, Benin, Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, Comoros, Republic of Congo (Brazzaville), Democratic Republic of Congo (Kinshasa), Cote d'Ivoire Ecuador, Ethiopia, Guinea, India Indonesia, Iran, Kenya (under review), Mauritania, Mexico Moldova (under review), Mozambique, Niger, Nigeria, Peru, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Tanzania (Zazibar only), Togo, Uzbekistan, Venezuela. Most countries on the list above request inspections for shipments above a certain value. However, in some instances inspections are necessary for all imported products, regardless of value. In some cases, a country may require PSIs only for certain types of goods. For example, India requires a PSI only for certain steel products, Indonesia for some steel and waste products. Mexico requires a PSI for a variety of goods such as shoes, textiles, steel, and bicycles only if they do not qualify for NAFTA. Shipments to Saudi Arabia and Kuwait must contain a "certificate of conformity" for a small number of products. Though not referred to as a pre-shipment inspection, this certification verifies that the product conforms with the relevant standard by testing and inspection prior to shipment from the exporting country. PSI regulations change often, and contracts for pre-shipment inspections are reviewed periodically. Exporters can contact the Commerce Department's Trade Information *freight forwarders* for more information on current regulations.

Who conducts the Pre-Shipment inspection?

Pre-shipment inspections are typically performed by contracted private organizations. In most cases, importers can select from a short list of these organizations when planning inspections. However, sometimes one firm is appointed to carry out inspections for a given country on an exclusive bases. The list could be obtained export Inspection council of India private inspection companies:

Who pays for PSI?

Inspection costs are generally paid either by the *importer or by the government* of the importing country. However in some cases, the inspection agency may invoice the seller in the event of supplementary inspection visits. The costs associated with presenting the goods for inspection (such as unpacking, handling, testing, sampling, repackaging) are the responsibility of the seller.

Who is Responsible for Arranging PSI?

Although the *importer* is responsible for arranging the pre-shipment inspection, the exporter must make the goods available for inspection in the country of origin. Delays in the process can lead to problems with the shipment and /or increased costs for the exporter. Therefore, it is in the best interest of exporters to work with their freight forwarder to ensure that all information is accurate and is provided to the inspection company immediately after notification of the requested inspection. Requirements for pre-shipment inspections are sometimes spelled out in letters of credit or other documents.

Generally, the inspection company starts the inspection process once it receives a copy of the inspection order from the importing country. An inspection order states the value of goods, the name and address of the importer and the exporter, the country of supply, and the importer's declaration of customs code. The inspection company then contacts the exporter to arrange an inspection site and time.

The Process

The *steps* of the inspection process are usually as follows:

1. The importer opens an import document or license
2. The importer informs the inspection service in the country of import of a pending shipment, and either pays for the inspection up front or pays a percentage based on the value of the commercial invoice, depending on the terms of the importing country's inspection contract.
3. An inspection order is forwarded to the inspection company office in the country of export.
4. The inspection company contacts the exporter to arrange date, time, and location for inspection. It also requests all required shipping documents and price information (invoices). The exporter must provide these documents in a timely manner to avoid demurrage or other penalties.
5. The inspection is performed.
6. If no discrepancies are noted during the inspection, and once all final documents are received from the importer and exporter, a "Clean Report of Findings" is issued confirming the shipment's value, customs classification, and clearance. The final documents required for issuance of the "Clean Report of Findings" vary by

contract but most often include a final invoice and bill of lading or airway bill.

7. The goods are shipped to the importing country.
8. The importer uses the inspection report to get the imported goods released from customs. If goods reach the border of the importing country without inspection, they usually have to be re-exported to a nearby country for inspection prior to re-entry or are subject to heavy penalties.

What to do when a Problem or Disagreement Arises

If a disagreement arises on the findings of the pre-shipment inspection, a resolution to the discrepancy should be negotiated with the inspection company. However, if exporting to a World Trade Organization (WTO) member country, the WTO Agreement on Pre-shipment Inspection spells out the responsibilities of the exporter and the inspection company. The Agreement requires the inspection company to appoint an appeals official and comply with the Agreement guidelines when carrying out their pre-shipment inspection services for signatory countries.

PSI for Agricultural and Food Products

Specific regulations are prescribed in every country according to their needs. The details could be obtained from EIC India.

WTO PSI body

The WTO mechanism for settling disputes between exporters and preshipment inspection companies – the Independent Entity (IE) - became operational. The IE is constituted jointly by the WTO, the International Chamber of Commerce (ICC) and the International Federation of Inspection Agencies (IFIA), and is administered by the WTO.

The IE was established in December 1995 by the General Council pursuant to Article 4 of the WTO Agreement on Preshipment Inspection, which calls for an independent review procedure to resolve disputes between an exporter and a preshipment inspection (PSI) agency.

IE's rules of procedure call for quick resolution of disputes. Once a complaint is filed, the IE appoints, depending upon the agreement of the parties, either a single independent trade expert or a three-member panel, selected from the List of Experts (one each from the sections nominated by the ICC and IFIA, respectively, and one from the section of independent trade experts). The panel is required to make a decision, by a majority vote, within eight working days from the filing of the dispute.

In specific cases, details can be obtained from WTO Secretariat Decisions by the panel are taken by majority vote, and are rendered within eight working days of the request for the independent review. These decisions would be binding on the parties on the parties to the dispute. The cost of the independent review would be apportioned based on the merits of the case by the panel or the independent trade expert.

Export Inspection Council of India

It is India's official pre-shipment and certification body EIC-Export Inspection Council of India, a statutory body set up by the Government of India, guarantees quality of Indian exports through Certification schemes, which combine the best of product certification integrated with a systems approach.

The Export Inspection Council (EIC) was set up by the Government of India under Section (3) of the Export (Quality Control and Inspection) Act, 1963(22 of 1963), for sound development of export trade of India through Quality Control and Inspection and for matters connected therewith. EIC is a world-class service provider when it comes to pre-shipment inspection and certification. You can access our services through our field organizations, the Export Inspection Agencies (EIAs), located at Delhi, Mumbai, Kolkaa, Chennai and Kochi with a network of 44 sub-offices including laboratories which can provide you with the required logistic support and testing facilities at all major ports and industrial centers in India.

EIC-a Network with a Global Agenda

As globalization intensifies with more and more countries and sectors getting swept-up in its momentum, EIC seeks to enhance India's stature in the world market, through its belief in total quality management a strategy not only for strengthening its current position but also gaining access to new markets.

Our endeavor towards quality assurance programmes began as early as 1963. Over the years, we have radically transformed our activities from the regulatory domain of pre-shipment inspection to that of a *facilitator of export trade*. It provides market access to exporters through export certification based on International Standards. This helps eliminate re-inspection of goods on arrival at foreign destinations, thus providing a green channel entry into the international markets, avoiding rejections and high costs of recall. As the official certification agency, EIC has the mandate to resolve export related quality complaints, giving the importing agencies and overseas buyers an added protection in assuring quality of goods.

Service's Provided

Pre-Shipment Inspection and Certification

We provide a whole range of pre-shipment inspection and certification services from consignment-wise inspection to quality assurance and food safety management systems based certification covering nearly 1000 notified items ranging from food products to chemicals to footwear to jute and jute products to engineering products. This certification, as an assurance from an official agency, improves market access for the exporters while enhancing importer's confidence in the quality of Indian products.

Notwithstanding the liberalization of compulsory pre-shipment inspection, EIC continues to operate mandatory pre-shipment inspection and certification in food sector for products like fish and fishery products, milk products and meat and meat products and egg products in view of growing importance of health and safety parameters under SPS Agreement.

Today, many countries rely for pre-shipment inspection and certification with confidence. For instance been recognized by United States Food and Drug Administration (USFDA) for black pepper and by European Commission (EC) for basmati rice.

EIC's commitment to internationally accepted food safety management systems based certification incorporating GMPs/GHPs/HACCP has already earned credibility to act on behalf of many international agencies. EIC has gained recognition from EC for marine products and egg products.

A pool of highly qualified technical personnel at ECI/EIAs share, integrate and develop expertise to provide not only consignment-wise inspection but inspection but systems based certification as well to stand through a constantly changing world of export trade.

Summary of Services Offered by EIC

- Certification of Product Quality in accordance with the norms and legislations of different destinations worldwide through consignment-wise inspection or systems approach including In process Quality Control (IPQC) or Self Certification (SC).
- Approval and certification of processing and manufacturing units based on Food Safety Management Systems like HACCP, Good Hygiene/Manufacturing Practices (Gypsy/GMPs).
- Product Testing-microbiological, chemical, biochemical, physical contamination, heavy metals, pesticide residues, biotoxins, additives and all other relevant parameters.
- Training and technical assistance to industry in installation of food safety/quality/environment/lab management systems meeting HACCP/ISO 9000/ISO 14000/ISO 17025 standards and norms; product testing and certification under preferential tariff schemes.
- Issue of Certificates of Orgin under preferential tariff schemes like Generalized System of Preferences (GSP), Global System of Trade Preferences (GSTP), Bangkok Agreement, Saarc Preferential Trading Arrangement (SAPTA) and Indo-Sri Lanka Free Trade Agreement (ISFTA).
- Health for food items.
- Inspection for all commodities
- Authenticity for Basmati Rice.

Check your Progress 2

5. India requires PSI only for certain types of goods (True/False)
6. Who is responsible for arranging PSI
7. Which is the WTO organization which settles dispute in PSI
8. EIC was set up in…………(Year)

Summary

Quality assurance is essential for business development and also for consumer satisfaction. It comprises of production inspection, SQC and PSI. All the three aspects are discussed elaborately explaining, what, why and how of these process of quality assurance. At the end the functioning of EIC is elaborated

Keywords

SQC **:** Statistical Quality Control
PSI **:** Preshipement Inspection
EIC **:** Export Inspection Council of India

Answers

1. Performance and conformance to standards
2. True
3. (a) The Nature of Product (b) consumer satisfaction
4. 3
5. True
6. Importer
7. IE
8. 1963

Questions

1. What is quality?
2. Explain scope of using quality control techniques.
3. What are the uses of Inspection?

4. Explain SQC with an illustration
5. When PSI in required
6. Explain the process of PSI
7. Examine: How to settle a problem when it arise
8. What is EIC?
9. Describe in detail the services provided by EIC.

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Lesson 1.6 - Export Trade Control

Learning Objective

- To recall the objectives of trade control
- To explain the general procedure of export control
- To distinguish the procedures for export of gold currency, unit of UTI from goods export
- To describe the procedure for export of complete software
- To analyse the methods of payment for goods exported
- To recall/recognize the periods prescribed for different types of exports
- To illustrate exempted categories
- To understand various aspect of declaration forms
- To elucidate GR/PP procedure
- To ucall the utility of GR procedure
- To enumerate as to when the counter signature on PP forms should be obtained

Introduction

You have studied so far, the preliminaries of Export Import trade (International Trade), the documents required for organizing export/import effectively and efficiently, how quality control, PSI and international standards of quality are necessary for improving export. Here the export control measures stipulated by the Govt. are discussed in detail

Unless you know these export methods, procedures, rules, regulations, any time you may make a mistake in your organization which may result in huge damage. So you should be thorough with the export control measures also.

Try to take efforts that your organization is not coming under caution list of exporters which will reduce your image.

Export Control

Objectives: The export of goods to countries outside India, except to Nepal and Bhutan, is under control. The main purposes of the control are:

(a) To *prevent the export of the goods* which *are essential for the development* and/ or maintenance of the country's economy; and

(b) To ensure that the *full value of the exported goods is received* in India within the *prescribed time limit* and in a permitted method of payment, i.e., currency

Declaration: The exporters are required, under the Exchange Control Regulation, to declare on a prescribed form that the full value of the exports to be made will be realized within the prescribed period. If the full value is not ascertainable at the time of export, the value which the exporter expects to receive on the sale of the goods should be stated.

Caution List of Exporters

(a) The Reserve Bank may subject exports of certain exporters who have come to its adverse notice in regard to realization of export value, to the conditions stipulated in clauses (b) and (d) of Section 18/9 of FERA, 1973, in order to ensure that the full export value of further exports to be made by them will be realized in proper time or without delay as required under the law. In such cases, the RBI will issue a caution-listing order directing that the exporter should submit GR/PP forms through an authorized dealer to the Reserve Bank for prior approval, supported by documentary evidence which should indicate that the exporter has received advance payment or an irrevocable letter of credit in his favour covering the full value of the goods to be exported. Copies of the caution-listing order will be sent, among others, to all Customs authorities in India, for the purpose of ensuring that the conditions of the order are fulfilled. ADs will be advised whenever any exporter is caution-listed. They should not accept for negotiation/collection shipping documents covering exports declared on GR form completed by such exporters nor countersign PP forms completed by them unless the GR/PP forms bear approval of the Reserve Bank.

If a caution-listed exporter presents documents to an AD together with GR form which does not bear Reserve bank's approval, the AD should withhold the documents under advice to RBI pending receipt of the latter's instruction as to the disposal thereof.

(b) The caution listing order of RBI will contain not only the names of the concerned exporter and the name of the proprietor partners in the case of firms but also their associate concerns. If an AD comes to know of any other associate concern of caution-listed exporter which is in the export field he should bring the matter to the notice of the RBI.

(c) When a caution-listed exporter firm or company is removed from the list by the RBI a de-caution-listing order will be issued to the AD customs etc, The shipping documents etc. submitted by a de-caution listed exporter may be dealt with by an AD according to normal regulations.

Exports to be dispatched by airway should, for better security be consigned to the branch / correspondent of the AD through whom the proceeds are intended to be collected.

Export Trade notices: The office of the Director General of Foreign Trade issues export trade notices as and when required

a. Prohibiting the export of certain commodities
b. Making the export of certain commodities subject to licence from the export trade control;
c. Prescribing the minimum export prices for some commodities and / or the methods by which payment for the export of some commodities should be received; and
d. Otherwise regulating export

Export of Gold and Others

Gold / Securities: The export of gold from India to any destination, or taking or sending of sending of securities to any place outside India (including the transfer of securities to a non-resident), requires the permission of the RBI. There is, however, a general permission of the RBI bank for any person permanently resident in India to take out of the country personal gold / jewellary, and for a foreigner to take out gold / jewellery purchased in India up to a prescribe limit. The export of silver bullion and manufactures is regulated by the Director General of Foreign Trade (DGFT) whose permission is necessary for the export of silver and silverware.

Currency Notes / Foreign Exchange: No person can, except with the general or special permission of the RBI or the written permission of any person authorized in this behalf by the RBI take or send out of India any Indian currency or foreign exchange other than the foreign exchange obtained by him from an AD dealer or a money changer in India.

The RBI permits any person resident in India to take or send out of India to any country other than Nepal currency notes or Reserve Bank notes up to ₹ 1000 per person at any one time. The amount that can be taken to Nepal in Government of India or Reserve Bank notes should be in denominations not over ₹ 100 and in Indian coins and in other notes or coins which are the currency of Nepal.

Unit of UTI: The Unit Trust of India has been granted general permission be the RBI to export certificates covering units purchased by non-resident investors out of foreign exchange remittance from abroad or out of funds held in their non-resident account in India.

Computer Software

Physical form: Computer software can be exported either in physical form, i.e., software prepared on magnetic tapes and paper media, or in non-physical form, i.e., direct data transmission abroad through dedicated earth stations / satellite links. The procedure of export of computer software in physical form is the same as that of goods subject to declaration on GR / PP form.

Non-Physical form: The export of computer software in non-physical form can be made only against advance payment of, or and irrevocable letter of credit for, the full export value. Secondly, the export has to be declared in serially numbered sortex form in triplicate and the full set together with the relevant export documents and a copy of the export agreement or contract has to be submitted to the Department of Electronics, Government of India for the purpose of valuation.

The authorized official of the Department will forward the original copy after verification of the set to the office the office of the RBI under the jurisdiction of which the exporter operates, return the duplicate copy duly certified by him together with the export documents to exporter, and retain the triplicate copy for office record. A copy of the export agreement / contract has to be submitted to the concerned office of the RBI.

The duplicate copy of the SOFTEX form together with the export bill etc. should be tendered to a previously designated branch of an ad for negotiation or collection of the bill.

Forwarding the documents for collection requires previous permission of the RBI and providing by the buyer a guarantee from an acceptable bank in favour of the exporter for the payment of the export on due date or within six months whichever is earlier.

Application for the permission of RBI has to be made in duplicate together with a copy of the guarantee.

Goods under Lease, Hire etc.

Some good, such as machinery, equipment etc. are sometimes required to be exported on lease, hire etc. basis under agreement with the overseas lessee/hirer etc. against collection of hire charges and ultimate re-import of the goods exported, exporters desirous of exporting goods on such terms should approach, through an AD the concerned office of the RBI i.e. the office of the RBI Bank under the jurisdiction of which the exporter operates giving full particulars.

Code Number of Exports

The RBI allots, on application on a prescribed form, a code Number to every person, firm or company engaged in export business. The code number so allotted is required to be cited by the exporter on the prescribed exchange control declaration form.

Payment Methods

Payment for good exported from India has to be realized in accordance with the methods prescribed by the RBI. The basic rule is that the payment must be received through the medium of an AD

It will, however, be in order for an AD to handle documents in cases (a) where the exporter has received payment of exports directly from the overseas buyer in the form of bank draft, pay order, banker's cheque, personal cheque, foreign currency notes, foreign currency notes, foreign currency traveler's cheque etc without any monetary limit, provided the exporter's track record is good, he is a customer of the concerned AD and prima facie the instrument represents payment for exports; or

Where the payment of export is made out of funds held in a Non-Resident (External) Rupee account, or from a rupee account held in the name of an Export House 2with an AD up to ₹ 50,000 per transaction in the country of destination of the foods as declared on the GR form, irrespective of the country of residence of the buyer

For example, if the goods are shipped to Germany respecting the order of a buyer in France, the payment must be made in a permitted currency or from a bank situated in a country in the erstwhile external group of countries such as Austria, Belgium including Luxembourg, etc as notified by the bank / RBI.

The financing of exports in a manner other than the permitted methods requires the prior permission of the RBI.

AD may, however, receive payment in any permitted currency for exports to the countries in the Asian clearing union, if the payment clearing is offered voluntarily in a permitted currency by the overseas buyer. This provision is subject to review.

The Period Prescribed

The prescribed period for realization of the proceeds of exports to Pakistan, Bangladesh and Afghanistan is three months and of exports to all other countries is six months, from the date of shipment. The RBI may, for a sufficient and reasonable cause, extend the said period of three months or six months, as the case may be

Where the goods are exported to a warehouse established outside India with the permission of the RBI, the amount representing the full export value of the goods exported should be paid to the AD as soon as it is realized but in no case beyond fifteen months from the date of shipment of the goods.

Deferred Payment

The realisation period for exports under deferred payments arrangement may be extended by the RBI to two years in the case of consumer durable and other engineering goods, to eleven years in the case of capital and producer goods, and to twelve years in the case of turnkey projects.

Good Other them Projects

Normally, the proceeds of exported goods, other than the project exports, are to be realized within 6 months or within 15 months when the goods are stored in overseas warehouses owned by India

In some cases, however, where the buyer's country does not permit payment of imports form India on "cash' terms with 6 months the overseas buyer will then unavailable ask for extension of the period of payment. In such cases the exporter concerned should approach the RBI for permission of the extended period of payment of the exports made.

Despatch of Shipping Documents

Through Banks: All shipping documents covering the export of good from India must be submitted within 21 days from the date or export to the AD (bank0mentioned in the relevant declaration form, except where the export falls within one of the exempted categories.

Direct to importer in case of perishables: Railway receipts, steamer receipts, bills of lading, airway bills or any other document conveying title to the foods exported to Pakistan or Bangladesh may, where the exports consist of perishable commodities, be sent direct to the importer with the prior approval of the RBL. Clean bills in respect of such exports, if accompanied by the exporter's invoice and duplicate and triplicate copies of the relative EP or GR form, may, if advised by the reserve Bank, be accepted for negotiation or collection by a banker.

Categories Exempted

Certain kinds of exports the declaration on a prescribed form regarding the realistion of the value of exports is not necessary. These are

a. Trade samples supplied free of payment;

b. Personal effect of travelers. Whether accompanied or unaccompanied, excepting unused carpets, curios, silverware and such other articles of high value;

c. Passengers wishing to take these articles should obtain prior permission of the Reserve Bank, known as the GR waiver.

d. Ship's stores carried on board vessels for their own use during the voyage;

e. Transshipment cargo, i.e, goods shipped from counties outside India and transshipped in any Indian port for destination outside India;

   Nepalese goods exported from Nepal to countries outside India through Indian ports are covered by this exemption

e. Goods exported under orders of the military, naval and air force authorities or of the central government.

f. Parcels dispatched by post or by air freight and accompanied by a declaration by a declaration by the sender that their value in each case is less than ₹ 50 and that their despatch involves no transaction in foreign exchange.

g. Parcels dispatched by post or by air freight and covered by a certificate issued by an authorized dealer (banker) that the export of the parcel does no involve any transaction in foreign exchange;

h. Goods in respect of which the reserve bank has waived the requirement of declaration; and

i. Goods exported by the United Nations Organization and its affiliate bodies in India for their official use abroad when covered by a certificate to that effect by the body concerned.

Check Your Progress 1

1. The two main purposes of export control are (a)____ (b)______
2. SOFTEX form is used in the export of ________
3. In the case of turn key projects, the RBI may extend the period of collection to _____ year
4. Give an example for exempted category

Forms of Declaration

Description: The forms prescribed under the Exchange Control Regulations in which the declaration for exports, vide paragraph 3.15 (b) above should be made are given below:

Sl.No.	Form	Mode
1	GR Form	For shipments made otherwise than by post to all countries
2	PP Form	For exports to all countries by parcel post except when made on "value payable" or "cash on delivery" basis.
3	VP/COD Form	For exports to all counties by parcel post under arrangement to realize the proceeds through postal channels on "value delivery" basis.

These forms are printed in distinctive colours of inks, each with a separate serial number prefixed by such combination of letters as Ah, BY, CA, CHN, MA, OR DEL, indicating the office of the reserve bank at which these are domiciled. The number with the prefix should be quoted in all reference to Reserve Bank.

For exports to Nepal or Bhutan no declaration form is required.

Copies: The GR and PP forms are required to be completed in duplicate, while only one copy of the VP/COD form is required for the exchange control purpose.

Particulars

a. The name and address of the AD dealer (banker) through whom the proceeds of the exports will be realized, and the exact quantity of the goods to be shipped should be given in the original copy in the space provided therefore. Where it is not possible to give the exact quantity, the information should be furnished on the other copy of the form, the details of short shipment, if any, being recorded in the appropriate place therein.

b. The details of commission and discount due to the foreign agent or buyer should be correctly declared on the form.

c. Where the goods are exported on consignment bases, the word "seller" appearing in the form as also clause (a) thereof should be struck out. Where the goods are exported against a firm order or sale contract, the word "consignor" as well as clause (b) of the form should by struck out.

d. Under the item "Analysis of full export value," a break-up of the full export value of the goods under f.o.b., i.e., value, freight and insurance, contract should be furnished in all cases, irrespective of the terms of contract.

Short Shipment Case

(i) If an export covered by a GR form already filed with the Customs is short-shipped. a fresh form must be used to declare the shipment when the short-shipped portion is subsequently shipped by another vessel.

(ii) When a shipment is entirely shut out and is intended to be shipped by another vessel, the name of the vessel as given in the GR form should be changed, for which the permission of the Customs is required. The permission should be applied for on a prescribed form in duplicate.

(iii) When a shipment has been entirely shut and there is delay in making arrangements for re-shipment, or when the consignment is not to be re-shipped, the GR form already filed with the Customs authority requires to be cancelled, for which an application on a prescribed form in duplicate should be made.

Gr/Pp Procedure

a) GR Form: The two copies of the GR form should be given along with the shipping bill to the Customs authorities at the port of shipment. No shipment of goods, excepting those belonging to the exempted categories, vide Paragraph 3.21 above, will be permitted by the Customs authorities unless the full set of the GR form is produced.

b) The Customs, if satisfied with the entries made, will admit the shipping bill, and after noting their running serial of ten numerals denoting the code number of the port of shipment, the calendar year and a six-digit serial number and certifying the value of the export on both the copies of the GR form, return the duplicate copy to the exporter, retaining the original for transmission to the Reserve Bank later on.

c) The exporter will resubmit the duplicate copy of the GR form at the Customs together with the cargo to be shipped. After examining the goods and certifying the quantity passed for shipment on the duplicate copy the Customs will return it to the exporter for submission to the AD named therein together with the shipping documents within 21 days from the date of shipment of the export for negotiation or collection of the export bill.

Documents presented after the prescribed period of 21 days will be acceptable the AD is satisfied that the delay is due to circumstances beyond the exporter's control, the documents will be acceptable even if the original declaration on the GR form is signed by some other party provided the constituent drawing the bill countersigns the duplicate copy there of undertaking to deliver to the AD the foreign exchange proceeds of the shipment within the prescribed period. In case the exporter has been placed by the RBE Bank on the exporter's caution list, the documents may be negotiated only where the shipment is covered by an irrevocable letter of credit and the documents conform strictly to the terms of the letter of credit

d) The AD should verify the genuineness of the export in the manner detailed in paragraph 312 © (iv) above, i.e., on inspection of the original sale contract between the exporter and his overseas buyer, or in the absence thereof, on inspection of any of the following documents:

Order of the overseas buyer together with the order confirmation by the exporter.

Proforma invoice of the exporter duly countersigned by the overseas buyer or Indent/Order of the overseas buyer or his authorized agent. He should also make sure that the duplicate copy of the GR form has been duly verified and authenticated by appropriate Customs authorities, and the number thereof is the same as that of the original by a reference to the bill of lading

The AD dealer should make sure as follows: the bill of lading (or the airway bill) has been issued on 'freight prepaid' basis where the sale contract is on f.o.b. or f.a.b. basis and the amount of freight paid has been included in the invoice and the bill. In the case of contract on c.i.f., c & f etc. basis where freight is sought to be paid at destination, the deduction made is only to the extent of freight declared on the GR form or the actual amount of freight indicated in the bill of lading (or the airway bill) whichever is less. When the marine insurance is taken by the exporter on buyer's account the actual amount paid is received through the invoice and the bill. Where the export is under deferred credit arrangement or to a joint venture abroad against equity participation or under rupee credit the number and date of the RBI Reserve Bank approval and/ or the number and date of the relative A.D. Circular has been recorded at the appropriate place in the GR form, The documents presented do not reveal any material *inter se* discrepancy in regard to the description of the goods exported, export value or country of destination.

PP Form: The PP form should, in the first instance, be presented by the exporter in duplicate to an AD for countersignature. The original copy, with his countersignature, should be returned to the exporter by the banker, and the duplicate copy retained by him. The original copy of the form countersigned by the AD should be submitted by the exporter to the postal authorities together with the relative parcel at the time of despatch there of. After dispatching the goods the postal authorities should forward the declaration form to the nearest office of the Reserve Bank.

VP/COD Form: The VP/COD form, of which only one copy needs to be completed, is required to be submitted to the postal authorities together with the post parcel

Disposal by Banker

Immediately after the shipping documents are negotiated or despatched overseas for collection the AD should report the transaction to the RBI in statement ENC under cover of appropriate R. supplementary Return, retaining the duplicate copy with him until full payment for the export is received. When such payment is received, or the news of the shipment having been lost in transit or destroyed at the port of destination is received, the duplicate copy should be forwarded to the Reserve Bank after completing the appropriate certificate thereon.

Use of GR Procedure

The GR/PP procedure thus ensures control from the stage of the passing of the goods through the Customs/postal authorities till the receipt of the proceeds in foreign currency, and also enables the Reserve Bank to make certain, by matching the two copies of each form – the original copies from the Customs or postal authorities and the duplicate copies from the banker-that the full value of the export has been realized and repatriated to India within the prescribed period in an approved method, i.e., currency.

Countersignature on PP Form

(i) When a banker is approached by an exporter for countersignature on the original copy of the PP form relating to an export by post parcel, he should countersign the form after making sure that the parcel is addressed to his branch or correspondent in the country of import, and that for the export of precious stones or of jewellery other than articles made wholly or mainly of gold of the value of over ₹ 50, the parcel has been valued and sealed and the invoice stamped by the Customs.

The overseas branch/correspondent should be advised to deliver the parcel only against payment or acceptance of the relative bill.

(ii) The PP form in respect of a parcel addressed direct to the consignee may be countersigned by the banker, provided that:

(a) an advance payment has been received for the export; or

(b) The export is under an irrevocable letter of credit advised through the banker; or

(c) the addressing of the parcel direct to the consignee has been approved by the Reserve Bank.

The particulars of the advance payment or the letter of credit or the Reserve Bank's authorization, as the case may be, should be furnished on the form duly authenticated by the banker.

(iii) A PP form covering re-export of synthetic stones, pearls, diamonds and other precious stones imported into India for re-export after cutting, polishing, etc., may be countersigned by the banker, subject to prior permission of the RBI. The permission may be obtained by making an application furnishing therein the names of the consignor and the consignee, the number of the import licence, the amount due in payment of processing charges, and an undertaking by the banker to ensure the realization of the processing charges. If after the countersignature on the original copy of the PP form, the duplicate copies of the GR form and the relevant shipping documents are not received for negotiation or collection within five working days from the date of the countersignature, the default should be reported to the Reserve Bank.

Exchange Control Regulation for Nepal and Butan

Of the countries in the immediate neighbourhood of India Nepal and Bhutan in the north are considered on a special footing in regard to the Exchange Control Regulations current in India. Some of these special features have been indicated above and for other term when necessity arise can be noted from relevant Govt. of India guidelines. These countries are not treated as foreign countries for most of the transaction

Check your progress 2

5. If you want to realize the proceeds through postal channels, you much use _____form
6. ____copies of GR and PP forms will be prepared
7. The exported will resubmit the duplicate copy of GR form at the customs together with cargo to be shipped. TRUE/FALSE

Summary

The need for learning export control procedures, objective, procedure for export of gold and other items obtaining code numbers, payment methods, periods prescribed exempted categories, declaration form, GR/PP procedure, are discussed in details.

Key Words

AD : Authorised Dealer

Caution list : Exporters under adverse notice, prepared by the RBI

UTI : Unit Trans of India

SOFTEX : This is a form to be attached for export of company software

VP : Value payable

COD : Cash on Delivery

PP : Parcel Post Form

Answers

1. (a) To prevent the export of goods essential for development (b) to ensure the full value of export in received with in prescribed time
2. Computer Software
3. 12
4. Free Trade sample
5. VP/COD
6. 2
7. True

Questions

1. What are the objective of Export control
2. Explain caution list
3. Describe export of gold and other items
4. Explain payment method
5. Analyse periods prescribed for various exports
6. What are the exempted categories – illustrate
7. What are forms of declaration?
8. Explain GR/PP procedure
9. When counter signature on PP for is requires

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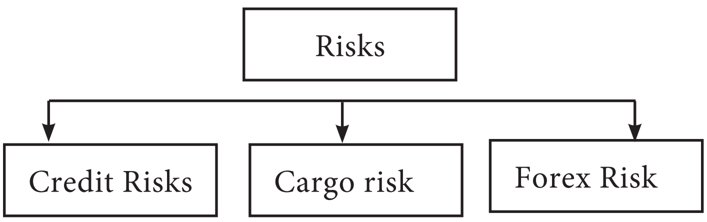
Lesson 1.7 - Marine Insurance

Learning Objectives

- To identify the meet for marine insurance
- To list out the cargo risks
- To recall the definition of marine insurance policy
- To explain how a policy
- To compare the risks covered on not covered
- To enumerate the factors to be considered to fix the rates of premium
- To classify different types of marine losses
- To analyse narious form of clauses
- To explain the procedures for claim

Introduction

Usually any business will have enormous risks. In the case of foreign trade, it is still more and deep. The risks in foreign trade may be classified into three major categories:



When you get short term, long term credit, you have risks in getting the payments. There are specific insurance polices by Export Credit Guarantee corporation (ECGC)

Cargo risk is likely to happen more due to movement of cargo in rough sea. We are going to deal in detail, how to manage cargo risks through marine insurance.

The forex management risks will be separately discussed under forex management.

Now let us see various cargo risks

Cargo Risks

Now a days cargo risks are more because of increased sophistication crime and of the transport carriers. When the transport moves faster, the risk of accident and consequent dangers are more. Some of the cargo risks are

- Fire in any place, stock on movement
- Storm, force of waves contact with sea water Collision stranding sinking (perils of sea)
- Theft pilferage, non-delivery
- Piracy
- Jettisoning (throwing over board, cutting of masts, rigging of sails etc)
- Leakage
- Barratry (misconduct, fraudulent or unlawful act of master/crew)
- Spoilage.

Explosion, damage to machinery, latent defects, breakage, leakage, heating bursting, sweating damage by other cargo.

Cargo risk can be reduced to minimum by adopting marine insurance which could be covered. The principle of insurance policy are more or less similar in coverage for both shipment and air lifting.

Marine Insurance Policy

Definition: Marine insurance is a contract by which the insurer, in consideration of payment by the insured of a specified premium determined under tariff rates or otherwise, agree to indemnify the latter against any loss incurred by him in respect of the merchandise exposed to the perils of the sea or to the particular perils insured against.

Details: In a c.i.f. contract, marine insurance is obligatory, and the policy must be one which is usual in the trade and is in a negotiable form. The policy must be stamped and bear a date not later than that of the bill of lading; and if the export is under a letter of credit, it must conform to the terms and conditions laid down in it. The policy must be issued in favour of the exporter, and

a) Relate solely to the *goods referred to* in the bill of lading and the invoice, giving a description thereof, their shipping marks etc;

b) Cover the *whole* of the contractual journey or *voyage,* naming the port of shipment and the port of destination;

c) Be for the *full value* of the Cargo, generally 10% to 20% over the c.i.f. value of the goods, stating the currency in which, and the place at which, the claim, if any arises, will be met;

d) Cover *all the risks*, unless the buyer specifies the risks to be covered; and

e) State the *period* of insurance.

If the policy is made out in favour of the exporter, it must be endorsed in blank when it is handed over to the negotiating bank. An insurance policy is freely transferable from one person to another by endorsement and delivery.

When the trade between two counties is carried on over the land, the policy has necessarily to be inland, and not a marine one.

General Insurance Corporation

a. Marine insurance polices should, as a rule, be obtained from the General Insurance Corporation (G.I.C) in India, as under the current Exchange Control Regulation no person, Firm or company resident in India is permitted to book general insurance of any kind with an insurance company in a foreign country.

b. The G.I.C.is authorized to received premiums against such policies in rupees on production of a certificate to the effect that-

In terms of the export contract the insurance charges on the shipment in question have to be borne by the exporting party and that he is not paying on behalf of a non-resident. Or

The exporter is defraying the insurance charges on the shipment in question on account of the overseas buyer of the goods and he undertakes to add the payment so made to the concerned invoice and recover the amount form the buyer in an approval manner'.

In the case of export contracts on f.o.b or c & f or any other terms under which the liability on account of marine insurance on the shipment rests with the overseas buyer but the exporter has taken the insurance cover on the non-resident party's account, the authorized dealer handling the documents should verify that the actual premium paid has been added in the invoice for being recovered from the buyer.

Types of Policies

a) *Single Cargo risk / Open or Blanket Policy*: A marine insurance policy may be a "single cargo risk" policy, i.e., a policy which covers a single cargo risk or an "open" or "blanket" policy i.e., a policy which automatically covers all the shipments of the exporter up to an estimated amount during a given period. In an open policy, the overall amount and the period of insurance are specified but not the particulars of the insured cargo. The particulars of shipments, as and when made, have to be supplied to the insurance company, which then issues a certificate covering the shipments under the policy. Premium is charged on the value of the cargo actually shipped during the period of insurance.

Under a blanket or open policy, a lump sum premium is initially charged on the basis of the estimated value of the cargo to be shipped during the period of insurance and at the end of the period, the amount of premium charged in excess is refunded or the amount undercharged is recovered.

b) *Floating / Named Policies:* An open marine insurance policy, which covers the cargo ready for shipment but for which shipping space is still awaited, is called a floating policy. When on obtaining the shipping space the exporter intimates the intimates the name of the ship to the insurance company and the insurance company issues an endorsement, the policy becomes a "named" one.

c) *Valued and unvalued policies*: A valued policy is a policy which specifies the agreed value, not necessarily the actual value of the foods insured. If the goods prove to be overvalued, the insured is entitled, at the time of claim settlement, to a refund of a proportionate part of the premium paid, but no amount against anticipated profit is to be included in the claim. An unvalued policy does not specify the value of the insured goods, but subject to the limit of the sum insured, leaves the insurable value to be determined later.

d) *Contingency Marine insurance Policy*: The Exchange Control Regulations of certain countries do not permit remittances in payment of imports into them in the event of the cargo getting lost in transit and in consequence not reaching the destination, the exporters in India are therefore, required to protect their interest in respect of export to such countries by taking a special marine insurance policy, viz., contingency Marine Insurance Policy, from the G.I.C. or any of it subsidiaries.

General Problems and Advantages of Open Policy

- The buyer's insurance may be inadequate.
- The buyer may become insolvent and the claim may be paid to the buyer according to the laws of the buyer's country to the creditors in the importers country.
- The transfer of claim may become complicated due to the foreign exchange issues

In view of these problems, most of the exporters take open policy under marine insurance.

Open policy remains valid until it is cancelled by the exporter.

There are several advantages of the open policy, which are listed out here.

- The exporter has automatic and continuous protection.

- The premium rate is known in advance and hence correct price quotation can be given.
- It develops continued relationship between the exporter/shipper and the insurer. They understand the special needs of each other.
- A brief declaration giving the basic facts about shipment is sufficient.

The exporter has to furnish evidence of insurance in the form of a certificate to make claims abroad.

Copies

4 copies are made. The original and the second copies are forwarded for negotiation with the shipping document to the consignee. The other two copies are kept as office copy with shipper and the insurer.

Coverage Risks

Risk Covered By Marine Insurance

The following risks are covered under marine insurance.

- *Perils of the sea*: Include risk out-of-the-ordinary wind and waves action, stranding, lighting, collision and damage by sea water. Opening of the seams of the vessel by standing or collision.
- *Fire:* include both direct fire damage and consequential, damage as by smoke, or steam and loss resulting from the action to extinguish it.
- *Assailing thieves* means those who take by force rather than stealthy way.
- *Jettison* means throwing articles overboard usually to reduce the weight of the ship due to emergency need.
- All other perils include only perils of the sort *listed in the clause.*

Risks not Covered

The following risks are not covered by marine insurance

- Loss or damage expected to occur under normal conditions due to "inherent nature", e.g. imperfectly cured skins, breakage to glassware not adequately packed.

- Loss of market, or damage or deterioration due to delay in transit
- Unavoidable trade losses like shrinkage, evaporation.
- Wars, strike risk and civil commotion are not included as perils. It can be included by special endorsement by paying additional premium.
- Dangerous drugs clause-losses connected with opium and other dangerous drugs. (if some special conditions are satisfied, this may be considered)

Check your Progress-1

1. Risks can be classified into _________ Categories
2. Open Policy covers all the shipments of exporters upto an estimated amount during a given period True / Flase.
3. Loss of damage / Deterioration Due to delay is a risk covered. True / False.

Premium Rates

It is not standardized. It is based on the risk and the judgement of the underwriter. The following factors are considered in fixing the premium rates.

- Characteristics of the commodity.
- Types of coverage.
- Origin, destination, route.
- Carriers used.
- Trade loss-loss of weight, shrinkage.
- Packing.
- Seasonal character of shipment.
- Value of the commodities.
- Shipping and delivery practices.
- Attitude towards the third party recoveries and
- Assured's experiences as a foreign trader.

Marine Losses

Marine insurance losses may be broadly classified into total losses and partial losses.

A Total Loss: It means loss arising out of the destruction of the subject insured or when the insured is irretrievably deprived thereof. A total loss may be actual or constructive. An actual total loss is a loss which happens under circumstances beyond control, while a constructive total loss refers to a complete loss due to high cost of reconditioning, salvaging and /conveying to destination.

Partial Loss: A partial loss is not a complete loss and may be "general average", "partial average" or "salvage." The term average in marine in marine insurance signifies less than total loss.

General Average: When a ship is caught up in a storm or heads towards a rock or is leaking, and the captain of the ship thinks, after due deliberation, that, in order to protect the whole property (i.e., the ship and the cargo), or to enable the ship to proceed safely to destination, a part of the cargo should be sacrificed by being thrown overboard; or that some extraordinary expenditure should be incurred, *such sacrifice or expenditure would amount to a general average loss.* The loss is so called because it is to be made good by prorate contribution on the principle of equal sacrifice for all, by all the interest at risk at the time of the sacrifice or expenditure, namely, the vessel (ship-owner), the freight (carrying company) and the cargo (exporter). The claim for general average contributions holds good only when:

a) The danger is common to all interest;
b) The sacrifice or expenditure is made voluntarily to avert or minimize the common danger, and only to the extent justifiable under the circumstances;
c) There is a benefit accruable to the interests at the interests at risk; and
d) There is no fault or contributory negligence on the part of the claimant.

Particular Average: This is a partial, and not a general, loss suffered by the insured goods and is caused by a particular peril insured against. A particular average loss affects only a particular interest whose property sustains the loss, such as the ship-owner for damage to the ship through heavy sea waves breaking over her; or the shipper for breakage of the cargo through the stowage giving way in heavy weather, or damage to the cargo through sea-water entering the hold containing it, or accident during the process of unloading, etc. Particular average losses are much more common than general average losses.

Salvage: Salvage refers to charges recoverable under maritime law by a salvor independently of contract. Such charges do not include expenses for services in the nature of salvage rendered by the assured or his agent. As in the case of general average, salvage awards are usually apportioned over the values of the various interests saved and are recoverable from the insurer.

Types of Clauses

In order to limit or particularize the insurer's liability, a marine insurance policy may be endorsed with one or the other of the following clauses:

(i) FPA, i.e., free from particular average, implying that the insurer's liability does not extend to particular average;

(ii) FGA, i.e., free from general average, implying that the insurer's liability does not extend to general average;

(iii) WPA, i.e., with particular average, implying that the insurer's liability covers losses arising out of the perils that come under particular average;

(iv) WA, i.e., with average, implying that losses under general average are covered under the policy.

Goods Clauses: These Clauses, drawn up by the Institute of London, may be divided into clauses which exclude the particular average unless the ship is stranded or is involved in a specified casualty, and those which include the particular average. For instance:

(a) *Institute Cargo Clauses FPA:* A policy with these clauses insures the goods from the warehouse at the place named in the policy to the warehouse at the destination, and the insurance extends

for the whole transit period plus 25 to 30 days after discharge at destination, but it excludes claims for particular average or loss or damage caused by strikes, etc.

(b) *Institute Cargo Clause (WA):* A policy with this clause excludes particular average but covers, among other risks, the perils of pilferage, fresh water (rain), damage by stevedores, damage by oil, etc.

(c) *Institute War Clause:* The clause is included where the various cargo clauses do not have their own war clauses and extends to the perils of mines, torpedoes, bombs, etc.

(d) *Institute Strike Clause:* This clause insures against theft, pilferage and loss or damage by strike, etc.

(e) *All Risks Cover:* This clause does not cover all losses whatsoever but only those which are similar to those of the Institute Cargo Clause (WA)

Procedure for Claims: In the event of any loss of or damage to the insured goods or to a package or packages containing them giving rise to a claim the insured should at once file a claim for compensation with the insurance company, giving details of the loss or damage. If the loss or damage is noticed while taking delivery of the consignment, a detailed survey by the ship's surveyors should be called for and a claim for the monetary value of the goods lost or damaged lodged with the shipping company by the consignee. Where the ship survey is time-barred, an insurance survey of the loss or damage should be arranged by the insured.

If the packages are found in sound condition and taken delivery of but on unpacking some loss of or damage to the goods is noticed, the insurance company should immediately be informed about the position and the goods together with the packing materials kept intact, pending a survey of the loss or damage. Where a package or packages are found missing, a claim for the value of the package or packages missing should be lodged with the shipping company and the bailees.

As per provisions of the Carriage of Goods by Sea Act of 1925, the following documents should be submitted along with the claim:

- The insurance policy,
- The original invoice and the packing list,
- A copy of the bill of lading, and Copies of correspondence with shipping company. Under the same Act, the time limit for filing a suit against the shipping company is one year.

Check your Progress-2

4. Premium rates depend on characteristics of commodity also. True / False.
5. For making a claim bill of lading should also be enclosed. True / False
6. Institute strike clause insures against piracy, general theft. True / False

Practical Suggestions

The following guidelines will be useful to the exporter in managing the cargo risks better.

- Insure with most experienced and reputed marine insurance broker
- Take open or floating marine insurance policy
- Terms of the policy should be broad with regard to merchandise and areas covered.
- Immediately notify loss to broker.
- It does not cover inherent nature/vice and so take necessary extra precautions.
- Move insured goods promptly.
- Add 10% to the invoice price of the merchandise.

Whenever necessary, when total risk is exceeding the insurance cover, increase the limit immediately.

Summary

Various types of cargo risks are analysed; then, how to cover the risks through marine insurance is discussed in detail; types of policies are also analysed. What are different risks covered, what are different types of marine losses are also elaborated. Practical suggestions will be useful for efficient management of cargo risks

Keywords

Cargo risk	: Risk relating to the movement of the goods through carrier, mostly ship or even by air
EPA	: Free from Particular Average Clause
FGA	: Free from General Average Clause
WPA	: With Particular Average
WA	: With Average
Total Loss	: Loss due to destruction or irretrievably deprived goods
Partial Loss	: Not Complete loss. It may be general Average, particular average, salvage
General Average	: Sacrifice or extra ordinary expenditure incurred to protect whole property. This is made good by pro rata contributions
Particular Average	: Paid for particular peril insured
Salvage	: Charges recoverable under maritime law by a salvor, independent of contract.

Answers

(1) 3 (2) True (3) False (4) True (5) True (6)False

Questions

1. What are Cargo risks?
2. What are different types of insurance policies?
3. What are risks covered and not covered?
4. What are different types of losses?
5. What are different types of clauses?
6. Explain procedure for claim

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UNIT - II

Lesson 2.1 - EXIM - Financing and Documentation

Learning Objectives

To give broader understanding of the Export Marketing concepts and main issues of EXIM financing. This unit gives students an understanding of the Export procedures and formalities in the International Trade System and how such procedures are useful to promote export business in India. The main objectives of the chapter are:

- To provide an overview of various procedure in Export Business.
- To analyse the role of clearing agents in export industry.
- To evaluate various credit guarantee and policies for exporters in India.
- To explain the essentials of forward exchange cover and duty drawback schemes in Export promotion.

Introduction

This unit is about "EXPORT" which we define as the selling of want satisfying goods and services across national territories involving different markets and consumers in exchange for the goods and services for gold and Foreign Exchange or in settlement of debt. Exports have attained much importance in the modern world. It has become the vital indicator of a nation's social, political and economic growth. No country can produce everything it requires. Therefore, countries have to import and export goods and services. The economic strength of the country heavily relies on good export markets.

Export management is basically a Science. The handling of export activities requires various human talents. Export managers are required to have personality traits so that they can do their job effectively. They must be artistic and imaginative to create effective advertising and sales programmes and also to develop new and modern ideas in distribution methods. They must posses analytical abilities to cope with certain export aspects such as strategically and logical approach. This unit concentrate on the main dimensions of EXIM Finance namely export procedures, export credit, guarantee policies, forward exchange cover and duty drawbacks schemes.

Export Procedures

EXPORT entails compliance with various procedures. The various procedures to be carried out in completing an export transaction are presented stage-wise as under:

Stage I	Creating an Export Firm
Stage II	Entering into export contracts
Stage III	Execution of export order
Stage IV	Post export procedures.

Stage I – Creating an Export Firm

As in any business, the exporter should decide and execute the following and carry out the related work to commence his business.

(a) Type of organisation – sole proprietary, partnership or limited company;
(b) Name for the firm;
(c) Location of the office;
(d) The product to deal in;
(e) Whether to trade in the product or manufacture it.

Apart from the above, an exporter has to fulfil certain registration formalities before he can commence exports. They are:

(i) Registration for IEC number;
(ii) Registration for RCMC;
(iii) Registration with sales tax.

CREATING AN EXPORT FIRM	ENTERING INTO EXPORT CONTRACT	EXECUTION OF EXPORT ORDER	POST SHIPMENT PROCEDURES
Establishing the firm	Buyer identification	Production and packing	Shipment intiamtion to buyer
IEC number	Making an offer	Availing packing credit	Completion of documents
RCMC	Buyer evaluation	Quality certification	Negotiation of export bill
Registration with sales tax department	Receiving an order	Excise clearance	Returns to ECGC
	Acknowledgement	Booking of shipping space	Claiming export incentives
		Marine insurance	
		Shipment to port	

Stages in Export Procedure

Registration for IEC Number

Any person in India who wants to do any imports or exports for business is required to obtain from the Director General of Foreign Trade (DGFT), the importer exporter code number, popularly known as IEC number. In addition, DGFT will allot a PAN based business identification number (BIN). Both IEC number and BIN should be quoted by the exporter on all the regulatory documents prepared for exports.

The registered office or the head office of the exporter should apply in the prescribed format to DGFT for allotment for IEC number. The application will contain the details of all the offices and branches of the exporter. The IEC number allotted to the head office should be used by the head office and all offices branches of the exporter.

Registration-Cum-Membership Certificate

Export incentives and facilities are available only to registered exporters. After obtaining IEC number, the intending exporter should get himself registered with the export promotion council relevant to the product he intends to export and obtain a registration-cum-membership certificate (RCMC). If the product exported is not covered by any export promotion council, he may get RCMC from the export promotion council relation to his main line of activity or from Federation of Indian Export Organisations (FIEO). If the exporter deals in multi-products covered by more than one promotion council, then also he may register with FIEO.

Registration with Central Sales Tax

Goods sold within the country are subject to sales tx. If the exporter procures goods locally for exports, he can get them free of sales tax if he is registered as an exporter with the sales tax authorities.

Stage II - Entering Into Export Contract

Having established oneself as an exporter, the next step is to procure export orders. To get a firm export order, he should go through the following steps:

(i) Buyer identification;
(ii) Making an offer;
(iii) Evaluating the buyer and buyer's country;
(iv) Receiving and accepting the order.

Buyer Identification

The Exporter should decide whether he wants to sell to the buyers direct or go through the buying agents. There are various sources to know about the prospective buyers and buying agents:

(a) Trade/Industrial directories;
(b) Web sites of buyers;

(c) Export promotion councils;

(d) Foreign embassies in India;

(e) Indian embassies abroad;

Making an Offer

Efforts at buyer identification may result in enquires from prospective buyers. The enquiry may be for the quotation or sample with quotation. The quotation by the exporter is generally communicated in the form of a *proforma invoice.* A proforma invoice contains all the details of the goods, their Price, quantity that can be supplied and all other terms and conditions subject to which the offer is made by the exporter. The proforma invoice signed by the exporter is sent in two or more copies as required by the buyer. If a copy of the proforma invoice is signed and returned by the buyer, it becomes a valid contract between the parties. The exporter will be bound by all that are stated in the proforma invoice.

Buyer Evaluation

The exporter should be careful in selection the buyers. Unless the transaction is covered by full advance payment from the buyer, the exporter should take care to verify the credit worthiness and reliability of the buyers. The credit standing of the buyer can be ascertained by calling for credit report from buyer's bank. Credit rating agencies such as Dun and Bradstreet provide more informative reports on buyers. The exporter may also request the buyer to send copies of his final accounts form which the financial position of the buyer can be ascertained.

Apart from the credit risk relating to the buyer, the exporter should also evaluate the country risk. If the importer's country is having serious balance of payments problem, difficulty may be experienced in getting into our country the payment made by the importer abroad. It may also forewarn imposing of controls on imports into the country. Export Credit Guarantee Corporation of India, credit rating agencies, and export promotion councils are the source from which the information about country risk can be obtained.

Export Contract

The important clauses that should be included in an export contract are as follows:

(i) Names and address of the importer and the exporter;

(ii) The nature of the commodity, including all technical details and standard specifications;

(iii) The quantity of goods, in specific units of measurement;

(iv) Price, indicating the currency, contract term, etc. the contract terms such as FOB and CIF indicated the stage up to which the exporter will bear the cost and responsibility;

(v) Packing, packaging and labelling requirements;

(vi) Method by which payment will be made by the importer. This will include the details of the bank accounts of the parties;

(vii) Delivery schedule;

(viii) Modes of transport; ports of shipment and discharge;

(ix) Discounts and commission;

(x) Documents required;

(xi) Insurance;

(xii) Licences for export and import;

(xiii) Inspection and quality;

(xiv) Guarantee or warranty about the goods;

(xv) *Force majuere* clause which says the exporter will not be liable for non-fulfilment of contract due to reasons beyond his control;

(xvi) Damages for non-fulfilment of contract;

(xvii) Arbitration clause indicating the council of arbitrators to whom disputed, if any, should be referred;

(xviii) Jurisdiction clause indicating the law applicable for the transaction.

Acknowledgement

The order received should be checked by the exporter. If found satisfactory, an acknowledgement should be sent to the importer in the form of a thanks giving letter.

Stage III - Execution of Export Order

The following steps are involved before the goods are put on the vessel for transport to the buyer;

(i) Production and packing;
(ii) Availing preshipment finance;
(iii) Quality certification;
(iv) Excise clearance;
(v) Booking of shipping space;
(vi) Booking of forward contracts;
(vii) Marine insurance;
(viii) Shipment to port;
(ix) Customs clearance.

Production and Packing

Based on the export order received, an internal indent should be raised with the production department with all the specifications as per the export order. Care should be taken to draw the attention of the production department about the special requirements of the importer.

They may relate to:

(i) Raw material or components used in the manufacture of the goods for export. Sometimes the importer may indicate the source from where they should be acquired, or he may himself supply them;

(ii) The packing, packaging and labeling requirements. The specification may relate to the nature of material used, size of each packet/ carton, content of each packet/ carton, colour and markings on the packages, etc. The labels may be supplied by the importer or they may have to be prepared according to the requirements of the importer;

(iii) The time schedule for the production.

Availing Pre-Shipment Finance

Pre-shipment Finance or packing credit is the advance granted to the exporter to procure process, manufacture, pack and prepare the goods for export. In other words, it is the facility extended to the exporter before and till the goods are shipped for export. The pre-shipment credit can be availed by *bona fide* exporters generally on the strength of letter of credit in favour of the exporter or a firm order. Therefore, the original of the letter of credit or the export order should be lodged with the bank.

Packing credit is made available by the banks at concessional rates of interest to exports. Normally the credit is available for period up to 180 days, the maximum period, with specific permission from the bank, for which packing credit can be availed is 360 days.

Quality Certification

During the course of production and/or after its completion, it should be checked that the goods conform to quality specifications. More than one thousand goods come under mandatory inspection requirements of the government. In such cases, the goods exported should conform to the minimum standards specified even if the importer is willing to accept lower quality goods. Sufficient notice should be given to the Export Inspection Agencies to inspect and certify the goods. Large exporters are permitted to have in-house inspection to certify the quality. Some importers may require the goods to be inspected by renowned inspection agencies. Some may depute their own agents to carry out the inspection. Inspection should be got done by these people and certificates should be obtained from them.

Booking of Forward Contracts

Export bills are raised in foreign currency. The exporter quotes the price based on the prevalent exchange rate between rupee and the foreign currency concerned. It would be about 4 to 6 months between the day the quotation is made by the exporter and the export is executed and paid for, by the importer. If in the meantime, the foreign currency appreciates as against rupee, the exporter will realise fewer rupees. To protect against such exchange rate changes, the exporter can book forward contract with his bank immediately after receipt of the export order. Once forward contract is booked, when the bill is presented to the bank after exports, it will be purchased by the bank at the exchange rate agreed in advance.

Booking of Shipping Space

Six to eight weeks before the expected date of shipment, the shipping space should be booked for transporting the cargo. The exporter may book the space through a freight broker (now logistic service providers) or he may directly approach the shipping company or its agents. Details about the nature and bulk of the cargo, destination, etc., should be informed. After reserving the space, the shipping company will issue a 'shipping order', which is an evidence of the space booked. A copy of the shipping order will enable the exporter to move the cargo form his godown to the port through rail on priority basis.

Excise Clearance

Excise duty is a levy on the goods manufactured or produced in India for home consumption. Most of the goods fall under category of excisable goods. Excisable goods cannot be removed from the factory unless the duty is paid. Goods exported are exempted from excise duty. However, to ensure that the goods removed from the factory are actually exported, certain procedures have been prescribed for removal of goods for exports. For removal of the goods, the following two documents should be prepared in prescribed number of copies:

(i) Excise duty invoice, giving the details for the transaction as in any commercial invoice;

(ii) Form ARE1 or ARE2 as is appropriate. ARE forms are applications for removal of excisable goods.

The Superintendent of Excise should be requested to visit the factory for inspection of foods. Goods can be stuffed into containers after inspection by the Superintendent of Excise. He will also certify the invoice and ARE form. Goods inspected by the excise authority may not be opened again for inspection by the customs authorities at the port.

Marine Insurance

Marine insurance covers the risk of loss or damage to the goods during its transportation from the warehouse of the exporter till it reaches a warehouse in the importer's country. The insurance is known as marine insurance irrespective of the mode of transport.

If, as per the terms of the contract, marine insurance is to be taken by the exporter, he should arrange to get the insurance cover at the time the goods leave his godown. The insurance is obtained by submitting the proposal and paying premium to the insurance agent who issues a cover note. The cover note will be replaced by the insurance policy issued by the insurance company.

If the responsibility for insurance is not on the exporter, it is advisable to take a contingency policy which offers coverage similar to a marine policy, but at lesser cost.

Shipment to Port

After excise clearance, the goods should be moved to the port from where it will be exported. Depending upon the nature of item and time available, road or rail may be used to move the goods. Railways offer special concessions and priority in movement of cargo for exports.

Customs Clearance

Customs clearance of export cargo may be time consuming, if not complicated. The exporter can utilise the services of the authorized custom house agents (CHAs) for preparation of export documents and getting the customs clearance. Nowadays, the CHAs have developed into logistic service providers who take care of the entire outbound logistics of the exporters, customs clearance being a part of the total service. The exporter can also deal with the customs clearance directly.

The main steps in the customs clearance are summarised below:

1. The main document required for getting customs clearance is the *shipping bill*. 'The shipping bill in quadruplicate accompanied by GR form in duplicate and copies of other shipping documents like export contract, proforma invoice, packing list, quality certificate, letter of credit and ARE form is filed in the Export Department of the Customs House. The shipping bill is assigned a number and passed on for assessment.
2. The customs appraiser examines the documents and appraised the value of goods. If found in order, he endorses the duplicate of the shipping bill with examination order which indicates the extent of examination to be carried out at the docks. The exporter is required to pay duty and cess, if any.
3. All documents, except the original of shipping bill and original of GR form are returned to the exporter.
4. The exporter presents the Port Trust copy of Shipping Bill to the shed Superintendent of port and obtains Carting Order. The carting order enables the exporter to bring the cargo to the transit shed for physical examination by the Dock Appraiser and shipment subsequently.
5. The duplicate of the shipping bill along with other documents is presented to the Dock Appraiser. An examiner nominated by the dock appraiser examines the goods as per the examination order on the shipping bill and endorses the shipping bill. Based on the endorsement of inspection, the Dock Appraiser endorses the shipping bill with 'Let Export' order and returns all the documents to the exporter.
6. The exporter presents the documents to the Preventive Officer of the Customs department who supervises the loading of cargo on board the vessel. He makes the endorsement 'allowed for shipment' on the duplicate of the shipping bill and hands over to the steamer agent.
7. On the basis of the authorization on the shipping bill, the steamer agent allows loading of cargo into the vessel. The officer of the ship issues a 'mate's receipt' to the shed superintendent of the port.

8. The exporter pays the port charges, takes delivery of the mate's receipt and presents it to the Preventive Officer. The officer records fact of shipment on the shipping bill which will be the evidence for claiming export incentives. He releases the export promotion copy of the shipping bill, a copy of the drawback shipping bill, duplicate ARE form to the exporter.
9. The exporter exchanges the mate's receipt for the bill of lading with the steamer agent.

Sage IV - Post Shipment Procedures

The shipment is complete once the bill of lading is obtained. Further actions taken by the exporters are:

(i) Shipment intimation to importer;
(ii) Declaration to ECGC;
(iii) Preparation of document set;
(iv) Negotiation of export bills;
(v) Claiming of export incentives.

Shipment Advice to Importer

Immediately on shipment, the importer should be informed with the details of date of shipment, name of the vessel, etc. a non-negotiable copy of the bill of lading may also be sent to him. In case the insurance is to be arranged by the importer, usually the required details are sent by telecommunication to enable the importer to obtain insurance without delay.

Declaration of ECGC

Export Credit Guarantee corporation of India provides credit risk cover to exporters against failure of the importers to accept and/or pay for the goods. The policy also protects against the political risk which relates to action taken by the governments of the importer's country or the exporter's country making the realization of the export difficult. The policy is obtained on a whole turnover basis for the entire year. On a monthly basis, shipments made should be declared to ECGC and premium paid for them to get the desired credit cover.

Preparation of Document Set

Many of the documents would have been prepared in the process of getting customs clearance. All other supportive documents to complete the set of export bill should be prepared.

It should be ensured that all the certificates to be received from third parties are received. Documents should be prepared in sufficient numbers to meet the requirements of the buyer, one set extra for the negotiation bank, and at least one set for office records.

Negotiation of Export Bill

According to FEMA, within 21 days of shipment the exporter should submit the export bill along with duplicate of GR form to an authorized dealer for negotiation/ purchase/ collection. The documents submitted to the bank should be sent under a covering letter giving complete collection of instructions.

Importantly, the letter should indicate:

a. The bank in the importer's country through whom the bill be preferably sent for collection;
b. In case of usance bills, whether the documents are to be delivered to the importer on acceptance or on payment;
c. Interest to be recovered if payment is delayed;
d. Whether bank charges abroad are to be borne by the importer or can be deducted from the proceeds of the bill.

Claiming of Export Incentives

Wherever export incentives are available, the required form should be prepared and claim made with the appropriate authorities within the dates prescribed under the respective scheme. Claims made should be followed up to ensure the disbursal of incentives.

Export Promotion Measures in India

The Foreign Trade Policy 2004-09 provides for a number of schemes aiming at providing the needed infrastructure and environment to encourage the export community in general.

Assistance to States for Infrastructure Development of Exports (ASIDE)

The Department of commerce allocates funds to the sates on the twin criteria of gross exports and the rate of growth of exports. The States shall utilize this amount for developing infrastructure such as roads connecting production centers with the ports, setting up of Inland Container depots and container Freight Stations, creation of new State level export promotion industrial parks/zones, augmenting common facilities in the existing zones, equity participation in infrastructure projects, development of minor ports and jetties, assistance in setting up of common effluent treatment facilities, stabilising power supply and any other activity as may be notified by Department of Commerce from time to time.

Market Access Initiative (MAI)

The Market Access Initiative (MAI) scheme is intended to provide financial assistance for medium term promotion efforts with a sharp focus on a country and product. The financial assistance is available for Export Promotion councils, Industry and Trade associations, Agencies of State Governments, Indian commercial Missions abroad and other eligible entities for conducting market studies, setting up of showroom/warehouse, sales promotion, campaigns, international departmental stores, publicity campaigns, participation in international trade fairs, brand promotion, registration charges for pharmaceuticals and testing charges for engineering products, etc. Each of these export promotion activities can receive financial assistance from the Government ranging from 25% to 100% of the total cost depending upon the activity and the implementing agency.

Marketing Development Assistance (MDA)

The Marketing Development Assistance (MDA) Scheme is intended to provide financial assistance for a range of export promotion activities implemented by export promotion councils, industry and trade associations on a regular basis every year. These include participation in Trade Fairs and Buyer Seller meets abroad or in India, export promotion seminars, etc. Assistance under MDA is available for exporters with annual turnover up to ₹ 5 crores.

Towns of Export Excellent

Selected towns producing goods of ₹ 1000 crore or more will be notified as Towns of Exports Excellence on the basis of potential for growth in exports. For the handloom, handicraft, agriculture and fisheries sector, the threshold limit would be ₹ 250 crores. The ideal is to maximising the potential of these towns and enabling them to move higher in the value chain and tap new markets.

Export-Oriented Units and Technology Parks

Units undertaking to export and their entire production of foods and services may be set up under the Export-oriented Units (EOU) Scheme, Electronic Hardware Technology park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-technology Park (BTP) Scheme. Such units may be engaged in manufacture of goods including repair, remaking, reconditioning, re-engineering, and rendering of services.

The technology park is an industrial estate, cordoned off from domestic tariff area, where trade barriers applicable to the rest of the economy do not apply and where export-oriented units can operate free of import duties or quantitative restrictions and are given other advantages including tax exemptions. The entire production of EOU should be exported except rejects up to 5% which can be sold in the Domestic Tariff Area (DTA) subjects to payment of duties.

Special Economic Zones

Special Economic Zones modeled after similar Chinese schemes have been set up to free the units from the procedural wrangles. Special Economic zone (SEZ) is a specifically delineated duty free enclave and shall be deemed to be foreign territory for the purposes of trade operations and duties and tariffs. Units in the zone may be set up for manufacture of goods and rendering of services. Goods and services going into the SEZ area from DTA shall be treated as exports and goods coming from the SEZ area into DTA shall be treated as if these are being imported. SEZ unit may import/procure from the DTA without payment of duty, all types of goods and services, including capital goods, whether new or second hand, required by it for its activities or in connection therewith.

SEZ units shall be entitled for:

(i) Exemption from Central Sales Tax;

(ii) Exemption from payment of Central Excise Duty on all goods eligible for procurement by the unit.

(iii) Reimbursement of Central Excise Duty, paid on bulk tea procured form the licensed auction centres.

(iv) Reimbursement of Duty paid on fuels or any other goods procured from domestic tariff area.

SEZ scheme is awaiting implementation, even though the existing free trade zones have been named as SEZs.

Free Trade and Warehousing Zones

The Foreign Trade Policy 2004-09 has proposed setting up of Free Trade and Warehouse Zones (FTWZ) with a view to creating trade-related infrastructure to facilitate the import and export of goods and services with freedom to carry out trade transactions in free currency. The scheme envisages creation of world-class infrastructure for warehousing of various products, state-of-the-art equipment, transportation and handling facilities, commercial office-space, water, power, communications and connectivity, with one-stop clearance of import and export formality, to support the integrated Zones as ‘international trading hubs’. These Zones would be established in areas proximate to seaports, airports or dry ports so as to offer carry access by rail and road.

These units will be eligible for:

(i) Exemption from income tax.

(ii) Exemption form service tax

(iii) Free foreign exchange currency transactions.

(iv) Other benefits as applicable to units in SEZs.

Incentives and Facilities to Exporters

Duty Drawback

For a product exported from India, the manufacturer would have paid duties as under;

(i) Import duties on raw material and components imported; and

(ii) Excise-duty on the items manufactured in India;

The Customs and Central Excise Duty Drawback Rules, 1971 provide for refund of such duties to the exporter on the export being completed. Duty drawback is allowed only in respect of all items wherein such raw materials and components have been used on which duty either of customs or excise has been paid. There are two types of rates of drawback: (i) all-industry rate, and (ii) brand rate. All industry rate is applied to all exporters alike. The brand rate is applicable only to particular manufacturers. The brand rate is fixed on application and furnishing of information to the authorities by the exporter. The brand rate can be so fixed where the all-industry rate does not exist, or where the existing rate of drawback is less than 80% for the duty paid.

Excise Rebate

Finished goods which are subject to excise duty for home consumption are exempt from the duty when they are exported. The scheme is also applicable where the exported goods contain excisable goods in their manufacture.

The exporter can avail of this facility in either of the following methods, where finished goods are excisable:

(i) *Export under bond*: Under this method, the exporter has to execute a bond in favour of Central Excise Authorities. The amount of the bond will be equal to the duty on the estimated maximum outstanding of goods leaving the factory without paying the duty and pending acceptance of their proof of export by excise authorities. No excise need be paid by the exporter.

(ii) *Refund of duty*: If the duty is already paid, after export is made, the exporter should make a claim with the Central Excise authorities. After verification of the claim, the excise authorities will arrange for the refund of the central excise.

Advance Licence

An advance licence enables the exporter to import inputs for his export commodity free of customs duty. Three types of advance licences are issued:

Advance licence for physical exports is granted to a manufacture-exporter or a merchant-exporter for the import of inputs required by the manufactured of goods.

Advance intermediate licence is granted to a manufacture-exporter for the import of inputs required in the manufacture of goods to be supplied to the ultimate exporter holding an advance licence.

Advance licence for deemed exports is granted to the manufactures-exporter for import of inputs required for manufacture of goods for deemed exports.

Duty Entitlement Pass Book (DEPB)

Under this scheme, an exporter is eligible to claim credit as a specified percentage of FOB value of exports of specified commodities made in freely convertible currency. DEPB is granted against export already made. The DEPB and/or the items imported against it are freely transferable. The DEPB is valid for a period of 24 months.

Duty Free Replenishment Certificate (DFRC)

DFRC is issued to exporter for the import of inputs used in the manufacture of goods without payment of customs duty. The certificate is issued against exports already made. It is valid for a period of 24 months. DFRC and the materials imported against it are freely transferable.

Export Promotion Capital Goods Scheme (EPCG)

The scheme aims at enabling the exporters upgrade and create production capabilities at lower cost. EPCG scheme allows import of capital goods including computer software, at 5% customs duty by general exporters and at zero duty by exporters of agricultural products. The facility is subject to an export obligation of 8 times the duty saved to be fulfilled over a period of 8 years. Where the duty saved is ₹ 100 crores or more, the export obligations can be fulfilled in 12 years.

Star Export Houses

Exporters who fulfil the minimum export performance during the current year plus the previous year are eligible for recognition as star export houses as under:

Category	Performance (in rupees)
One Star Export House	15 crore
Two Star Export House	100 crore
Three Star Export House	500 crore
Four Star Export House	1500 crore
Five Star Export House	5000 crore

A Star Export Houses is eligible for the following facilities:

(i) Licences, customs clearance for both imports and exports on self-declaration basis;

(ii) Exemption from compulsory of documents through banks. The remittance however, would continue to be received through banking channels;

(iii) 100% retention of foreign exchange in EEFC account;

(iv) Enhancement in normal repatriation period for export proceeds from 180 days to 300 days;

(v) Entitlement for consideration under the Target Plus Scheme;

(vi) Exemption from furnishing of Bank Guarantees in Schemes under the Foreign Trade Policy;

Served from India Scheme

The objective is to accelerate the growth in expect of services so as to create a powerful and unique 'Served From India' brand, instantly recognised and respected the world over. All Service provides who have a total foreign exchange earning of at least ₹ 10 lakhs (₹ 5 lakhs if the service provider is an individual) in the preceding or current financial year shall be eligible to qualify for a duty credit as percentage of the foreign exchange earned as follows:

Hotels of 1 star and above, and others registered with department of tourism;	5%
Stand alone restaurants	20%
Health care and education;	10%
Others	10%

Duty credit entitlement may be used for import of any capital goods including spares, office equipment and professional equipment, office furniture and consumables, provided it is part their main line of business.

Target Plus Scheme

The objective of the scheme is to accelerate growth in exports by rewarding Star Export Houses who have achieved a quantum growth in exports. High performing Star Export Houses shall be entitled for a duty credit based on incremental exports substantially higher than the general annual export target fixed. (Since the target fixed for 2004-05 is 16%, the lower limit of performance for qualifying for rewards is pegged at 20% for the current year) Star export houses which have achieved a minimum export turnover in free foreign exchange of ₹ 10 crores in the previous licensing year are eligible.

Vishesh Krishi Upaj Yojana (Special Agricultural Produce Scheme)

The objective of the scheme is to promote export of fruits, vegetables, flowers, minor forest produce, and their value added products, by incentivising exporters of such products.

Exporters of such products shall be entitled for duty credit scrip equivalent to 5% of the FOB value of exports for each licensing year commencing form 1st April, 2004.

Role of Clearing and Forward Agents

Shipping is the most commonly used method of despatching goods to a foreign country. Under shipment, one shall cover all the procedural aspects from the time the product meant for export leaves the factory site till it is loaded on board the ship and the relevant documents are collected from the shipping company. Since the type of work involved is somewhat specialised, it is usually entrusted to the clearing and forwarding agents. This section focus on role of clearing and forwarding agents in export assignment.

1. Customs Formalities: Goods can be shipped out of India only after obtaining the customs clearance. To obtain the customs clearance, the clearing and forwarding agent should submit a shipping bill in the prescribed form. The shipping bill is to be prepared in quadruplicate. The shipping bills should be accompanied by the following documents.
    1. Contract with the overseas buyer in original.
    2. Invoice for the goods.
    3. Packing list.
    4. GR-1 form or EP forms prescribed by the Exchange Control under the Foreign Exchange Regulation Rules.
    5. AR 4 or AR 4A forms in original and duplicate.
    6. A proforma showing details of drawback of duty if any claimed.
    7. In case deferred payment, a copy of the approval of the RBI.
    8. Copy of the L/C if any.

The customs authorities scrutinise the shipping bill and other requisite documents and if prima facie satisfied, they put it for export subject to the physical examination of the cargo by the customs staff. The export cargo can enter the port and can be kept in the Harbour Transit Shed even before the shipping bill is passed by the customs. However, only after obtaining the shipping bill the authorities allows the cargo to ship into the vessel.

1. Obtaining of the Carting Order: The export cargo lying in the Harbour Transit Shed should then be moved inside the port area and subsequently loaded on board the assigned ship. Permission should be obtained from the Superintendent of the Port Trust, in charge of the shed for moving the goods into the concerned shed of the port. The order issued by him is known as carting order.

2. Customs Examination of Cargo at Docks: The main purpose of the customs examination at the dock is to verify whether the goods packed and kept ready for shipment are the same as those mentioned in the shipping bill. The customs' appraiser, if necessary, may physically examine the goods packed inside. He shall make an endorsement on the shipping bill thus certifying that the goods have been examined. Once the endorsement is made, the goods are deemed to be "Out of Charge" of the customs.

3. Let Ship Order: The preventive officer of the customs department shall supervise the loading of the cargo on board the vessel nominated for export. Before the goods are actually loaded, permission from the preventive officer should be obtained. The permission is known as "Let Ship Order". The let ship order is given as an endorsement on the duplicate copy of the shipping bill. It is in fact an authorisation given by the customs department to the shipping company to accept the cargo on board of the vessel.

4. Mate Receipt: As soon as the goods are loaded on board the vessel, the captain or master of the ship shall issue a document known as Mate Receipt direct to the port trust superintendent, in charge of the shed.

Export Credit

In this unit, we shall study in detail about export credit. Credit is an essential requirement for any kind of business. So is the case with exporting also. The various sources available have to be explored by the exporter in order to fulfil the financial requirements of export business.

We can define export credit as "the credits required by the exporters for financing their export transactions from the time of getting an export order to the time of the full realisation of the payment from the importers."

From the time of an export order is received and confirmed, the exporter needs finance at pre-shipment stage and also at post-shipment stage. Finance is required at pre-shipment stage for the following purposes: (a) To purchase raw materials and other inputs to manufacture goods. (b) To assemble the goods in the case of merchant exporters. (c) To store the goods in suitable warehouses till the goods are shipped. (d) To pay for packing, marking and labelling of goods; (e) To pay for pre-shipment inspection charges; (f) To pay for consultancy services; (g) to import or purchase from the domestic market heavy machinery and other capital goods to produce export goods; and (h) To pay for export documentation expenses.

Finance is needed at the post-shipment stage for the following:

(a) To pay to agents / distributors and others for their services, (b) To pay for publicity and advertising in the overseas markets. (c) To pay for port authorities, customs, and shipping agent's charges. (d) To pay towards export duty or tax, if any. (e) To pay towards ECGC premium. (f) To pay for freight and other shipping expenses. (g) To pay towards marine insurance premium, especially when it is a CIF contract. (h) To pay towards various expenses in connection with visits abroad for market surveys, or for some other purpose. (i) To pay for collecting information on overseas markets either before or after shipment of goods. (j) To pay towards such expenses regarding participation in exhibitions and Trade Fairs in India and abroad. (k) To pay for representatives abroad in connection with their stay abroad. (l) To pay for any other activity in connection with export of goods.

Pre-shipment credit or 'Packing Credit': This is an advance granted to the exporters by the banks for meeting their such financial requirements as purchase of raw materials and its processing, packing, storing and shipping of goods. It is a short term credit which is available to all exporters. Pre-shipment finance is essentially working capital finance made available to the exporters to arrange for goods as per the export order. It is generally granted in the form of overdraft facilities. The exporter interested in availing the pre-shipment credit facility will have to make a formal application to his bank along with a firm contract with the buyer or a copy of the export order or a copy of the letter of credit.

Post-Shipment Finance: This is provided to meet working capital requirements after the actual shipment of goods. It bridges the financial gap between the date of shipment and actual receipt of payment from overseas buyer thereof. This finance is extended to the actual exporter who has shipped the goods or to an exporter in whose name the export documents are transferred. It can also be allotted to overseas buyer/ institutions under the scheme for Buyer's Credit and Lines of Credit operated by EXIM Bank. It is extended against the evidence of shipping documents indicating the actual shipment of goods or necessary evidence in case of deemed exports.

Forms of post-shipment finance may be provided in one of the following forms: (a) Export bills negotiated under LC. (b) Purchase of export bills drawn under confirmed contracts. (c) Advance against bills under collection (d) Advance against export incentives receivables. (e) Advance against undrawn balance of bills (f) Advance against Deemed exports.

The amount of post-shipment finance depends upon whether it is short-term, medium-term or long-term. It also depends upon the value of capital goods and equipment or turnkey projects. Any loan upto ₹ 10 crores, but not financing export of capital goods is decided by commercial bank which can refinance itself from EXIM Bank. In case of export contract above ₹ 10 crores, but not more than ₹ 50 crores, the EXIM bank has the authority to decide whether the export finance could provided. Contracts above ₹ 50 crores need the clearance from the working group on Export Finance, consisting of representatives from EXIM Bank, RBI, ECGC and the bankers of the exporter.

In case of large contracts, representatives from Ministries of Commerce and Finance also act as members of Working Group.The period of post-shipment finance may be short-term, medium-term or long-term. Short-term is usually 90 days. The loan is provided by commercial bank. Medium-term is usually between 90 days and 5 years, and the commercial bank together with EXIM Bank gives medium term loans. The long-term is the period above 5 years to 12 years and it is provided by EXIM Bank in case of sale of capital goods, complete plants and turnkey projects. The rate of interest for the loan depends upon the directives of the RBI from time to time.

Before disbursement of loan, the bank requires the exporter to execute a formal loan agreement. The post-shipment credit advances are not sanctioned in lump-sum; but disbursed in a phased manner and the bank has the power to monitor the use of the credit by the exporter, i.e., whether the amount is used for the export purpose or not. Penalty can be imposed for misuse. As per the directive of RBI, the bank must maintain separate account in respect of each post-shipment advance. It is to be noted that this post-shipment loan should be redeemed only from the proceeds of the export and it cannot be done by local funds available with the exporter. In that case, the loan will not be treated as postshipment loan and concessional interest rate will not be granted.

Institutional Support to Export Finance

Generally, major part of export finance is provided by Commercial banks of the country. The commercial banks render institutional support to exporters, not only in offering credit for export purposes; but also renders some non-fund based service to the exporter to carry on his export activities quite smoothly. Apart from the commercial bank RBI has a main role in export finance. The role played by EXIM Bank and the ECGC is in no way small in extending institutional support for financing export trade. In the following section, we shall briefly study about all these institutions which support export credit in India.

Role of Commercial Banks in Export Credit

A major part of export credit is provided by commercial banks. They also provide other services and facilities to the exporters. Hence, the services of commercial banks to the exporters can be grouped under two heads, viz., (i) Fund Based Service; and (ii) Non-Fund Based Service.

Fund Based Service

The Commercial banks provide fund based activities at Pre-shipment stage and also at Post-shipment stage by providing finance for a normal period of 180 days at a very concessional rate of interest. The various forms of advance are: (a) Cash Packing credit loan (b) Advance against hypothecation (c) Advance against pledge and (d) Other forms. At the post-shipment stage, the commercial banks provide finance normally for a period of 90 days at a concessional rate of interest. The various forms of post-shipment finance are (a) Negotiation of Bills drawn under LC (b) Purchase / Discounting of Bills (c) Overdraft against bills under collection; and (d) Other forms.

Non-Fund Based Service

(a) RBI has authorised commercial banks to issue guarantees and furnish bid bonds in favour of overseas buyers. Prior permission of RBI is not required except in case of exports of capital goods under deferred payments, construction contracts, consultancy and technical services contract and turnkey project. Thus, the commercial banks render most valuable service to exporters by performing Guarantee Service in various ways: (b) Performance Guarantee: This is generally required in export of capital goods and also in case of turnkey and construction project; (c) Guarantee for loans in foreign currency sanctioned by a financial institution abroad to Indian exporters who raise funds in foreign currencies for financing their operations with their project aboard. (d) The banks also issue advance payment guarantee to the overseas buyer who normally makes certain advance payment to the Indian exporter against a bank guarantee. (e) Bank also issue guarantee for payment of retention money by the overseas party who would release the retention money to the Indian party, only after receiving guarantee from bank. (f) Bank issue Bid Bonds so as to enable exporters to participate in various global tenders.
Other Services rendered by commercial banks to the exporter:

(a) They collect export proceeds from the importer and credit the same to exporter's account. (b) The banks assist the exporter in the collection of useful information on the credit-worthiness of the foreign buyer through their foreign agents/branches. (c) The banks also provide information on import trade control and exchange control regulations. (d) The banks provide foreign exchange remittance facilities. (e) The banks issue bank drafts in case of payment of freight charges and such other charges. (f) The banks sent the duplicate copy of GR form to the RBI, after realisation of export proceeds. (g) The banks also provide information on the exchange rates of various countries. (h) The banks also issue bank certificates, in respect of export sales value which are useful for claiming incentives.

Role of RBI in Export Finance

The Reserve Bank of India, the Central Bank of our country does not directly provide finance to the exporters. RBI has developed various schemes to encourage commercial banks to provide export credit to the export sector. The scheme of RBI are: (a) Export Bills Credit Scheme; 1963; (b) Pre-shipment Credit Scheme 1969; (c) Export Credit Interest Subsidy Scheme 1968; (d) Refinance under DBK Credit Scheme 1976.

(a) Export Bill Credit Scheme: Under this scheme, RBI used to grant advances to scheduled banks against export bills, maturing within 180 days. Now, this scheme is not in operation.

(b) Pre-shipment Credit Scheme: Under this scheme, RBI provides refinance facilities to scheduled banks that provide pre-shipment loans to bonafide exporters.

(c) Export Credit Interest Subsidy Scheme: Under this scheme, RBI provides interest subsidy of minimum 1.5 per cent to banks that provide export finance to exporters, provided, the banks charge interest to exporters within the ceiling prescribed by RBI. The subsidy is given both against packing and post-shipment.

(d) Duty Drawback Credit Scheme: Under this, the exporters can avail interest free advances from the Bank upto 90 days against shipping bills provisionally certified by customs authorities towards a refund of customs duty. These advances of commercial banks are eligible for refinance from RBI.

Apart from the above mentioned scheme, the Reserve Bank of India also approves or sanctions applications made by the exporters for:

(a) Allotment of Exporters' Code Number, which is a must for every exporter, (b) Extension of time limit for realisation of export proceeds. (c) Reduction in invoice price of export goods. (d) Fixation of commission to overseas consignee or agents. (e) Provision of blanket permit where a lumpsum exchange is released for a number of purposes. (f) Remittances abroad in respect of advertising, legal expenses, etc. (g) Appointments of foreign nationals as technical and non-technical personnel in Indian firms.

(h) Appointment of non-residents as directors of Indian companies. (i) Any other matter relating to foreign trade that requires clearance from Exchange Control Department of RBI. (j) Clearance in respect of joint-venture abroad.

Role of EXIM Bank in Export Finance

The Export-Import Bank of India came into existence on January, 1, 1982 and started functioning from March 1, 1982. It has its headquarters in Mumbai and its branches of offices in important cities in India and abroad.

EXIM Bank was established for the purpose of financing medium and long term loans to the exporters thereby promoting foreign trade in the country. It took over the functions of international wing of IDBI. The main objectives of EXIM Bank are as follows:

(a) Providing financial assistance (medium and long term) to exporters and importers. (b) Functioning as the principal financial institution for co-ordinating the working of institutions engaged in providing export finance. (c) Promotion of foreign trade of India. (d) To deal with all matters that may be considered to be incidental or conducive to the attainment of above objectives.

The services rendered by EXIM Bank to the exporters can be discussed under two heads, viz., Fund Based Service, and Non-Fund Based Service.

Fund Based Service

Under this, the EXIM Bank renders assistance to (i) Indian Exporters (ii) Overseas Buyers and Agencies; and (iii) Indian Commercial Banks.

Assistance to Indian Exporters

(a) Provides direct financial assistance to exporters on deferred payment terms. (b) Finance export and import of machinery and equipment on lease basis. (c) Finances Indian joint ventures in foreign countries. (d) Provides pre-shipment finance to eligible exporters for procuring raw materials and other inputs required to produce machinery and equipment to be exported. (e) Offers credit facilities to "Deemed Exports". (f) Provides Computer Software Exporters foreign exchange loan subject to RBI clearance. (g) Provides finance facility against deferred credit to exporters of consultancy, technology and other services. (h) Provides finance to Indian exporters to undertake various export marketing activities in India and abroad through Export Marketing Fund (EMF). (i) Operates Export Development Fund (EDF) to finance techo-economic survey / research or any other study for the development of Indian Exports.

Assistance to Overseas Buyers and Agencies

(a) EXIM Bank offers 'Overseas Buyer's Credit facility' to foreign importers for import of Indian capital goods and related services with repayment spread over a period of years. (b) Long term finance is also provided under "Lines of Credit" to finance government and financial institution abroad, which in turn, extend finance to importers of their country to buy Indian capital goods. (c) It provides relending facility to overseas banks to make available term finance to their clients for import of Indian goods.

Assistance to Indian Commercial Banks

(a) EXIM Bank provides refinance facilities so as to enable commercial banks to offer credit to Indian exporters who extend term credit to importers.

(b) It offers Export Bills Rediscounting facility to commercial banks in India so that it helps commercial banks to fund post-shipment credit extended to Indian exporters.

Non-Fund Based Services

Assistance is divided into two groups:

(i) Financial Guarantees and Bonds

(ii) Advisory and other services

Financial Guarantees and Bonds

EXIM Bank provides non-fund based assistance in the form of guarantees in the nature of bit brands, performance guarantees etc.

Advisory and Other Services

(a) It advises Indian companies in executing contracts abroad, and on sources of overseas financing. (b) It advises Indian exporters on global exchange control practices. (c) The EXIM Bank offers financial and advisory services to Indian construction project abroad. (d) It advises small-scale manufacturer on export markets and products. (e) It provides access to Euro financing sources and global credit sources to Indian exporters. (f) It assists the exporters under forfeiting scheme.

Packing Credit

In the previous section, we made a passing mention of 'Packing credit' extended to the exporters. In this section, we shall study about this in details

Packing Credit is a pre-shipment credit extended to the exporters to facilitate him for meeting several financial requirements such as purchase of raw materials and its processing, packing, storing and shipping of goods. It is a short term credit available to all exporters. Hence, this is called pre-shipment credit which is essentially working capital finance made available to the exporters to arrange for goods as per the export. It is generally granted in the form of loans or cash credits. It may also be granted in the form of overdraft facilities. The exporter who wants to avail the pre-shipment credit facility should make a formal application to his bank along with the firm contract with the buyer or a copy of the export order or a copy of the letter of credit.

Eligibility for Packing Credit Advances

This pre-shipment credit can be granted only to bona fide exporters who produce a confirmed export order and / or a letter of credit received against the export contract. Indirect exporter who exports through export houses, STC and others can also obtain packing credit on the following conditions.

(a) He produces a letter from concerned export house or other concerned party stating that a portion of the export order has been allotted in his favour.

(b) The export house or other concerned party should also state that they do not wish to obtain packing credit for the same.

In case the exporter is not able to lodge the letter of credit or firm order immediately, the packing credit may be granted on the strength of cables, letters, etc., exchanged between the exporter and the importer. In such cases, the exporter should lodge the letter of credit or firm order within a reasonable period of time.

Type of Account for Packing Credit

Generally, packing credit will be extended in the form of loan account, a separate account being maintained for each export order. The RBI has directed the banks that they should maintain separate accounts in respect of each pre-shipment advance. However, running accounts are permitted in case of certain items produced in Free Trade Zone, Exporter Processing Zone and 100 per cent Exporter Oriented Units. However, depending upon the merits of the case, banks may extend packing credit as a running account (i.e., single cash credit account for all export orders) and also waive the condition of prior lodgement of letter of credit or firm order.

Quantum of Packing Advance

The amount of packing credit depends on the amount of the export order and credit rating of the exporter by the bank. Normally, the amount of advance should not exceed the F.O.B price or the domestic cost of production, whichever is lesser. Margin may also be stipulated depending upon the party's worth and the commodity to be exported. If the letter of credit or firm order is on CIF / CFR basis, the value should be reduced to FOB value and finance eligible should be calculated on that value. However, advance exceeding the FOB value, but upto the domestic cost of production, can be made in the following cases:

(a) The commodity is eligible for duty drawback. As soon the shipment is made, the bill amount should be adjusted towards the packing credit account and any balance in the account should be treated as a post-shipment finance to be adjusted out of duty drawback to be received later.

(b) Export of agro-based products like tobacco, paper, cashewnuts cardamom, where the exporter buys large quantity of raw materials and grade it for exports.

(c) Wastage is involved in the processing of agro products like cashewnuts and the excess packing credit is adjusted by export of by-products.

Period of Loan & Rate of Interest

The period of credit granted towards 'packing credit' depends upon the circumstances of the individual case, such as the time required for procuring, manufacturing of processing and shipping the related goods. This time factor may not be uniform in all cases of merchandise intended for export. Hence, banks have been given discretion to decide the period of packing credit. However, this is subject to following conditions:

(a) Reserve Bank of India will provide refinance facility only for a period of 180 days.

(b) Concessional rate of interest will be withdrawn, if the packing credit is not adjusted within 360 days from the date of advance.

The interest chargeable will be at PLR minus 2.5 per cent for period upto 180 days and at PLR plus 0.5 per cent for a period beyond 180 days and upto 270 days. Banks have discretion to charge their own rates of interest for period beyond 270 days under the category of ECNOS – Export Credit Not Otherwise Specified (preshipment stage).

If the packing credit is adjusted from export proceeds within 360 days, beyond the sanctioned date, for the period beyond the due date, interest at ECNOS is applicable. If the packing credit is not adjusted within 360 days, interest at ECNOS is applicable from the first day of the advance.

If exports do not materialize, domestic rate of interest plus penalty as decided by the Board of the Bank is applicable.

Different Types of Pre-Shipment Finance of Packing Credit

Pre-shipment finance is available in various forms. We can study some of these forms very briefly as following manner.

(1) Extended Packing Credit Loan

This type of packing credit is advanced by the bankers to their customers who are considered as first class customers for them. This facility is extended for a short period in order to enable the customers acquire or procure goods. Once goods are acquired in the custody of the exporter, the bank converts this clean advance into hypothecation or pledge loan.

(2) Packing Credit Loan (Hypothecation)

This facility may be an extended one over what we had studied above after procuring the raw materially by the customer. Or this credit may be made available for obtaining raw materials, work-in-progress and finished goods. Such goods are made available as security for loan granted. The production of such raw materials and work-in-progress or work-in-process into finished goods can be undertaken even by sub-contractors.

(3) Packing Credit Loan (Pledge)

This facility is available for materials which are seasonal or obtained in odd bunched lots. The documents relating to acquisition of raw materials are pledged to the bank, while possession remains with the exporter. Such raw material is pledged with the bank to obtain advances.

(4) Secured Shipping Loans

This loan is available to the customers when the finished goods are got ready for purposes of export. However, loan will be released only after the raw materials are converted into finished product, or as exportable product and the same are handed over to transport operators or clearing or forwarding agents for shipment. These loans are for every short duration and the loans will be sanctioned only on lorry receipt or rail receipt. The only condition which bank insists on is that the goods are handled by approved transport operators or clearing or forwarding agents.

(5) Advance against Back-to-Back Letter of Credit

In this case, the exporter opens letter of credit in favour of supplier instead of blocking the funds for the purchase of raw materials or finished products from manufacturers. When the exporter who has received original letter of credit, requests his banker to open a letter of credit, in favour of his supplier, it is called opening back-to-back letter of credit is that it is based on original credit and calls for documents evidencing despatch of goods mentioned in the original credit.

(6) Red or Green Clause Letter of Credit

Red clause letter of credit authorises the negotiating banker to make advances to a beneficiary to enable him to purchase goods and deliver them to the company for the purpose of export. Unless and until they are purchased and shipped, it is impossible for the shipper to obtain the Bill of Lading and Insurance Policy.

In the event, shipper needs packing credit, he has to request the buyer to arrange for opening a red clause letter of credit which contains a special clause typed in red, authorising the advancing bank to make either immediate payment to the beneficiary in full or in parts, as per the terms provided in the letter and against specified documents and conditions.

According to Green Clause, credit is provided for storage of goods at the port. Pre-shipment of finance, as well as storage, facility will be available to the exporter under this letter of credit. Both red and green clause credits used extensively in Australian Wool Trade. For such a letter of credit in India, prior permission of government is required.

(7) Advance Against Export Incentives

Advances against export incentives are usually granted at post shipment stage. However, under certain circumstances like, when the value of material to be produced exceeds as compared to FOB value of the contract, such advances are granted at pre-shipment stage. These advances are repaid by negotiation of export bills and cut of receipts of export incentives. Concessional rate of credit at the rate of 13 percent is available for 90 days to the exporters. These advances are covered by ECGC policies.

(8) Advance Against Duty Drawback

The import duty paid on raw materials or components for export production or the excise duty paid on items indigenously produced for export are repaid to the exporter on completion of the export. The several items on which duty drawbacks are determined by the policies of the Government. The need for advance against duty drawback arises because of the delay involved in verifying the claims of the exporter on completion of the export. The items on which duty drawbacks are eligible will have the funds locked up till the government releases them after due verification the claim. During this interval, the exporter seeks financial assistance from the bank as the amounts due to him are locked up.

(9) Packing Credit for Imports Against Entitlements under Advance Licence

The credit facility is available to manufacture of export goods. However, two conditions need to be fulfilled:

(i) The bank is satisfied that the imported material will be utilised for the items exported abroad.

(ii) Letter of credit or firm order is produced within reasonable time which should not exceed 60 days from the date of advance.

(10) Pre-Shipment Credit in Foreign Currency: (PCFC)

Under the PCFC scheme, exporters are allowed to avail pre-shipment credit in a convertible currency at interest rates not exceeding 0.75 per cent over 6 months LIBOR, i.e., on the basis on London Inter Bank Offered Rate. The credit will be self-liquidating in nature and will be adjusted by discounting the relative export bill designated in foreign currency.

The credit under this scheme is available for a maximum period of 180 days. If extended beyond this period, 2 percent penal interest is charged. If the PCFC is not adjusted within 360 days, it will be adjusted at the IT selling rate for the currency concerned and will be treated as a ‘rupee’ advance.

Procedure for Obtaining Packing Credit or Pre-Shipment Credit

In the following section, we shall study briefly about the procedure for obtaining pre-shipment or packaging credit by the exporter and the formalities to be undergone by the Bank.

(1) Application

An exporter who intends to get packing credit from his bank should make an application is a prescribed from of his bank by giving details of credit requirements. The application should be accompanied by the following documents.

(a) An undertaking by the exporter that the advance paid will be utilised for the specific purpose of export of goods and the credit will not be misused for any other purpose.

(b) An undertaking that the shipment will be effected within a certain prescribed time limit and the relevant shipping documents will be submitted to the bank in time.

(c) In case the exporter wants to obtain the credit against preliminary information of contract, whereby, at later stage the export order or LC will be received by him, an undertaking to the effect that the same will be produced to the bank within reasonable time.

(d) In case of manufacturer who exports through export house or merchant exporter, an undertaking from the Export House/Merchant Exporter stating that they have not and they will not avail of packing credit against the same transaction and for the same purpose till the same purpose till the original credit is liquidated.

(e) Agreement of hypothecation or letter of pledge.

(f) Demand pronote signed on behalf of the company/firm.

(g) Letter of continuity signed on behalf of the company/firm.

(h) Certificate of Board Resolution, in case of companies.

(i) Confirmed export order and or LC in original.

(j) Appropriate policy/guarantee of ECGC.

(k) Copy of CNX No. issued by RBI and any other documents as required by the bank should be submitted by the exporter.

(2) Processing of Application

Processing of application by the bank has to be done carefully by taking into consideration the following factors:

(a) Credit worthiness of the borrower.

(b) Whether the credit asked for comes under the Export Trade and Exchange Control Regulations.

(c) Documentary evidence in the form of export order/LC or correspondence exchanged between the applicant and the importer.

(3) Sanction of Loan

If the application is found to be in order and if the bank thinks that the application is worthy to be considered, the bank sanctions the amount. Normally, the loan is sanctioned for FOB value of export order/ LC or market value of the goods whichever is less.

(4) Disbursement of Loan

Before disbursement of loan, the bank required the exporter to execute a formal loan agreement. Normally, packing credit advances are not sanctioned in lump-sum, but is disbursed in a phased manner.

(5) Maintenance of Accounts & Monitoring

According to the directives given by the Reserve Bank of India, banks must maintain separate accounts in respect of each pre-shipment advance. However, running accounts are permitted in case of certain items produced in FTZs (i.e., Free Trade Zones); EPZ (Export Processing Zones); and 100 percent EOUs (Export Oriented Units). Further, the bankers have to monitor the credit which is issued to the exporter for the purpose of export credit. Penalty may also be imposed by the bank, if the credit is misused.

(6) Repayment

As soon as the export proceeds are received, the exporter should repay the amount to bank advancing credit. This will be repaid even when incentives are received by the exporter. Normally, the advancing bank realises the export proceeds and then makes necessary entries in the exporters packing credit account by deducting the amount due from the proceeds. No repayment will be effected from the local funds towards pre-shipment advance.

Post-Shipment Finance

While 'Packing Credit' is related to Pre-shipment Finance, credit facilities are extended to the exporter after the actual shipment of goods. This is called 'Post-shipment Finance'. This is provided to meet working capital requirements after the actual shipment of goods. It bridges the financial gap between the date of shipment and actual receipt of payment from overseas buyer thereof.

This finance is extended to the actual exporter who has shipped the goods or to an exporter in whose name the export document are transferred. It can also be allotted to overseas buyers/institutions under the scheme for Buyer's credit and lines of credit operated by EXIM Bank. It is extended against the evidence of shipping documents indicating the actual shipment of goods or necessary evidence in case of deemed exports.

Both pre-shipment and post-shipment credit is available in dollar or in other foreign currency. Exporter can convert it into Indian currency at the ruling rate. This amount is used for production or offset of credit. Exporter can avail this credit in Indian currency or in the foreign currency. Commercial banks, EXIM bank and ECGC provide this credit to our exporters.

Distinction Between Pre-Shipment & Post-Shipment Finance

In this section, we focus on distinction between pre-shipment and post-shipment finance.

(a) Meaning: In the case of pre-shipment finance, financial assistance is extended to the exporter prior to the shipment of goods from India; while in the case of post-shipment finance, it is a financial facility extended after the actual shipment of goods from India.

(b) Purpose: In the case of pre-shipment finance, credit facility is sanctioned for the purpose of procuring, manufacturing, processing, packing, warehousing or shipping of goods meant for exports. On the other hand post-shipment finance is intended to facilitate the credit needs of the exporters during the period between shipment of goods and receipt of payment thereof.

(c) Beneficiary: In the case of pre-shipment finance, the beneficiary of the credit is the Indian exporter or supplier of goods for purposes of export. In the case of post-shipment finance, the facility is offered to Indian parties as well as to overseas buyer, overseas financial institutions and government.

(d) Documentary Evidence: Pre-shipment finance is provided against the documentary evidence of export order/LC. In the case of post-shipment finance, it is provided against the documentary evidence of shipping documents attested by customs.

(e) Form of Finance: In pre-shipment finance, the facility may be in the form of either fund based or non-fund based; whereas in post-shipment finance, it is generally in the form of fund based.

(f) Amount: The amount of finance extended in the case of pre-shipment finance depends upon the export order and credit rating by the Bank. On the other hand, in the case of post-shipment finance, the amount depends upon the type and value of goods exported. In the case of capital goods, amount can be very large.

(g) Period: In pre-shipment finance, the period depends upon individual cases, such as the time required for manufacturing, processing and shipping the related export order. The period will be normally around 180 days. In the case of post-shipment credit, the period depends upon the terms of credit offered. If it is on deferred based, then the credit can be for over one year and even 12 years, in respect of sale of capital goods, turnkey projected etc.

(h) Rate of Interest: In pre-shipment facility the rate of interest for the normal period, i.e., 180 days is 13 percent annum and if the period is extended by another 90 days, then it is 15 percent per annum. In the case of post-shipment finance, the rate of interest upto 90 days is 13 percent per annum. If the loan is for medium term or long term, the rate of interest depends on the directive of the Reserve Bank of India.

(i) Sources: Pre-shipment finance is generally provided by commercial banks in India. In the case of post-shipment finance, commercial banks sanction for short-term. If it is on medium or long-term, it is then provided by EXIM Bank of India.

ECGC and Guarantee Policy

In India the credit risk coverage to exporters is provide by Export Credit Guarantee Corporation of India Ltd., shortly known as ECGC. It was established in 1964 as Export Risk Insurance Corporation in 1957. ECGC is a company wholly owned by the Government of India. It functions under the administrative control of the Ministry of Commerce. It is managed by a Board of Directors representing Government, banking, insurance, trade, industry, etc.

Functions of ECGC

The functions of ECGC are reflected in the different schemes It has involved to protect the exporter and the exporters' bank. The schemes of ECGC are classified broadly in Fig.2

In the following sections, a brief description of the different schemes of ECGC is attempted.

Standard Policies

The standard policies issued by ECGC are meant to provide cover for shipments on short-term credit on whole turnover basis.

Risks Covered. The risks covered may be broadly grouped into (a) commercial risks, and (b) political risks.

Commercial Risks Covered

(i) Insolvency of the buyer;
(ii) Buyer's protracted default to pay for goods accepted by him; and
(iii) Buyer's failure to accept goods subject to certain conditions.

Schemes of ECGC

- ***For Exporters***
  - ***Standard Policy***
    1. Specific
    2. Small Exporters Policy
  - ***Specific Policy***
    1. Specific Shipment Policy (Short-term)
    2. Supply Contracts Policy
    3. Buyer's Credit
    4. Services Policy
    5. Construction Work Policy
    6. Overseas Investment Insurance
    7. Exchange Fluctuation Risk Cover
  - ***Factoring***
    1. Maturity Factoring
- ***For Banks***
  - ***Guarantee***
    1. Packing Guarantee
    2. Export Production Finance Guarantee
    3. Post-shipment Export Credit
    4. Export Finance Guarantee
    5. Export Performance Guarantee
    6. Export Finance (Overseas Lending)
    7. Transfer Guarantee

Functions of ECGC

Political Risks Covered

(i) Imposition of restrictions on remittances by the government in the buyer's country or any government action which may block or delay payment of the exporter;

(ii) War, revolution or civil disturbances in the buyer's country;

(iii) New import licensing restrictions or cancellation of a valid import licence in the buyer's country;

(iv) Cancellation of export licence or imposition of new export licensing restrictions in India;

(v) Payment of additional handling, transport or insurance charges occasioned by interruption or diversion of voyage which cannot be recovered from the buyer; and

(vi) Any other cause of loss occurring outside India, not normally insured by commercial insurers, and beyond the control of the exporter and/or the buyer.

Types of Policies

The policy issued may cover risks from the date of shipment or from the date of contract. In either case, the policy may cover both political and commercial risks (Comprehensive policy) or it may cover only political risks. Thus, the policy may be any one of the following:

(i) Shipment (Comprehensive Risks) Policy;

(ii) Shipment (Political Risks) Policy;

(iii) Contract (Comprehensive Risks) Policy; or

(iv) Contract (Political Risks) Policy,

Extent of Cover

ECGC normally pays 90 per cent of the losses on account of political or commercial risks. In the event of loss due to repudiation of contractual obligations by the buyer, ECGC indemnifies the exporter up to 90 per cent of the loss if final and enforceable decree against the overseas buyer is obtained in a competent court of law in the buyer's country. The corporation, at its discretion, may waive such legal action where it is satisfied that such legal action is not worthwhile and in that event losses are indemnified up to 60 per cent. Recoveries made after the payment of the claim are shared with the ECGC in the same proportion in which the loss was borne.

Small Exporter's Policy

The small exporter's policy is basically the standard policy, incorporating certain improvements in terms of cover. It is issued to exporters whose anticipated export turnover for the next 12 months does not exceed ₹ 25 lakhs.

The small exporter's policy differs from the standard policy in the following respects:

(i) *Period of policy.* Issued for 12 months as against 24 months in the case of standard policy.

(ii) *Minimum premium.* The minimum premium payable is 0.3% of the anticipated turnover on DP and DA terms of payment, plus

where the exporter seeks cover also for LC shipments, 0.10% of the anticipated turnover on LC terns or ₹ 1,000, whichever is higher.

(iii) Declaration of shipments. Shipments need to be declared only twice in the seventh month and the thirteenth month.

(iv) Declaration of overdue payments. Monthly declarations of all payments remaining overdue by more than 60 days from the due date, as against 30 days in the case of standard policy.

(v) Percentage of cover. 95% for loss due to commercial risk and 100% if due to political risk. Cover is 90% in both cases in standard policy.

(vi) Waiting period of claim. Two months as against four months in standard policy.

Specific Policies

Specific Shipment Policy (Short-Term)

Specific Shipment Policy (Short-term) offers to cover one or more shipments only under a particular contract. Option is available to cover both commercial and political risks or only political risks. The risks covered are the same as under the standard Policy. A separate policy is available to cover shipments made under letter of credit against the risks of insolvency and default of the L/C opening bank and political risks. The percentage of cover is 80. The policy cover can be availed of by exporters who do not hold the Standard Policy or even by those holding it to cover the shipments specifically permitted to be excluded from the purview of the Standard Policy.

Specific Policy for Supply Contracts

Specific policy for supply contracts covers exports of commodities for period beyond 180 days. The policy may take any of the following four forms:

(i) Specific shipments (Comprehensive risks) Policy-to cover both commercial and political risks at the post-shipment stage;

(ii) Specific shipments (Political Risks) Policy-to cover only political risks at the post-shipment stage in cases where the buyer is an overseas Government or payments are guaranteed by a Government or by banks, or are made to associates;

(iii) Specific Contracts (Comprehensive Risks) Policy; and

(iv) Specific Contracts (Political Risks) Policy.

Contracts policy provides cover from the date of contract. Losses that may be sustained by an exporter at the pre-shipment stage due to frustration of contract are covered under this policy in addition to the cover provided by the Shipments policy.

Insurance Cover for Buyer's Credit & Lines of Credit

Financial institutions in India, like those in several other countries, lend directly to buyers or financial institutions in developing countries for importing machinery and equipment from India. This kind of financing facilitates immediate payment to exporters and frees them from the problems of credit management as well as from the fear of loss on account of overseas credit risks.

Financing may take the form of Buyer's Credit or Line of Credit. Buyer's Credit is a loan extended by a financial institution, or a consortium of financial institutions, to the buyer for financing a particular export contract. Under Lines of credit, a loan is extended to government or financial institutions in the importing country for financing import of specified items from the lending country. ECGC has evolved schemes to protect financial institutions in India which extend these types of credit for financing exports from India. Insurance Agreement will be drawn up on a case-to-case basis, having regard to the terms of the credit.

Service Policy

When Indian firms render services to foreign parties, they would be exposed to payment risks similar to those involved in export of goods. Services Policy offers protection to Indian firms against such payment risks. The policy has been designed broadly on the lines of ECGC insurance policies covering export of goods and is issued to cover specific transactions. Two types of policies are issued; (a) Specific Services contract (comprehensive Risks) Policy to cover commercial as well as political risks (b) Specific Services Contract (Political Risks) Policy to cover political risks only. Where the contracts are with overseas governments or payments are guaranteed by overseas governments or are covered by bank guarantees/ letters of credit, or are to associated, political risks policies issued. A wide range of services like technical or professional services, hiring or issuing can be covered under the policies.

Construction Works Policy

ECGC's construction Works Policy covers civil construction jobs as well as turnkey projects involving supplies and services. It provides cover for all payments that fall due to the contractor under the contract. Two types of policies have been evolved to cover contracts with (i) Government buyers, and (ii) Private buyers, The former covers political risks in respect of contracts with overseas Governments or where the payments are guaranteed by Government. The latter covers comprehensive risks. In case of contracts with private employers, the policy may be issued to cover only political risks if the payments are guaranteed by a bank or covered by Letter of Credit.

Overseas Investment Insurance

ECGC has evolved a scheme to provide protection for involvement of exporters in capital participation in overseas projects. Any investments made by way of equity capital or untied loan for the purpose of setting up or expansion of overseas projects will be eligible for cover under investment insurance. The investment may be either in cash or in the form of export of Indian capital goods and services. The cover would be available for the original investment together with annual dividends and interest payable.

Exchange Fluctuation Risk Cover Schemes

The Exchange Fluctuation Risk Cover Schemes are intended to provide a measure of protection to exporters of capital goods, civil engineering contractors and consultants who have often to receive payments over a period of years for their exports construction work or services. Where such payments are to be received in foreign currency, they are open to exchange fluctuation risk and the forward exchange market does not provide cover for such deferred payments. The Exchange fluctuation Risk Cover is available for payments scheduled over a period of 12 months or more, up to a maximum of 15 years. Cover can be obtained from the date of bidding right up to the final instalment.

Maturity Factoring Facility

A new service provided by ECGC is Maturity Factoring Facility to the exporters. Under maturity factoring the factor initially undertakes only sales ledger administration and collection functions. The factor pays the amount of each invoice to the client at the end of the credit term or on the agreed maturity date. Under this facility ECGC renders the services of credit protection, sales ledger maintenance and collection. Export transaction involving credit to the buyer for a period not exceeding 180 days are eligible. The exporter's bank will discount the export bill in the usual way. The exporter has to remit factoring charges to ECGC through the bank. Bank can claim payment from ECGC, 15 days after the date if payment is not received from overseas buyer by them, ECGC will make payment about 10 days after that.

Benefits to Banks

1. The maturity factoring facility offered by ECGC does not disturb the existing system of banking arrangement.
2. Banks would be able to finance against the factored bills at zero risk, as they would be protected even in case where the non-payment is due to dispute between the exporter and the buyer.
3. As the discounting of the bill under the scheme is to be done by the exporters bank, they would not face any hassle in adjusting advances granted at the packing credit stage.

Benefits to the Exporters

1. 100% risk protection in respect of transaction where the buyer accepts the bills/documents without recourse to the exporter.
2. Sharing of loss in case of non-acceptance of goods/documents due to insolvency or financial difficulty.
3. Receivable management and sales ledger maintenance.

4. Enables the exporter to avail bank finance on easier terms.
5. The exporter can avail of the above benefits without disturbing existing the system of banking arrangements.

Forward Exchange Rates and Cover

Forward exchange rates, like spot exchange rates are determined by the demand for and the supply of forward exchange. If the supply of forward exchange exceeds the demand for it, the forward rates will be quoted at a discount over the spot rate i.e., forward exchange rate will be lower than the spot exchange rate. On the other hand, if the demand for forward exchange exceed its supply, the forward rates will be quoted at a premium over the spot rate i.e., forward rate will be quoted at a premium over the spot rate i.e., forward rate will be higher than the spot rate. The demand for forward exchange arise, mainly, from:

(i) Imports,
(ii) Outflow of capital,
(iii) Arbitage operation and
(iv) Bluish speculation.

An importer of foreign goods having to make payment after a certain period of time may contract to purchase foreign exchange in advance to avoid the risk of changes in exchange rates. Arbitrarers move funds from one centre to another to earn profits out of the interest differential that may exist between the two centres. An arbitrary who transfers funds abroad to take advantage of a comparatively higher rate of interest abroad, contracts at the same time to sell forward exchange to cover himself against exchange risks. Speculators intentionally take an open or uncovered position expecting to gain from future changes in the exchange rate. If the speculators expect a rise in the exchange rate, they will have an incentive to contract for the purchase of forward exchange. Similarly, the supply of forward exchange comes, mainly from:

(i) Exporters of merchandise,
(ii) Exporters of capital,
(iii) Arbitrarers and
(iv) Speculators.

Benefits of Forward Exchange Facilities

Forward exchange operation provide an opportunity to traders to safeguard themselves against the risks arising from changes in exchange rates. Normally traders are interested in making their profits by marking up the purchase price by a certain percentage. In foreign trades, the purchase and sale price of the traders is expressed in terms of different currencies. When purchase and sale prices are expressed in terms of different currencies, changes in exchange rate may upset all the calculation of the traders. Risks from changes in exchange rates are particularly high under the system of free and fluctuating exchange rates. Such risks are not very important under pegged exchange rates and gold standard. If the traders wish to avoid these risks and to concentrate on their normal functions (i.e., trading activities), and the risks involved, in these, they can contract in advance to buy or sell foreign exchange, equivalent to the amount of payment they expect to make or receive at a guaranteed rate. Suppose for illustration, that an Indian exporter contracts to export tea to the United Kingdom for which he will receive payment in terms of sterling after ninety days, to avoid the risk of a change in the exchange rate at the time he receives payment, he can contract with his bank in advance to sell the amount of sterling which he expects to receive after ninety days at a guaranteed exchange rate. Similarly, an importer placing an order for goods from the United Kingdom, knowing that he has to make payment in terms of sterling after ninety days, can contract with his bank in advance to buy sterling after ninety days at the guaranteed exchange rate and thus safeguard himself from the risks arising from changes in the exchange rate. Forward exchange facilities also enable foreign investors and foreign debtors to cover themselves against exchange risks. Foreign debtors can avoid exchange risks by contracting in advance to purchase the required amount of foreign exchange at a guaranteed rate at the time their payment fall due. Similarly, the holders of foreign investments and other claims can cover themselves against exchange risks by forward sales.

Essential Conditions for the Existence of Forward Exchange Market

Forward exchange market can properly function only if:

(i) There are no unreasonable restrictions on trading in foreign exchange, speculation and interest arbitrating.

(ii) The currency is not strongly pegged at a fixed rate of exchange,

(iii) The concerned currency is sufficiently important (i.e., the transactions in the currency are regular and sufficiently large in volume).

The existence of exchange control may hinder the carrying out of forward contracts and thereby the working of the forward market. Some countries prohibit forward exchange dealings altogether.

Exports on Deferred Payment Terms

Contracts for export of goods against payment to be received partly or fully after the expiry of the period prescribed for realisation of export proceeds (normally 180 days), are treated as deferred payment export contracts. Extension of along-term export credits, especially for large value supply contracts and project exports, is now an accepted marketing strategy. Indian manufacturers also will have to offer such facilities if they have to complete successfully in international markets. Therefore, provision has been made for the extension of medium and long-term credit to finance the sale of Indian capital goods represented by machinery, equipment and related services. The rate of interest charged is 9 percent.

Any loan up to ₹ 2 crores for financing export of capital goods is decided by a commercial bank which can refinance itself from the Export Import Bank (EXIM Bank). In case of export contract above ₹ 2 crores but not more than ₹ 5 crores. the EXIM Bank has been given the authority to decide whether export finance could be provided. Contracts above ₹ 5 crores need clearance by the Working Group. The EXIM Bank conduct credit appraisal and takes on the major share of financing. The credit appraisal includes assessing the nature of export, economic status of the buyer and the importing country, the period of repayment and the credit risk involved. The various criteria adopted for evaluation of projects are:

(a) Whether the proposed project can be justified on commercial considerations.

(b) Whether the Indian exporter is capable of executing the contract,

(c) Whether the foreign borrower is financially sound to repay the credit according to the proposed repayment schedule, and

(d) Whether the projects needing credit are economically viable. There is no maximum limit for the finance to be provided.

Security for deferred credit could be provided by:

1. Letters of credit,
2. Promotes executed by Government buyers/public sector undertakings,
3. Acceptable bank guarantees,
4. Bills duly accepted by bank, and
5. Any other security considered adequate.

A Working Group on Export Finance was set up in July, 1975, with IDBI as the focal point and RBI, ECGC and the bank(s) of the exporters as members. This Working Group is entrusted with the task of evaluation of the proposals of the Indian parties involving more than ₹ 5 crores at the pre-bid stage.

The Working Group clearance means package clearance, viz., from the standpoint of export finance, foreign excahgne formalities and credit guarantees. In case of large contracts, ministries of Commerce and Finance also are represented on the Working Group.

Under the present regulations, depending on the value of the contract, the credit period can be extended up to 12 years. There are basically two different mechanisms for offering long-term export credit:

(a) **Supplier's Credit**. Under this system, the Indian exporter will offer credits to the overseas buyer. The exporter can on the other hand, secure reciprocal a credits from the commercial banks which, in turn, can get refinance from the EXIM Bank.

(b) **Buyer's Credit.** In this case, EXIM Bank directly extends credits to the importer. The Indian exporters can receive their payments straightway from the EXIM Bank. The vital difference between the two schemes lies in the fact that in the former, the exporter is assuming the credit risks, while in the latter, EXIM Bank does it.

Duty Drawback Scheme

According to Customs and Central Excise Duties Drawback Rules, 1971, drawback is defined as "Drawback in relation to any goods manufactured in India and exported means the rebate of duty chargeable on any imported material or excisable materials used in the manufacture of such goods in India.

This scheme is basically in the form of refund. The excise and custom duties paid on various imports of exportable goods is refunded back to exporter, so that the prices of exports would become more competitive. In short, the scheme allows the refund of excise or import duty (customs) paid on indigenous or imported raw materials, components parts, packing materials etc., used in the export products. This also covers refund of duty paid on items imported by private individuals as passengers baggage or otherwise, but are re-exported late or in the same state.

Some of the categories of items listed on drawback scheme are as follows:

(a) Project Exports: Drawback on project export is payable in respect of supplies of materials made from India for turnkey projects. These projects may involve designing, civil construction, commissioning of plant, supervision and supply of equipment.
(b) Tailor made products: These products are those which are manufactured as per specification of foreign buyers.
(c) Drawback on parts and accessories of machinery.
(d) Drawback on packing of materials.
(e) Yarn content, dye content etc.

The drawback rates are determined by Central Government from time to time and these are determined either in specific terms or in terms of percentage of F.O.B. value of the export product.

Summary

Export credits can be granted only to bonafide exporters who produce a confirmed export or a letter of credit received against export contract. The Government of India is extending various facilities to the exporters who are engaged in the activities of export business. These facilities are provided in the form of tax-relief programmes, special import licences, technical assistance, duty exemption schemes and duty drawbacks etc.

A sufficient knowledge of the different schemes of export facilitation and incentives is essential for any exporter. As these schemes keep changing with annual policies announced by the Government, exporter should keep constant analysis of such changes. The export-house should also take care to comply with the procedures prescribed for each of the schemes as, otherwise it may not be able to avail the benefits.

Self-Assessment Questions

1. What are the procedures involved in getting excise clearance and customs clearance of exports?
2. Describe the Export Promotion measures taken by the Government of India.
3. Discuss about different types of pre-shipment finance.
4. Assess the role of EXIM Bank in extending help to Indian Exporters.
5. Discuss the functions and role of ECGC in Export Finance. What are the political risks taken by ECGC?
6. Analyse the various tax and excise incentives available to Indian Export House.
7. Explain the role of Clearing and Forwarding Agent in Export Business of India.

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UNIT – III

Lesson 3.1 - Import Procedure

With the globalization of Indian economy and consequent upon comfortable balance of payment position Government of India has liberalized the Import Policy and practically all Controls on imports have been lifted. Imports may be made freely except to the extent they are regulated by the provisions of Import Policy or by any other law for the time being in force.

In exercise of the powers conferred under Section 5 of the Foreign Trade (Development and Regulation Act), 1992 (No.22 of 1992), the Central Government hereby notifies the Export and Import Policy for the period 2002-2007. This Policy shall come into force with effect from 1st April, 2002 and shall remain in force up to 31st March, 2007 and will be co-terminus with the Tenth Five-Year Plan (2002-2007). However, the Central Government reserves the right, in public interest, to make any amendments to this Policy in exercise of the powers conferred by Section 5 of the Act. Such amendment shall be made by means of a Notification published in the Gazette of India.

Transitional Arrangements

Any Notifications made or Public Notices issued or anything done under the previous Export/ Import policies, and in force immediately before the commencement of this Policy shall, in so far as they are not inconsistent with the provisions of this Policy, continue to be in force and shall be deemed to have been made, issued or done under this Policy. License/certificate/permission issued before the commencement of this Policy shall continue to be valid for the purpose for which such license/ certificate/permission was issued, unless otherwise stipulated.

In case an export or import that is permitted freely under this Policy is subsequently subjected to any restriction or regulation, such export or import will ordinarily be permitted notwithstanding such restriction or regulation, unless otherwise stipulated, provided that the shipment of the export or import is made within the original validity of the irrevocable letter of credit established before the date of imposition of such restriction.

Objectives

The principal objectives of this Policy are:

To facilitate sustained growth in exports to attain a share of atleast 1 per cent of global merchandise trade.

To stimulate sustained economic growth by providing access to essential raw materials, intermediates, components, consumables and capital goods required for augmenting production and providing services.

To enhance the technological strength and efficiency of Indian agriculture, industry and services, thereby improving their competitive strength while generating new employment opportunities, and to encourage the attainment of internationally accepted standards of quality.

To provide consumers with good quality goods and services at internationally competitive prices while at the same time creating a level-playing field for the domestic producers.

General Provisions Regarding Imports and Exports

Exports and Imports Free Unless Regulated

Exports and imports shall be free, except in cases where they are regulated by the provisions of this Policy or any other law for the time being in force. The item-wise export and import policy shall be, as specified in ITC(HS) published and notified by the Director General of Foreign Trade, as amended from time to time.

Every exporter or importer shall comply with the provisions of the Foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders made there under, the provisions of this Policy and the terms and conditions of any license/certificate/permission granted to him, as well as provisions of any other law for the time being in force. All imported goods shall also be subject to domestic Laws, Rules, Orders, Regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods.

If any question or doubt arises in respect of the interpretation of any provision contained in this Policy, or regarding the classification of any item in the ITC(HS) or the said question or doubt shall be referred to the Director General of Foreign Trade whose decision thereon shall be final and binding.

If any question or doubt arises whether a license/ certificate/ permission has been issued in accordance with this Policy or if any question or doubt arises touching upon the scope and content of such documents, the same shall be referred to the Director General of Foreign Trade whose decision thereon shall be final and binding.

Principal Law & Import Export Policy

Principal Law

Imports in to India are governed by Foreign Trade (Development & Regulation) Act 1992. Under this Act, an import of all goods is Free except for the items regulated by the policy or any other law for the time being in force. In exercise of the powers conferred by the Foreign Trade (Development & Regulation) Act 1992 the Government has issued the following Rules & Order:

Foreign Trade(Regulation)Rules, 1993, which inter alia, provide for grant of special license, application for grant of license, fee, conditions for licences, refusal of license, amendment of license, suspension of a license, cancellation of license, declaration as to the value and quality of imported goods, declaration as to the Importer- Exporter Code number, utilization of imported goods, provisions regarding making, signing of any declaration/statement or documents, power to enter the premises and inspect, search and seizure of goods, documents, things and conveyance, settlement, confiscation and redemption and confiscation of conveyance.

Foreign Trade (Exemption from Application of Rules in Certain Cases) Order 1993

Notifications under Foreign Trade (Development & Regulation) Act 1992

Select the Commodity/Product you wish to import

- Be aware of the import potential and the commercial viability of the commodity/product.
- Check whether the items of your interest fall in the restricted list of ITC (HS) Classifications of Exports & Imports items.
- Prohibited items are not permitted to be imported at all. List of Prohibited items of import are detailed below:
- Tallow, Fat or Oils rendered, unrendered or otherwise of any animal origin, animal rennet and wild animals including their parts and products and ivory any part and products, including ivory.
- For import of items appearing in restricted list you need secure import license. Third category of items comes under the Canalised list of items. Imports of items included in Canalised list are permitted to be imported through Canalising Agencies.
- Thus items not appearing in Prohibited list, restricted list and or in Canalised list can be imported freely without any import license. A large number of Consumer goods are freely importable without license.

Exemption from Policy/ Procedure

Any request for relaxation of the provisions of this Policy or of any procedure, on the ground that there is a genuine hardship to the applicant or that a strict application of the Policy or the procedure is likely to have an adverse impact on trade, may be made to the Director General of Foreign Trade for such relief as may be necessary. The Director General of Foreign Trade may pass such orders or grant such relaxation or relief, as he may deem fit and proper. The Director General of Foreign Trade may, in public interest, may exempt any person or class or category of persons from any provision of this Policy or any procedure and may, while granting such exemption, impose such conditions as he may deem fit. Such request may be considered only after consulting ALC if the request is in respect of a provision of Chapter - 4 (excluding any provision relating to Gems & Jewellery sector) of the Policy/ Procedure. However, any such request in respect of a provision other than Chapter-4 as given above may be considered only after consulting Policy Relaxation Committee.

Registration with Regional Licensing Authority and obtaining IEC Code Registration with Regional Licensing Authority

Registration with Regional Licensing Authority is a pre-requisite for import of goods. The Customs will not allow clearance of goods unless:

The importer has obtained IE Code Number from Regional Licensing Authority. However, no such registration is necessary for persons importing goods from/ to Nepal provided Value of a single Consignment does not exceed ₹ 25000/=

Obtaining IEC Code Number

An application for grant of IEC Code Number should be made in the prescribed proforma. The application duly signed by the applicant should be supported by the following documents:

Bank Receipt (in duplicate)/demand draft for payment of the fee of ₹ 1000/- Certificate from the Banker of the applicant firm as per Annexure1 to the form. Two copies of passport size photographs of the applicant duly attested by the banker of the applicant.

A copy of Permanent Account Number issued by Income Tax Authorities, if PAN has not been allotted, a copy of the letter of legal authority may be furnished. If there is any non-resident interest in the firm and NRI investment is to be made with repatriable benefits, full particulars thereof along with a photocopy of RBI's approval. If there is NRI investment without repatriation benefit, a simple declaration indicating whether it is held with the general/specific permission of the RBI on the letter head of the firm should be furnished. In case of specific approval, a copy may also be furnished.

Declaration by the applicant that the proprietors/partners/directors of the applicant firm/company, as the case may be, are not associated as proprietor/partners/directors with any other firm/company the IEC No. is allotted with a condition that be can export only with the prior approval of the RBI.

Import Policy

For items not mentioned as Prohibited, Restricted or Canalised List for import in ITC (HS) Classification of Export and Import items; import of such items are freely permitted. There is no need to obtain any license or permission for importing such goods. The ITC (HS) Classification of Export and Import items contain 99 chapters and in each chapter there are column heading covering EXIM Code, items description, policy and nature or restriction.

Procedure to be followed for Grant of Import License

An application for grant of an import license or CCP for import of the items mentioned as restricted for import in ITC (HS) Classification of Export and Import items may be made to the regional licensing authority concerned.

License Application Fees

Fees for License Application

Every application for import license or CCP should be accompanied by 2 copies of a bank receipt from the Central Bank of India or a Bank Draft from any Bank indicating the deposit in accordance with the prescribed scale of fees. ₹ 200 where the value of goods specified does not exceed ₹ 50,000. ₹ 2 per thousand or part thereof subject to a minimum of ₹ 200 and a maximum of ₹ 1 lakh 50 thousand, where the value of goods exceeds ₹ 50,000.

The Application fee shall be Deposited Either

By way of deposit in an authorized branch of Central Bank of India indicating the Head of Accounts 1453 Foreign Trade and Export Promotion - Minor Head 102, Import License Application Fee. The Bank receipt must show the name of the department viz. "Director General of Foreign Trade". The bank receipt should be drawn in favor of Pay & Accounts Officer concerned. Such fees can also be deposited with Indian Missions abroad. Or, Crossed DD on a scheduled bank for the requisite amount should be made in favor of the concerned licensing authority.

Validity of License

Besides import license for import of restricted items there are other variety of licences and such licenses have different period of validity.

Export Promotion Capital Goods License validity 24 months

Customs Clearance Permit "12 months

DEPB "12 months

Advance License/Special Imprest License

For Project/Turnkey Project "18 months or co-terminus with the contracted duration of the Project

For the cases where the license expires before the last day of the month, the license shall be deemed to be valid until the last day of that month.

Revalidation of License

License revalidation can be done on merits but not beyond 12 months by the concerned licensing authority for a period of six months at a time reckoned from the date of expiry of the validity period.

Last date for Filling Applications

The last date for receipt of applications for grant of licenses is 28th February of the licensing year unless otherwise specified.

Conditions of License

Licensing Conditionality

The license for import is taken into consideration provided:

- The goods covered by the license shall not be disposed of except in accordance with the provisions of the EXIM Policy, 1997-2002 or in the manner specified by the licensing authority in the license;
- The applicant for a license shall execute a bond for complying with the terms and conditions of the license.

It shall be deemed to be a condition of every license for import that -

No person shall transfer or acquire by transfer any license issued by the licensing authority except in accordance with the provisions of the Policy; the goods for the import of which a license is granted shall be the property of the licensee at the time of import of which a license is granted shall be the property of the licensee at the time of import and up to the time of clearance through the Customs; the goods for the import of which a licensee is granted shall be new goods, unless otherwise stated in the license; the goods covered by the license for import shall not be exported without the written permission of the DGFT;

Disposal Period for Import Application

Provided the application is complete in all respects along with prescribed documents, the applicant-importer can expect the disposal in:

IEC No. - 3 working days Duty free license where input-output norms are notified - 5 working days Duty free license where input-output norms are notified but cases are to be placed before ALC -15 working days Duty free license where input-output norms are not notified, EPCG licenses/export licenses/specific import licenses - 15 working days Revalidation of license and extension of export obligation period by RLA - 5 working days Acceptance of Bank Guarantee/Legal undertaking - 3 working days Redemption of Bank Guarantee/Legal undertaking/ Endorsement of Transferability - 10 working days

Issuance/renewal of Export House/Trading House/Star Trading House/Super Star Trading House - 15 working days

Amendment of any category of license - 5 working days SIL - 7 working days Fixation of Standard input-output norms - 45 working days

DEPB - 5 working days all licenses falling under Chapter 8 - 5 working days Miscellaneous - 15 working days Fixation of deemed exports drawback rate - 45 working days

N.B. This apart, a “Counter Assistance” service is provided in all the offices of the DGFT for speedy disposal of applications. A foreign trade development officer (FTDO), in charge of the counter in each office. On submission of the application at the counter the applicant will be handed over a token and advised to return the same day when he will be informed whether his application has been found complete and admitted for further processing by the office or if there are any deficiency or lacunae. If deficiency is noticed the same is sent back to the applicant.

Counter Assistance may also be availed of, for amendments of minor nature/enquiries. Applications in such cases will be received in the licensing offices at the counter.

Replenishment (Rep) Licenses

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

The exporters of gems and jewellery products listed in Appendix - 26 shall be eligible for grant of Replenishment Licenses at the rate and for the items mentioned in the said Appendix to import and replenish their inputs. Replenishment license may also be issued for import of consumables.

Items of Export

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

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;

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;

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.

The Duty Exemption Scheme enables import of inputs required for export production. The Duty Remission Scheme enables post export replenishment/ remission of duty on inputs used in the export product. An Advance License is issued under Duty Exemption Scheme to allow 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.

Advance License can be issued for: -

- Physical exports
- Intermediate supplies
- Deemed exports.

Advance Licenses can also be issued on the basis of annual requirement for exports/supplies as mentioned at (a) to (c) above. Duty Remission Scheme consists of (a) Duty Free Replenishment Certificate and (b) Duty Entitlement Passbook Scheme. The scheme allows drawback of import charges on inputs used in the export product (making normal allowance for the wastage).

Advance License

(a) Advance License is issued for duty free import of inputs. Such licenses (other than Advance License for deemed exports) are exempted from payment of basic customs duty, additional customs duty, anti dumping duty and safeguard duty, if any. However, Advance License for deemed export shall be exempted from basic customs duty and additional customs duty only. Such licenses are issued to:-

    (i) Manufacturer exporter or Main contractor in case of deemed exports.

(ii) Merchant exporter where the merchant exporter agrees to the endorsement of the name(s) of the supporting manufacturer(s) on the relevant DEEC Book and in the case of deemed exports, sub contractor(s) whose name(s) appear in the main contract.

Such licenses and/or materials imported there under shall not be transferable even after completion of export obligation.

Such licenses shall be issued with a positive value addition. However, for exports for which payments are not received in freely convertible currency, the same shall be subject to value addition as specified in Appendix- 39.

Advance License shall be issued in accordance with the Policy and procedure in force on the date of issue of license and shall be subject to the fulfillment of a time bound export obligation as may be specified.

The facility of Advance License shall also be available where some of the inputs are supplied free of cost to the exporter. In such cases, for calculation of value addition, the notional value of free of cost inputs along with value of other duty-free inputs shall be taken into consideration.

Advance License for Intermediate Supply. Advance License 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 License. Advance License for Deemed Export Advance License 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 the Policy. Such license for deemed export can also be issued for supplies made to United Nations Organizations or under the Aid Programme of the United Nations or other multilateral agencies and paid for in foreign exchange.

Duty Free Replenishment Certificate (DFRC)

Duty Free Replenishment Certificate is issued to a merchant-exporter or manufacturer-exporter for the import of inputs used in the manufacture of goods without payment of basic customs duty, and special additional duty. However, such inputs shall be subject to the payment of additional customs duty equal to the excise duty at the time of import. Duty Free Replenishment Certificate shall be issued only in respect of export products covered under the SIONs as notified by DGFT. However, DFRC shall not be issued in respect of SIONs which are subject to "actual user" condition or where the input is allowed with prior import condition. Duty Free Replenishment Certificate shall be issued for import of inputs, as per SION, having same quality, technical characteristics and specifications as those used in the end product and as indicated in the shipping bills. The validity of such licenses shall be 18 months. DFRC and or the material(s) imported against it shall be freely transferable. The Duty Free Replenishment Certificate shall be subject to a minimum value addition of 33%.

The export products, which are eligible for modified VAT, shall be eligible for CENVAT credit. However, non excisable, non dutiable or non centrally vatable products, shall be eligible for drawback at the time of exports in lieu of additional customs duty to be paid at the time of imports under the scheme. The exporter shall be entitled for drawback benefits in respect of any of the duty paid materials, whether imported or indigenous, used in the export product as per the drawback rate fixed by Directorate of Drawback (Ministry of Finance). The drawback shall however be restricted to the duty paid materials not covered under SION. Duty Free Replenishment Certificate may be issued in respect of exports for which payments are received in non-convertible currency. Such exports shall, however, be subject to value addition as specified in Appendix-39.Jobbing, Repairing etc. For Re-Export Import of goods, including those mentioned as restricted in ITC (HS) but excluding prohibited items, supplied free of cost, may be permitted for the purpose of jobbing without a license as per the terms of notification issued by Department of Revenue from time to time.

Advance Release Orders

An Advance License holder (except Advance License for intermediate supply) and holder of DFRC intending to source the inputs from indigenous sources/state trading enterprises / EOU/ EPZ/SEZ/ EHTP/STP units in lieu of direct import has the option to source them against Advance Release Orders denominated in foreign exchange/ Indian rupees. In such a case the license shall be invalidated for direct import and a permission in the form of ARO shall be issued which will entitle the supplier to the benefits of deemed export. The transferee of a Duty Free Replenishment Certificate shall also be eligible for ARO facility.

Back-to-Back Inland Letter of Credit

An Advance License holder, (except Advance License for intermediate supply) and holder of DFRC may, instead of applying for an Advance Release Order, avail of the facility of Back-to-Back Inland Letter of Credit in accordance with the procedure.

Prohibited Items

Prohibited items of imports mentioned in ITC(HS) shall not be imported under the licenses issued under the scheme.

Compliance with Export Policy

Goods mentioned as restricted for exports in ITC (HS) may be exported without specific export license under Advance License for physical exports issued with prior import condition. In such cases, the license holder shall not be allowed to use indigenous inputs and the export product shall be manufactured only out of imported inputs under Advance License for physical exports.

Re-import of Exported Goods under Advance License

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.

Admissibility of Drawback

In the case of an Advance License, the drawback shall be available in respect of any of the duty paid materials, whether imported or indigenous, used in the goods exported, as per the drawback rate fixed by Ministry of Finance (Directorate of Drawback). The Drawback shall however be restricted to the duty paid materials as indicated in the DEEC.

Value Addition

The value addition for the purposes of this chapter shall be:-

VA: A - B = ------ x 100,

Where VA is Value Addition A is the FOB value of the export realized /FOR value of supply received. B is the CIF value of the imported inputs covered by the license, plus any other imported materials used on which the benefit of duty drawback is being claimed.

Duty Entitlement Passbook Scheme (DEPB)

For exporters not desirous of going through the licensing route, an optional facility is given under DEPB. The objective of Duty Entitlement Passbook Scheme 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.

Under the Duty Entitlement Passbook Scheme (DEPB), an exporter may apply for credit, as a specified percentage of FOB value of exports, made in freely convertible currency. The credit shall be available against such export products and at such rates as may be specified by the Director General of Foreign Trade by way of public notice issued in this behalf, for import of raw materials, intermediates, components, parts, packaging material etc.

The holder of Duty Entitlement Passbook Scheme (DEPB) shall have the option to pay additional customs duty, if any, in cash as well.

Validity The DEPB shall be valid for a period of 12 months from the date of issue.

Transferability The DEPB and/or the items imported against it are freely transferable. The transfer of DEPB shall however be for import at the port specified in the DEPB, which shall be the port from where exports have been made. Imports from a port other than the port of export shall be allowed under TRA facility as per the terms and conditions of the notification issued by Department of Revenue.

Applicability of Drawback

The exports made under the DEPB Scheme shall not be entitled for drawback. However, the additional customs duty paid in cash on inputs under DEPB shall be adjusted as CENVAT Credit or Duty Drawback as per rules framed by the Dept. of Revenue. In cases, where the Additional Customs Duty is adjusted from DEPB, no benefit of CENVAT/Drawback shall be admissible.

Export Promotion Capital Goods Scheme

The Export Promotion Capital Goods Scheme (more popularly known as the EPCG scheme) is a scheme whereby any person in India may import machinery and equipment without payment of any import duties provided he undertakes that he will export goods within the specified period of a certain minimum amount.

New capital goods, including computer software systems, may be imported under the Export Promotion Capital Goods (EPCG) Scheme

Capital goods including jigs, fixtures, dies, moulds and spares upto 20% of the CIF value of the capital goods may be imported at 5% Customs duty subject to an export obligation equivalent to either:-

i. 5 times CIF value of capital goods on FOB basis; or

ii. 4 times the CIF value of capital goods on Net Foreign Exchange Earning basis to be fulfilled over a period of 8 years reckoned from the date of issuance of license.

Eligibility

Under the scheme, manufacturer exporters with or without supporting manufacturers / vendors, merchant exporters tied to supporting manufacturers and service providers are eligible to import capital goods. The capital goods imported by the license holder shall be installed at the factory of the license holder or his supporting manufacturers/ vendors. However, agricultural exporters and service providers shall be allowed to shift the capital goods, provided advance intimation is given to the concerned Assistant Commissioner of Customs and Excise. Such equipment shall not be sold or leased by the license holder.

If the license issued under the scheme has actually been utilized for import of a value in excess of or less than 10% of the CIF value of the license, license shall be deemed to have been enhanced/ reduced by that proportion. Export obligation shall accordingly be enhanced/ reduced as per the actual utilization of the license.

Pro Rata Reduction/ Extension in Export Obligation

If the EPCG license holder has not utilized the full or utilized in excess, the CIF value of the license for import/ indigenous procurement of capital goods allowed therein, his export obligation shall stand reduced/ enhanced on prorata basis with reference to the actual utilization of the license. In such cases where the CIF value actually utilized is more than the CIF value covered by the license, the license holder shall furnish additional fee to cover the excess CIF value of imports affected subsequently.

An application for the grant of a license may be made to the licensing authority concerned in the Form 10A along with documents prescribed

The applicant may apply for EPCG license to the competent authority on the basis of self declaration subject to final fixation of nexus by Headquarters EPCG Committee as per the financial power given in the table below. The applicant shall give an undertaking that in case the Headquarters EPCG Committee disallows the Capital Goods including Jigs, fixtures, dies, moulds and spares, the license holder shall pay Customs duty together with 24% interest on such goods.

The Regional Licensing authority, after issuance of the license, shall forward a copy of the application along with a copy of the license to the Headquarters EPCG Committee for its approval within 7 days of the issuance of the license except in such cases where the nexus norms have already been communicated by the Headquarters in any case or the same is already established on the basis of the EPCG licenses, issued in the past by the port office.

CIF Value	Competent Authority
Upto ₹ 50 Crore.	Regional Licensing Authority concerned
Above ₹ 50 Crore	Headquarters EPCG Committee

Conditions for Import of Capital Goods

Import of capital goods shall be subject to Actual User condition till the export obligation is completed. The following conditions shall apply to the fulfillment of the export obligation:-

i. The export obligation shall be fulfilled by the export of goods manufactured or produced by the use of the capital goods imported under the scheme. The export obligation may also be fulfilled by the export of same goods, for which EPCG license has been obtained, manufactured or produced in different manufacturing units of the license holder / specified supporting manufacturers / vendors. However, if the exporter is processing further to add value on the goods so manufactured, the export obligation shall stand enhanced by 50%.

ii. The exports shall be direct exports in the name of the EPCG license holder. However, the export through third party(s) is also allowed provided the name of the EPCG License holder is also indicated on the shipping bill. If a merchant exporter is the importer, the name of the supporting manufacturer shall also be indicated on the shipping bills. At the time of export, the EPCG license No. and date shall be endorsed on the shipping bills which are proposed to be presented towards discharge of export obligation.

iii. Export proceeds shall be realized in freely convertible currency.

iv. Exports shall be physical exports. However, deemed exports shall also be counted towards fulfillment of export obligation, but the EPCG license holder shall not be entitled to claim any other benefit in respect of such deemed exports.

v. The export obligation shall, in addition to any other export obligation undertaken by the importer, be as specified below. The export obligation shall be, over and above, the average level of exports achieved by him in the preceding three licensing years for same and similar products. Wherever the average level of export was fixed taking into account the exports made to such countries as are notified by the DGFT from time to time for this purpose, the average level of exports shall be reduced by excluding exports made to these countries. This waiver shall be applicable to all EPCG licenses which have not been redeemed / regularized. However, exports made against any EPCG license, except the EPCG licenses, which have been redeemed, shall not be added up for calculating the average export performance for the purpose of the subsequent EPCG license. If the exporter achieves an export of 75% of the annual value of the production of the relevant export product, the export obligation against the EPCG license shall be subsumed under that export, provided the aggregate value of such exports during the specified period shall not be less than the aggregate value of the export obligation.

vi. Where the manufacturer exporter has obtained licenses for the manufacture of the same export product both under EPCG and the Duty Exemption/ Remission Scheme or Diamond Imprest License/ Replenishment License, the physical exports made under the Duty Exemption Scheme including the DEPB/ DFRC/ Diamond Imprest License/ Replenishment License shall also be counted towards the discharge of the export obligation under this scheme.

vii. In case of export of computer software, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture, the export obligation shall be determined as mentioned below, but the license holder shall not be required to maintain the average level of exports as specified in sub- paragraph (v) above.

Import of Components and Goods in Disassembled/ Un-Assembled

Conditions applicable are as follows:-

A person may apply for a license under the EPCG scheme to import the capital goods in dis-assembled / un-assembled condition to be assembled into capital goods by the importer or components of such capital goods required for assembly or manufacture of capital goods by the importer. This facility shall not be available for replacement of parts.

Indigenous Sourcing of Capital Goods

A person holding an EPCG license may source the capital goods from a domestic manufacturer instead of importing them. In the event of a firm contract between the parties for such sourcing, the domestic manufacturer may apply for EPCG license under the scheme for the import of components required for the manufacture of the said capital goods.

The domestic manufacturer may also replenish the components after supply of capital goods to the EPCG license holder. The export obligation relating to the EPCG license shall be reckoned with reference to the CIF value of the license actually utilized

The EPCG license holder intending to source capital goods indigenously, shall make a request to the licensing authority for invalidation of the EPCG license for direct import.

The EPCG license holder shall also give the name and address of the person from whom he intends to source the capital goods.

On receipt of such request, either at the time of issuance of license or subsequently, the licensing authority shall make the license invalid for direct import and issue an invalidation letter, in duplicate, to the EPCG license holder. The licensing authority shall simultaneously grant permission to the EPCG license holder to procure the capital goods indigenously in lieu of direct import

The indigenous manufacturer intending to supply capital goods to the EPCG license holder, may apply to the licensing authority in Form 10B along with the documents prescribed therein for import of components required for the manufacture of such capital goods. The indigenous manufacturer may alternatively apply for Advance License for deemed export for import of such inputs as required for the manufacture of capital goods for supply to the EPCG license holder

Benefits to Domestic Supplier

The domestic manufacturer supplying capital goods to EPCG license holders shall be eligible for deemed export.

For the purpose of claiming benefit of deemed exports, the indigenous supplier of capital goods shall furnish:

a. Certificate from the respective Assistant Commissioner of Customs and Central Excise Authorities having jurisdiction over the factory as evidence of having supplied/ received the manufactured capital goods and in case of service provider, a certificate from independent Chartered Engineer confirming the supplies/ receipt of the Capital Goods.

b. Evidence of payments received through normal banking channel from the EPCG license holder.

Validity for Import of Spares

The validity of the EPCG license shall be co-terminus with the validity of the export obligation period and the same shall be endorsed on the license.

Leasing of capital goods: An EPCG license holder may, on the basis of firm contract between the parties, source the capital goods from a domestic leasing company. In such cases, the Bill of Entry of imported capital goods or the commercial invoice of indigenously procured capital goods, as the case may be, shall be signed jointly by the EPCG license holder and the leasing company at the time of import/ local supply respectively. However, the EPCG license holder shall alone be fully responsible for fulfillment of export obligation. (PN no. 23 dated 24-7-2000)EOU/EPZ Units under EPCG Scheme; an EOU/ EPZ unit may apply for an EPCG license. Such application shall be made in the Form 10A along with the documents prescribed therein. In addition, the applicant shall also furnish a copy of the `No Objection Certificate' from the Development Commissioner showing the details of the capital goods imported/ indigenously procured by the applicant, its value at the time of import/ sourcing and the depreciated value for the purpose of assessment of duty under the scheme. Such cases shall not be required to be forwarded to Headquarters EPCG Committee. The concerned licensing authority shall issue EPCG licenses based on the no objection certificate produced from the concerned Development Commissioner.

Fulfillment of Export Obligation

The license holder under the EPCG scheme shall fulfill the export obligation over the specified period in the following proportions

Period from the date of issue of license	Proportion of total export obligation
Block of 1st and 2nd year	NIL
Block of 3rd and 4th year	15%
Block of 5th and 6th year	35%
Block of 7th and 8th year	50%

However, the export obligation of a particular block of year may be set off by the excess exports made in the preceding block of year. Where export obligation of any particular block of year is not fulfilled in terms of the above proportions, (except in such cases where the export obligation prescribed for a particular block of years is extended by the competent authority), such license holder shall, within 3 months from the expiry of the block of years, pay duties of customs plus 24% interest of an amount equal to that proportion of the duty leviable on the goods which bears the same proportion as the unfulfilled portion of the export obligation bears to the total export obligation. The license holder shall, if he fails to discharge a minimum of 25% of the export obligation prescribed for any particular block of two years for two consecutive blocks under EPCG scheme, be liable to pay forthwith, the whole of duties of customs plus 24% interest leviable on the goods imported except in such cases where the export obligation prescribed for a particular year or block of year is extended by the competent authority,

Monitoring of Export Obligation

The license holder, upon installation of capital goods in the factory, shall produce to the concerned Licensing Authority, a certificate to this effect by the jurisdictional Excise Authorities within 6 months of clearance of such goods from Customs. The license holder shall submit to the licensing authority, report on the progress made in fulfillment of export obligation against the license issued to him. The report shall be submitted in the Form 10C. The periodicity of the report shall be year wise.

Re-Export of Capital Goods Imported Under EPCG Scheme

Capital Goods imported under the EPCG scheme which are found defective or unsuitable for use may be re-exported with the permission of the Licensing Authority. In cases where the Capital Goods have been cleared without payment of basic Customs duty, no duty otherwise leviable on imports shall be paid on such re-export and the EPCG license holder shall not be eligible for any drawback benefits. However, in cases where the Capital Goods have been cleared on payment of confessionals customs duty, no duty otherwise leviable on imports shall be paid on such re-export and the EPCG license holder shall be entitled for drawback in lieu of concessional duty paid at the time of re-export. The export obligation imposed on such capital goods will be extinguished

Replacement of Capital Goods: The Capital Goods imported under the scheme and found defective or otherwise unfit for use may be re-exported and Capital Goods in replacement thereof be imported under the scheme. In such cases, while allowing re-export, the Customs shall re-credit the duty benefit availed which can be debited again at the time of import of such replaced Capital Goods

Redemption

As evidence of fulfillment of export obligation, the license holder shall furnish the following documents;

a. For physical exports
    i. A consolidated statement of exports made in the form given in Appendix-10C, duly certified by a Chartered Accountant;
    ii. A certificate from the bank evidencing exports and realization in freely convertible currency

b. For deemed exports
    i. Copy of ARO/ Back to Back Inland letter of Credit. OR

Supply invoices duly certified by the Bond Office of EOU/EPZ concerned showing that supplies have been received; OR

Invoices certified by the Project Authority concerned

(ii) The licensee shall also furnish the evidence of having received the payment through normal banking channel or a self certified copy of payment certificate issued by the Project authority concerned in the prescribed form.

c. For services rendered

   i. Consolidated statement of services rendered in the prescribed form, duly certified by a Chartered Accountant

   ii. A certificate from the bank evidencing foreign exchange earning received through normal banking channel.

d. For supply of capital goods to EPCG license holders, where the indigenous manufacturer imports components under EPCG: In case of import of components by indigenous manufacturer, he shall furnish:-

   i. Certificate from the jurisdictional Excise authorities as evidence of having supplied/ received the manufactured capital goods;

   ii. Evidence of payment received through the normal banking channel, from the EPCG license holder.

On being satisfied, the licensing authority shall issue a certificate of discharge of export obligation to the EPCG License holder and send a copy of the same to the customs authorities with whom BG/LUT has been executed.

Extension of Export Obligation Period

The competent authority may consider, on merits, request for extension in export obligation period, including extension for any one year or any one block of years, for fulfillment of export obligation subject to the condition that extension of export obligation shall not exceed a total period of one year from the date of expiry of the export obligation period. The extension in export obligation period shall be subject to such terms and conditions as may be prescribed by the competent authority.

Penal Action

In case of failure to fulfill the export obligation or any other condition of the license, the license holder shall be liable for action under the Foreign Trade (Development & Regulation) Act, 1992, the Orders and Rules made there under, the provisions of the Policy and the Customs Act, 1962

Export Obligation Shortfall

The competent authority may also consider condonation of shortfall upto 5% in the export obligation subject to such terms and conditions as may be prescribed by them.

Maintenance of Records

Every EPCG license holder shall maintain for a period of 3 years from the date of redemption, a true and proper account of the exports/ supplies made and services rendered towards fulfillment of export obligation under the scheme

Regularization of Bonafide Default

In case, EPCG license holder fails to fulfill the prescribed export obligation, he shall pay duties of Customs plus 24% interest per annum to the Customs authority. In addition, the license holder shall surrender to the licensing authority SIL of a value equivalent to 5 times the CIF value of actual imports on prorate basis.

Re-fixation of average export obligation: Wherever average level of export obligation was fixed taking into account the exports made to former USSR or to such countries as are notified by the Directorate General of Foreign Trade under this paragraph, the average level of exports shall be reduced by excluding exports made to such countries.

Export Houses, Trading Houses, Star Trading Houses and Superstar Trading Houses

Objective

The objective of the scheme is to recognize established exporters as Export House, Trading House, Star Trading House and Super Star Trading House with a view to building marketing infrastructure and expertise required for export promotion. Such Houses should operate as highly professional and dynamic institutions and act as important instruments of export growth.

Eligibility

Merchant as well as Manufacturer exporters, Service providers, Export Oriented Units (EOUs)/ units located in Export Processing Zones (EPZs)/ Special Economic Zone (SEZ's) /Electronic Hardware Technology Parks (EHTPs)/ Software Technology Parks (STPs) shall be eligible for such recognition.

Criterion for Recognition

The eligibility criterion for such recognition shall be on the basis of the FOB/NFE value of export of goods and services, including software exports made directly, as well as on the basis of services rendered by the service provider during the preceding three licensing years or the preceding licensing year, at the option of the exporter. The exports made, both in free foreign exchange and in Indian Rupees, shall be taken into account for the purpose of recognition.

Exports made by Subsidiary Company

The exports made by a subsidiary of a limited company shall be counted towards export performance of the limited company for the purpose of recognition. For this purpose, the company shall have the majority share holding in the subsidiary company.

Calculation of Net Foreign Exchange

For the purpose of calculation of the Net Foreign Exchange earned on exports, the value of all the licenses including the value of 2.5 times of the DEPB Credit earned/ granted and the value of duty free gold/ silver/ platinum taken from nominated agency or from foreign supplier shall be deducted from the FOB value of exports made by the person. However, the value of freely transferable SIL, EPCG licenses and the value of licenses surrendered during the validity of license shall not be deducted.

Weightage to Exports

For the purpose of recognition, weightage shall be given to the following categories of exports provided such exports are made in freely convertible currency:

Triple weightage on FOB or NFE on the export of products manufactured and exported by units in the Small Scale Industry (SSI)/Tiny sector/Cottage Sector and double weightage on FOB or NFE to merchant exporter exporting products reserved for SSI units and manufactured by units in the Small Scale Industry (SSI)/Tiny sector/Cottage Sector. The facility under this paragraph shall not be available to units exporting gems & jewellery products.

Triple weightage on FOB/NFE on the export of products manufactured and exported by the handlooms and handicraft sector (including handloom made silk products), hand knotted carpets, carpets made of silk and double weightage on FOB/NFE to merchant exporter exporting products manufactured by the handlooms and handicraft sector (including handloom made silk products), hand knotted carpets, carpets made of silk

Double weightage on FOB or NFE on the export of fruits and vegetables, floriculture and horticulture produce/ products, project exports.

Double weightage on FOB or NFE on export of goods manufactured in North Eastern States;

Double weightage on FOB or NFE on export to such

The manufacturing units registered with KVIC or KVIBs shall be granted triple weightage on FOB or NFE on the export of products manufactured and exported by them with effect from 15th August, 97. However, such units shall not be entitled for the weightage given in sub paragraph (a) and (b) above.

Double weightage on FOB or NFE on exports made by units having ISO 9000(series) or IS/ISO 9000 (series) or ISO 14000 (series) certification.

Double weightage on FOB or NFE on exports of bar coded products

Double weightage on FOB or NFE on export of goods manufactured in Jammu and Kashmir

Recognition for State Corporations

With a view to encouraging participation of State Governments and Union Territories in export promotion, one state corporation nominated by the respective State Government/Union Territory may be recognized as an Export House, even though the criterion for such recognition is not fulfilled by it. This benefit shall be available only for such period and in accordance with such terms and conditions as may be specified from time to time.

Validity Period

Status Certificate shall be valid for a period of three years starting from 1st April of the licensing year during which the application for the grant of such recognition is made, unless otherwise specified. On the expiry of such certificate, application for renewal of status certificate shall be required to be made within a period as prescribed. During the said period, the status holder shall be eligible to claim the usual facilities and benefits, except the benefit of a SIL.

Facilities

All status holders shall be entitled to such facilities as specified in chapter-12

Transitional Arrangement

Status holders shall continue to hold the recognition accorded to them for the period for which such recognition was accorded.

Manufacturing Companies/Industrial Houses

Manufacturing companies or Industrial houses with an annual manufacturing turnover of ₹ 300 crores and ₹ 1, 000 crores in the preceding licensing year shall be recognized as Star Trading House and Super Star Trading House respectively on signing a Memorandum of Understanding in the prescribed form for achieving physical exports as currently prescribed for these categories over a period of next three years. Similarly, companies/project exporters, domestic service providers with annual turnover of ₹ 100 crores or more in the preceding licensing year shall be recognized as Export House and International Service Export House respectively on signing a Memorandum of Understanding in the prescribed form for achieving physical exports as currently prescribed for this category over a period of next three years. Service providers shall be entitled to recognition as Service Export House, International Service Export House, International Star Service Export House, and International Super Star Service Export House on earning free foreign exchange as given in paragraph 15.7 of the Policy.

Golden Status Certificate

Exporters who have attained Export House, Trading House, Star Trading Houses and Super Star Trading Houses status for three terms or more and continue to export shall be eligible for golden status certificate which would enable them to enjoy the benefits of status certificate irrespective of their actual performance thereafter as per the guidelines issued in this regard from time to time.

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UNIT - IV

Lesson 4.1 - Export Incentives

Learning Objectives

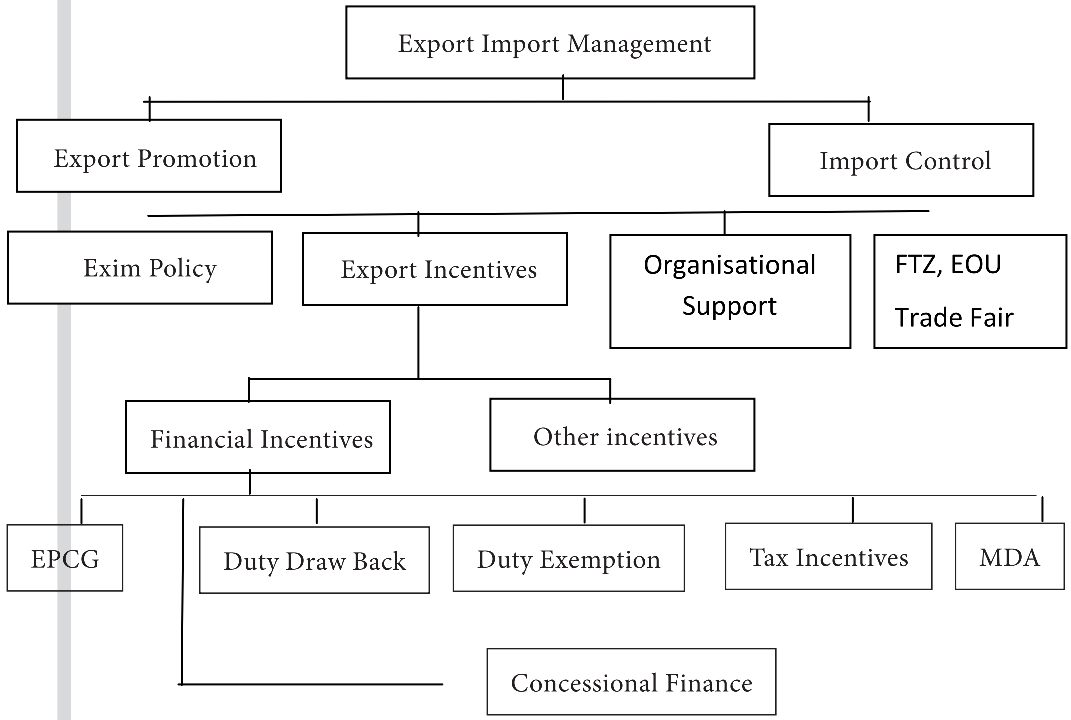
- To understand the role of export incentives
- To explain the negative forces against export promotion
- The list chronologically the development of EXIM Policy
- To analyse the highlights of Foreign Trade Policy 2004-2009
- To distinguish export incentives against export credit
- To recognize the export incentive schemes
- To explain Market Development Assistance Scheme
- To distinguish EOU from FTZ
- To illustrate 2 or 3 other incentives and facilities
- To compare CCS with REP scheme

The Role of Export Incentives in Foreign Trade

You have studied in unit I, the importance of export-import (International Trade) for overall development of India. In the present system of economy, no country could prosper or even survive, without flourishing exports which will lead to better forex reserve.

The Britishers did not care about our exports and prosperity and hence you saw in unit I, there was deep deficit of foreign exchange when we got Independence. We have been struggling to improve the situation through five year plans and we could improve our foreign trade and the BOP position.

There should be sustained development of exports through our continued and comprehensive efforts Export promotion and imports control are two wheels of progress of foreign trade. Let us see the *role* of export incentives in the over all context of Foreign Trade Management.



The flow chart lucidly explains that for better export promotion, there are four major components:

- **EXIM Policy:** Crucial for taking decisions and servers as a framework and basis of promotion and control.
- **Export incentives:** Export is a hazardous business and hence needs incentives to encourage the exporters.
- **Organisational support:** organizations like Commodity Boards. Export Promotion Council, Trade Development authority, Department of Commercial, Intelligence and Statistics, Federation of Indian Export Organizations, Indian Institute of Foreign Trade, Indian Institute of Packaging, Govt. Trade Representative Abroad etc.

Govt. has organizations to take care of state trade, like STC, MMTC, HHEC, TTCI, PEC, CCIC, CCI etc.

- **Providing Infrastructural Facilities:** Free Trade Zone, Special Economic Zone, Export oriented Units (Unit V) Trade fair facilities.

Need for Export Promotion

Export promotion is necessitated by the following essential factors of developing International Trade

- Unfavorable BOT and BOP
- Increasing Imports
- Execution of Development schemes (Need Forex)
- Self Sufficient Economy
- Marketing New products
- Changes in Direction of Trade.

Negatives Forces

When we attempt to promote exports taking all the essential factors, some negative forces curb or hinder the progress of exports. Some of the negative forces are:

- Higher price level
- Tariffs in foreign markets
- Restricted market
- Lack of market knowledge
- Financial problems
- Tough foreign competition (like Japan, China, Korea)
- Inferior and substandard commodities
- Transport and logistic problems.

Thus there is an urgent need to boost up the export trade in our country. But the existing machinery is not conducive to our export trade as it comprises of many drawbacks and hindrances. Hence, a package of promotion measures should be put into operation such as *finance for export, cash assistance and incentives, transport facilities, training, export market research, rationalization of institutional arrangements technical service, quality control, publicity, liberalization of export procedures, release of foreign exchange for specified purposes etc.*

The Government has taken suitable measures in various directions which are collectively known as *Export promotion measures.*

EXIM Policy

You would study the detailed analysis of export policy in other subjects/papers. EXIM policy is the framework which helps to control and promote the exports in the desired directions It is the overall guidance instrument for navigating Export, Import trade with expected results. However we will get a glimpse of the developments in EXIM policy in a nut-shell.

Even after independence, the first concrete efforts for promotion of exports was taken in 1970, as a policy resolution in the parliament. Let us see the developments since then, in this direction.

Chronological Development of EXIM Policy

1970 – Export policy resolution in the parliament

1978 – Import Export polices and procedures – Alexander committee Report

1980 – Export strategies for eighties, Tendon committee report

1984 – Trade policies- Abid Hussain Report

1985 – 1988 – Export Import policy – Viswanath Prathap Sing's Govt.

1990 – 1993 – 3 Year Import - Export Policy (Terminated with another policy, to coincide with plan period)

1992 – 1997 – Export Import Policy

1997 – 2002 – EXIM Policy with major changes (Major Annual Policies were also declared)

2002 – 2007 – EXIM Policy

2004 – 2009 – New Foreign Trade Policy has been issue after change of Govt.

2009 – 2014 – New EXIM Policy announced by the Government of India with the main aim to arrest and reverse declining trend of exports.

Major decisions were taken after the economic reforms in 1991-92 onwards and an analysis of the above development will reveal that political changes influenced the EXIM policies Every time, new polices are evolved to face the problems which existed then and when time passes, the polices become inadequate so new policies are framed Thus the race between evolution of policies and tackling the problems is a continues process.

We will discuss the salient features of 1970 policy *resolution as the first step* towards export promotion and incentives and the present Foreign Trade policy. The quintessence of the recent policy is required to view the incentive measures in the perspective and context of overall efforts.

1970 Policy Resolution

In 1970, the Government formulated a positive policy known as "Export Policy Resolution" and tabled before the Parliament. This is the first perhaps, the only time that such a resolution was adopted by the Government.

The Export Policy Resolution of 1970 can be considered as a *landmark in the history of exports of our county*. Though the Resolution is in the nature of guidelines, it covered almost all the areas where positive measures are needed. The Government, however, stated clearly the kinds of policies it will pursue in order to increase exports at a very high rate.

The scope of the Export Promotion Policy is much wider. The policy resolution gives clear cut directions in which the promotional measures are to be taken.

The guidelines given are on the following:

- Encouragement to Export Oriented Units.
- Assistance for Production of Non-Traditional Products.
- Continued Encouragement to Traditional Products.
- Co-ordination of Market Research.
- Export promotion councils etc.
- Definite role to public sector.
- Finance for Export.
- Shipping Facilities.
- Development of Tourism.

Thus our export policy of 1970 has given a definite shape to our export promotional activities that were undertaken by our Government.

Foreign Trade Policy 2004-2009

Objectives

Trade is not an end in itself, but a means to economic growth and notional development. The primary purpose is not the mere earning of foreign exchange, but the stimulation of greater economic activity. The foreign trade policy is rooted in this belief and built around two major objectives. These are:

i. To *double our 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*.

Strategy

These objectives are proposed to be achieved by adopting, among others, the following strategies:

i. Unshackling of controls and creating an atmosphere of trust and transparency to unleash the innate entrepreneurship of our businessmen, industrialists and traders.

ii. Simplifying procedures and bring down transaction costs.

iii. Neutralizing incidence of all levies and duties on inputs used in export products, based on the fundamental principle that duties and levies should not be exported.

iv. Facilitating development of India as a global hub for manufacturing, trading and services

v. Identifying and nurturing special focus area which would generate additional employment opportunities, particularly in semi-urban and rural areas, and developing a series of 'Initiatives' for each of these.

vi. Facilitating technological and infrastructural upgradation of all the sectors of the Indian economy, especially through import of capital goods and equipment, thereby increasing value addition and productivity, while attaining internationally accepted standards of quality.

vii. Avoiding inverted duty structures and ensuring that our domestic sectors are not disadvantaged in the Free Trade agreements/ Regional Trade Agreements/ Preferential Trade Agreements that we enter into in order to enhance our exports

viii. Upgrading our infrastructural network, both physical and virtual, related to the entire Foreign Trade chain, to international standards.

ix. Revitalising the board of Trade by redefining its role, giving it due recognition and inducting experts on Trade Policy.

x. Activating our Embassies as key players in our export strategy and linking our Commercial Wings abroad through an electronic platform for real time trade intelligence and enquiry dissemination.

Co-Operative Endeavour

The new policy envisages merchant exporters and manufacturer exporters, business and industry as partners of Government in the achievement of its stated objectives and goals. Prolonged and unnecessary litigation vitiates the premise of partnership. In order to obviate the need for litigation and nurture a constructive and conductive atmosphere, a suitable Grievance Redressal Mechanism will be established which, it is hoped, would substantially reduce litigation and further a relationship of partnership.

The High Heights of New Policy

- Special focus initiatives by finding thrust sectors
- Package for agriculture including EPCG Scheme
- Duty free imports for handlooms & handcrafts
- Duty free entitlement of specific items for Lather & Footwear
- Export promotion schemes (discussed in detail)
- New status holder categorization

- Schemes for EOUs
- Free trades and warehousing zone (FTWZ)
- Import of second hand capital goods
- Services export promotion Council
- Common facilities centre
- Procedural simplification and rationalization measures
- Pragati maidan provided with huge convention centre
- Legal aid for trade related matters
- Grievance redressal
- Quality policy (DGFT, HQ has obtained ISO 9000 certification)
- Biotechnology parks
- Co-acceptance equivalent to irrevocable letter of credit
- Board of trade revamping.

You would observe, many new duty free benefits have been declared in the policy and EPCG benefit is extended to agriculture Legal aid is provided to combat any dispute.

Now let us examine the export promotion schemes in details.

Export Promotion Schemes

(a) Target Plus

A new scheme to accelerate growth of exports called "Target Plus" has been introduced.

Exporters who have achieved a quantum growth in exports would be entitled to for *duty free credit* based on incremental exports substantially higher than the general actual export target fixed. (Since the target fixed for 2004-05 is 16%, the lower limit of performance for qualifying for rewards is pegged at 20% for the current year)

Rewards will be granted based on a tiered approach. For incremental growth of over 20%, 25% and 100%, the duty free credits would be 5%, 10% and 15% of FOB value of incremental exports.

(b) Vishesh Krishi Upaj Yojana

Another new scheme called Vishesh Krishi Upaj Yojana (Special Agricultural Produce Scheme) has been introduced to boost exports of fruits, vegetables, flowers, minor forest produce and their value added products.

Export of these products shall qualify for *duty free credit* entitlement equivalent to 5% of FOB value exports

The entitlement is *freely transferable* and can be *used for import* of a variety of inputs and goods.

(c) 'Served from India' Scheme

To accelerate growth in export of services so as to create a powerful and unique 'Served from India' brand instantly recognized and respected the world over, the earlier DEFC scheme for services has been revamped and re-cast into the 'Served from India' scheme.

Individual service providers who earn foreign exchange of at least ₹ 5lakhs, and other service providers who earn foreign exchange of at least ₹ 10 lakhs will be eligible for a *duty credit* entitlement of 10% of total foreign exchange earned by them.

In the case of stand-alone restaurants, the entitlement shall be 20%, whereas in the case of hotels, it shall be 5%

Hotel and Restaurants can use their duty credit entitlement for *import of food items* and *alcoholic beverages.;*

(d) EPCG

1. Additional flexibility for fulfillment of export obligation under EPCG scheme in order to reduce difficulties of exporters of goods and services.
2. Technological upgradation under EPCG scheme has been facilitated and incentivised.

3. Transfer of capital goods to group companies and managed hotels now permitted under EPCG.
4. In case of movable capital goods in the service sector, the requirement of *installation certificate from Central Excise has been done away with.*
5. Export obligation for specified projects shall be calculated based on confessional duty permitted to them. This would improve the viability of such projects.

(e) DFRC

Import of fuel under DFRC entitlement shall be allowed to be transferred to marketing agencies authorized by the Ministry of Petroleum and Natural Gas.

(f) DEPB

The DEPB Scheme would be *continued until replaced* by a new scheme to be drawn up in consultation with exporters.

India's EXIM Policy 2009-14

The Union Commerce Ministry, Government of India announces the integrated Foreign Trade Policy FTP in every five year. This is also called EXIM policy. This policy is updated every year with some modifications and new schemes. New schemes come into effect on the first day of financial year i.e. April 1, every year. The Foreign trade Policy which was announced on August 28, 2009 is an integrated policy for the period 2009-14.

Objectives of EXIM Policy 2009-14

1. To arrest and reverse declining trend of exports is the main aim of the policy. This aim will be reviewed after two years.
2. To Double India's exports of goods and services by 2014.
3. To double India's share in global merchandise trade by 2020 as a long term aim of this policy.*India's share in Global merchandise exports was 1.45% in 2008.*

4. Simplification of the application procedure for availing various benefits
5. To set in motion the strategies and policy measures which catalyse the growth of exports
6. To encourage exports through a “mix of measures including fiscal incentives, institutional changes, procedural rationalisation and efforts for enhance market access across the world and diversification of export markets.

Aim in General: The policy aims at developing export potential, improving export performance, boosting foreign trade and earning valuable foreign exchange. FTP assumes great significance this year as India’s exports have been battered by the global recession. A fall in exports has led to the closure of several small- and medium-scale export-oriented units, resulting in large-scale unemployment.

Targets

1. Export Target: $ 200 Billion for 2010-11
2. Export Growth Target: 15 % for next two year and 25 % thereafter.

EPCG Scheme

1. Obligation under EPCG scheme relaxed.
2. To aid technological upgradation of export sector, EPCG Scheme at Zero Duty has been introduced.
3. Export obligation on import of spares, moulds etc. under EPCG Scheme has been reduced by 50%.

Refixation of Annual Average Export Obligation

Taking into account the decline in exports, the facility of Re-fixation of Annual Average Export Obligation for a particular financial year in which there is decline in exports from the country, has been extended for the 5 year Policy period 2009-14. Support for Green products and products from North East extended.

Announcements for FPS, FMS, MLFPS

1. 26 new markets added in this scheme.
2. Incentives under FMS raised from 2.5 % to 3 %
3. Incentive available under Focus Product Scheme (FPS) raised from 1.25% to 2%.
4. Extra products included in the scope of benefits under FPS
5. Market Linked Focus Product Scheme (MLFPS) expanded by inclusion of products like pharmaceuticals, textile fabrics, rubber products, glass products,auto components, motor cars, bicycle and its parts.etc. (However. benefits to these products will be provided, if exports are made to 13 identified markets (Algeria, Egypt, Kenya, Nigeria,South Africa, Tanzania, Brazil, Mexico, Ukraine, Vietnam, Cambodia, Australia and New Zealand).
6. Focus Product Scheme benefit extended for export of 'green products'and some products from the North East.
7. A common simplified application form has been introduced to apply for the benefits under FPS, FMS, MLFPS and VKGUY.

Announcements for MDA & MAI

Higher allocation for Market Development Assistance (MDA) and Market Access Initiative (MAI) has been announced.

Towns of Export Excellence (TEE)

The following cities have been recognized as towns of export excellence (TEE)

1. **Handicrafts:** Jaipur, Srinagar and Anantnag
2. **Leather Products:** Kanpur,Dewas and Ambur
3. **Horticultural Products:** Malihabad

Scheme for Status Holders (Status Holders means star status holders)

1. Additional Duty Credit Scrips shall be given to Status Holders @ 1% of the FOB value of past exports accelerate exports and encourage technological upgradation.

2. This facility shall be available for sectors of leather (excluding finished leather), textiles and jute, handicrafts, engineering (excluding Iron & steel & non-ferrous metals in primary and intermediate form, automobiles & two wheelers, nuclear reactors & parts, and ships, boats and floating structures), plastics and basic chemicals (excluding pharma products).
3. This facility shall be available up to 31 March, 2011.
4. Transferability for the Duty Credit scrips being issued to status holders under VKGUY Scheme permitted only for the procurement of **cold chain equipments.**

Extension of Income Tax Exemption to EOU and STPI

Income Tax exemption to 100% EOUs and to STPI units under Section 10B and 10A of Income Tax Act, has been already extended for the financial year 2010-11 in the Budget 2009-10.

Extension of ECGC

The adjustment assistance scheme initiated in December, 2008 to provide enhanced ECGC cover at 95%, to the adversely affected sectors, is continued till March, 2010. **Announcements For Marine sector:**

1. Fisheries exempted from maintenance of average EO under EPCG Scheme (along with 7 sectors) however Fishing Trawlers, boats, ships and other similar items shall not be allowed for this exemption.
2. Additional flexibility under Target Plus Scheme (TPS) / Duty Free Certificate of Entitlement (DFCE) Scheme for the marine sector.

Announcements for Gems & Jewellery Sector

1. Duty Drawback is allowed on Gold Jewellery exports to neutralize duty incidence.
2. Plan to establish "Diamond Bourse (s) with an aim to make India and International Trading Hub announced.

3. Introduction of a new facility to allow import on consignment basis of cut & polished diamonds for the purpose of grading/certification.

4. 13 value limits of personal carriage have been increased from $ 2 million to US$ 5 million in case of participation in overseas exhibitions.

5. The limit in case of personal carriage, as samples, for export promotion tours, has also been increased from US$ 0.1 million to US$ 1 million.

6. Time limit of 60 days for re-import of exported gems and jewellery items, for participation in exhibitions has been extended to 90 days in case of USA.

Announcements for Agro Exports

1. Introduction of a single window system to facilitate export of perishable agricultural produce with an aim to reduce transaction and handling cost.

2. This system will involve creation of multi-functional nodal agencies. These agencies will be accredited by APEDA.

Announcements for Leather Exports:

On the payment of 50 % applicable export duty, **Leather sector shall be allowed re-export of unsold imported raw hides and skins and semi finished leather** from public bonded ware houses.

Announcements for Tea Exports

1. The existing Minimum value addition under advance authorisation scheme for export of tea is 100 %. **It has been reduced from the existing 100% to 50%.**

2. DTA (Domestic Tarriff Area) sale limit of instant tea by EOU units increased from 30% to 50%.

3. Export of tea has been included under VKGUY Scheme benefits.

Announcements for Pharma Exports

1. Export Obligation Period for advance authorizations issued increased from existing 6 months to 36 months.
2. Pharma sector included under MLFPS for countries in Africa and Latin America & some countries in Oceania and Far East.

Announcements for Handloom Exports

The claims under Focus Product Scheme, the requirement of " Handloom mark" was required earlier. This has been removed.

Scheme for Export Oriented Units

1. EOUs have been allowed to sell products manufactured by them in DTA (Domestic Tariff Area) upto a limit of 90% instead of existing 75%, without changing the criteria of 'similar goods', within the overall entitlement of 50% for DTA sale. (This means that instead of 75% these units can sell up to 90 % of their products in the domestic markets)
2. EOU allowed to procure finished goods for consolidation along with their manufactured goods, subject to certain safeguards.
3. Extension of block period by one year for calculation of Net Foreign Exchange earning of EOUs kept under consideration.
4. EOU allowed CENVAT Credit Facility.

Announcements for Value Added Manufacturing (VAM)

- To encourage Value Added Manufactured export, a minimum 15% value addition on imported inputs under Advance Authorization Scheme.

Announcements for Project Exports

- Project Exports and a large number of manufactured goods covered under FPS and MLFPS.

Fuel included in DEPB Scheme

- Custom duty component on fuel where fuel is allowed as a consumable in Standard Input-Output Norm included in factoring.

Easy Import of Samples

- Number of sample pieces has been increased from the existing 15 to 50. This will facilitate the the duty free import of samples by exporters.

Convertibility of Shipping Bills

Greater flexibility has been permitted to allow conversion of Shipping Bills from one Export Promotion scheme to other scheme. Customs shall now permit this conversion within three months, instead of the present limited period of only one month.

Reduction in Transaction Costs

1. Dispatch of imported goods directly from the Port to the site has been allowed under Advance Authorisation scheme for deemed supplies. (Presently the duty free imported goods could be taken only to the manufacturing unit of the authorisation holder or its supporting manufacturer.
2. Maximum applicable fee for 18 Authorisations/ licence applications (except those mentioned in Chapter 3 of FTP) has been reduced to ₹ 100,000 from the existing ₹ 1,50,000 (for manual applications) and ₹ 50,000 from the existing ₹ 75,000 (for EDI applications).
3. No fee shall now be charged for grant of incentives under the Schemes in Chapter 3 of FTP.

Disposal of Manufacturing Wastes

1. Disposal of manufacturing wastes / scrap will now be allowed after payment of applicable excise duty also before fulfillment of export obligation under Advance Authorisation and EPCG Scheme. Earlier it was allowed after fulfillment of export obligation.

Announcements for Sports Weapon

1. Licenses for the import of sports weapon will be issued now by Regional Authorities provided a NOC (No Objection Certificate) is issued by Ministry of Sports & Youth Affairs. (Earlier DGFT Headquarters had to be approached for this)

Announcements for Medical Devices

1. To solve the problem of medical device industry, the procedure for issue of Free Sale Certificate has been simplified and the validity of the Certificate has been increased from 1 year to 2 years.

Announcements for Automobile Industry

1. Those Automobile industries which have their R&D establishment will be allowed free import of reference fuels (petrol and diesel), upto a maximum of 5 KL per annum, which are not manufactured in India. Simplification in EPCG for automobile industry.

Announcements for EDI Initiatives

1. Export Promotion Councils & Commodity Boards have been advised to issue RCMC through a web based online system.

2. It is expected that issuance of RCMC would become EDI enabled before the end of 2009.

Set up of Directorate of Trade Remedy Measures Announced

- A Directorate of Trade Remedy Measures shall be set up, which will enable support to Indian industry and exporters, especially the Micro Small & medium Enterprises MSMEs in availing their rights through trade remedy instruments,

Duty Credit Scrips

- Earlier the payment of customs duty for Export Obligation (EO) shortfall under Advance Authorisation. DFIA or EPCG Authorisation was allowed in cash only. Now this payment can be done in the way of debit of Duty Credit scrips.

Import of Restricted Items

- Restricted Items can be imported now (as replenishment) against transferred DFIAs (Duty Free Import Authorisations) as the present DFRC (Duty Free Replenishment Card) scheme.

Dollar Credits

- There is a provision for **state-run banks to provide dollar credits**

Special Efforts for Export Promotion

Now, we will analyse briefly, the efforts taken in India, specifically for export promotion (including fiscal and other incentives), apart from the general Foreign Trade policies. This will indicate the evolution stages of export promotion measures.

Historic Perspective

The Government, Constituted various committees to suggest suitable measures for export promotion from time to time. The first body to suggest such measures was the Export promotion committee which was set up in 1949. it was only on the recommendations of the committee. i.e., Government set up the Directorate of Export Promotion in the Ministry of Commerce and appointed Trade Representatives in a number of countries.

The System of drawback of import duty and the policy of *gradual removal* of *export duties* were also adopted on the suggestions of the Export Promotion Committee. The exports declined considerably and so another *Export Promotion committee* was appointed in February 1957.

The second Export Promotion Committee submitted its Report in August 1957. The committee suggested the following measures towards export promotion, apart from other useful measure

- Reduction of export duty.
- Refund of excise duty at a flat rate on exported goods.
- Canalisation of exports.

The Committee observed that if the Government takes appropriate steps on the recommended lines, India's exports would increase from ₹ 700 to ₹ 750 crores. Most of the suggestions were given effect to and have been in operation to great advantage to the nation.

The Ramaswamy Mudaliar Committee

This is a milestone event and paved way for additional incentives. In 1962, the Government again set up a committee known as Import and Export Policy Committee under the chairmanship of Sir. Dr. A. Ramaswamy Mudaliar. The Committee submitted its Report in the same year. The important recommendations of the committee included the following:

- The scope of the present export promotion measures should be enlarged to cover all exports. The exporter should be allowed to use the licence to import a much wider range of raw materials, components and equipments for the manufacture of export products.
- *Tax Rebate* on earnings should be introduced.
- The Railway should grant a *general rebate* of 2% on all goods put on board and meant for export.
- The *procedure* for securing *duty drawbacks* for import and excise duties should be simplified.

Various recommendations of the Mudaliar Committee were also accepted by the Government and were given effect. With this introduction, we shall now discuss the various types of export promotional incentive given by the Government.

Check Your Progress 1

1) Export incentive could be in two forms (a) ____________ (b) ______________
2) Major components of Export Promotion are ______________
3) State 2 negative forces against export.

4) The first effort on evolving export policy commenced in ______________(year)
5) The latest exim policy is ____________
6) The first Export promotion committee was appointed in ______________(year)

Export Promotion Incentives

With the background of overall export promotion measure let us discuss specific export promotion incentives in financial, specific and other facilities. Some important schemes are:

- Export Promotion Capital Goods (EPCG)
- Duty Draw backs
- Duty Exemption
- Tax Incentives

These specific four schemes will be discussed in detail along with procedure and documentation in the next lesson.

In this lesson, a overall view of all other incentive schemes are narrated. Schemes like CCS have been discontinued but still, for historic purpose, gists of the schemes are provided

Export Credit and Export Incentive/Assistance

Export credit is given to relieve the exporters from the burden of fund required to manufacture, ship them to foreign countries and to help them to manage the business till the proceeds of the export is received by him.

These credits are given by commercial banks and other institutions of Government Sometimes the institutions which provide such loans/ advances are backed by ECGC and EXIM bank by financial support and guarantees, subject to certain terms and conditions.

Apart from the these supports, Govt. of India is providing Export Assistance to supplement export credit and guarantees.

Why Export Assistance?

Developing countries are far behind in export trade because their industrial and technical development took place later. The developing countries need assistance to improve their export amidst competition from developed countries.

Cost of product is high because,

- Small level production and hence no economies of scale,
- Mechanization is low and hence productivity is also low,
- Less experience in process/technology, and
- Lack of experience in international marketing.

Schemes

In order to set right these weaknesses, Government of India has introduced many Export incentive assistance schemes:

- Market Development Assistance (MDA)
- Cash compensatory Scheme (CCS)
- Replenishment Licensing Scheme (RLS) (It may also be indicated as Rep Scheme)
- 100% Export Oriented Units (EOU)
- Infrastructure facilities
- Other Facilities

The details of these schemes are analysed one by one in this unit in the ensuing sections.

Market Development Assistance

Market Development Assistance (MDA) is one of the export promotion schemes of the Ministry of Commerce.

Under MDA, financial assistance is provided for sponsoring trade delegations abroad,

- Market studies
- Publicity
- Establishing warehouses and show rooms abroad
- Research and development
- Quality control opening of warehouses etc.

Market development assistance is available to approved organizations (Export Promotion Council) including personnel thereof, export houses, trading houses, association of small scale industries and individual exporters sponsored by the approved organizations/export houses/ association of small scale industries.

Market development assistance grant is disbursed by two agencies. They are federation of Indian Export Organisations, and Ministry of Commerce.

Agencies and Scheme

Federation of Indian Export Organisation (FIEO) provides for Export Houses, Trading Houses and disburses MDA grant for the following activities.

- Participation in fairs and exhibitions abroad
- Sales teams
- Combined proposals for participation in fairs/exhibitions followed or preceded by sale teams
- Broad publicity by means catalogues, brochures, advertisements in foreign media.

The *Ministry of Commerce* provides and disburses MDA grant for the following activities:

- Research and development
- Establishment warehouse, show rooms or after sales service establishments abroad
- Opening of foreign offices by export houses.

Application should be through Export promotion pencil/ commodity brands.

The activities covered by FIEO for MDA grant are also dealt by the Ministry of Commerce. All exports other than export houses should apply for MDA grant to the *Ministry of commerce* through the concerned *export promotion council.*

Procedure

Individual exporters should send their applications to the Federation of Indian Export Organisations or Ministry or Commerce for obtaining MDA assistance atleast 28 days before commencement of the activity i.e. the date on which export promotion activity is commenced.

After completion of the export promotion activity, the exporters should submit a claim in the prescribed format for reimbursement of the expenses upto the admissible limit. After verifying the claim, federation of Indian Export Organisations/Ministry of Commerce will release the grant to the exporters.

Maximum Limit for Market Development Assistance to Export Houses

Who are Eligible?

(a) Export houses, Trading Houses \, Star trading housed, and Super star trading Houses.

(b) Other exporter who fulfill the following criteria as specified under Para 11.11 (a & B) of the Hand Book of procedures 1997-220 Vol. 1 as amended on 31.03.2000:

   (i) The exporters who have export turnover (export of physical goods and services including software but excluding deemed exports) of the FOB value of ₹ 5 Crores and above in the preceding licensing year or an average of FOB value of ₹ 2crores and above during the preceding 3 licensing years. OR

   (ii) The small scale exporters holding the certification under ISO9000 series or ISO 9000 series of quality certification, should have export turnover of FOB value of ₹ 3 Crores and above in the preceding year or an average of ₹ 1 Crore or above during the preceding 3 licensing years. Exporting unit must a member of FIFO.

Activities and he Assistance

a) Sales Cum Study Tour Abroad

Maximum 90% of the actual fare for SSI exporters and 75% for other than SSI exporters subject to a limit of ₹ 60000/- (₹ 90000 of Latin American countries) for travel in economy class for all categories of exporters.

b) Participation in Fairs/Exhibition Abroad

Maximum 90% of the total expenditure incurred on items of expenditure viz air travel in economy class, space rent, decoration, electricity, interpreters etc. in the case of SSI exporters and 75% of the total expenditure in the case of non-SSI exporters subject to the maximum of ₹ 90000/- in all the cases.

c) Publications/Publicity for bringing out publication for use abroad and insertion of advertisement in the foreign media to promote brand publicity

Maximum of ₹ 50000/- in a financial year or 25% of the actual cost, whichever is less.

d) Research & Product Development

50% of the expenditure approved for this activity by the office of the Dy. Director (EAC) Ministry of Commerce, Udyog Bhawan, New Delhi.

e) Opening of Foreign Office

For the first year, 25% of the salary of the staff (one senior and one junior) and 20% of the office rent.

f) Opening of Warehousing

Grant at the rate of 25% for three years.

Grant for the Repeated Participations

In the same fair/exhibition under market development assistance as air fare DA, Publication space etc will be decreasing as per schedule for the first, second etc participation.

Cash Compensatory Schemee

This assistance was given to make certain non-traditional products competitive in the international market. It was first introduced in 1966.

Mostly it was for compensating for the unrefunded taxes and levies which the exporter has paid as the inputs to manufactured goods. The degree of compensation varied from product to product and it ranged from 5 to 20% of the FOB value.

Principles

CC scheme was based on the following principles

- Compensation for unrebated indirect taxes like sales tax, octroi, duty etc which are not refundable.
- Higher freight due to various factors like volume of trade, discriminating rates can be compensated to the discriminatory level
- Selective compensation for product market development
- Special weight age for agricultural and an agro-based products on the basis of transportation cost.
- Special concentration for handicrafts and handlooms by giving weightage for value added through labour.

The scheme was complicated and resulted in misuse of the cash aid and several other problem of speculation. Hence the scheme was abolished from July 1991 under structural reforms.

Replenishment Licensing Scheme (REP)

The Government attempted to take the country's decade old foreign trade policy out of a system of administrative controls and licence by announcing major reforms. Under the new reform measures, the REP System has been enlarged and restructured to provide greater incentive for all categories of exports. REP licence was replaced by a new instrument called EXIM Scrips by the new trade policy announced in July. 1991. However, it was later abolished by the introduction of partial convertibility or rupee on trade account under Liberalized Exchanged Rate Management (LERM)

EXIM scrips were the means of obtaining access to certain categories of import of raw material, components and spares. EXIM scrips were issued on the basis of F.O.B. value of export or Net Foreign Exchange (NFE) earnings from exports as stated below.

The salient feature of the EXIM Scrip system are given below.

1. Basic rate at which EXIM scrips were issued against exports was 30 percent of FOB value.
2. Products like gams and jewellery, handicrafts, newspapers, journals and periodicals and cinematographic films, which enjoyed higher rates of REP, were entitled to receive EXIM scrips at the same rates as above.
3. The basic rate of 30 percent was not sufficient for exports of certain products such as value added agricultural products. These products, were made eligible for an additional EXIM scrips entitlement of 10 percent points, taking the total rate to 40 percent of FOB value.
4. In case of exports that are made on the basis of duty free imports obtained against advance licences, EXIM scrips were issued at the general rate of 30 percent but this was applied to the net foreign exchange earnings.
5. The 30 percent of NFE rate of EXIM scrips was also applicable to service exports, including software exports which is a thrust area.

Issue Procedure of EXIM Scrips

The procedure was simple. The scrip will be issued within 48 hours after having presented the claim for replenishment supported by a bank certificate of realization.

The exporters were asked to produce only a bank certificate showing the realization of foreign exchange with a certification from the bank particulars of customs attested export promotion (EP) copy of the shipping bill been verified.

In case it is not certified, the production of their shipping bill was made compulsory. The denomination of EXIM scrips has also been prescribed.

In the case of deemed exports, the applications will be dealt with in the same manner as physical exports. Service exports too will be disposed in the same manner.

Limitations

There are a few limitations of the scheme which are detailed below:

- ES may lead to speculation in determining the premia of scrips as in the case of stock market. Anyone with resources could bid for the scrip even without genuine need by covering available suppliers
- The value of total exports is much less than the value of imports and hence the demand for the ES is high.
- Large quantity of the available supply will be retained by the exporters without supplying them as 'Marketable surplus'. Hence speculation plays main role on the basis of premium amount.
- ES could become a *sources* of black money transaction. Company products can transfer the ES at favorable price to their own associates and take themselves the profit/excess.

Lerms

The partial convertibility of the rupee introduced in the budget of 1992 which is also referred to Liberalised Exchange Rate Management

System is a very significant move and one can consider it as an export incentive.

According to this 40% of the foreign exchange earned by an exporter is converted at the official RBI rate, and 60% is converted at a "Market Determined Rate", Which is bound to be higher. The 40% of the exchange surrendered to the RBI and converted at the official rate will be used for import of essential items such as petroleum products, fertilizers, defense expenditure and life saving drugs.

This new system completely replaces the old "Replenishment Licence" and later EXIM Scrips issued by the Government for exporters, because the premium on the 60% surrendered at market rate would be the incentive.

Further, for all allowable imports, importers will have to approach the bank and get import licences cut market rate the total volume of the imports will be automatically regulated by the available volume of foreign exchange. Scarcity of foreign exchange will be reflected in a premium which will accrue to exporters, thus providing a built-in incentive to increase the flows

Hence, it will be appropriate to call LERMS as an export incentive. Perhaps this is the only important export incentive left. The very negotiation of the export documents through the bank will help, realize this incentive.

100 Percent Export Orinted Units (EOU)

Government of India is taking various export promotion measures. It is relevant here to recollect about Free Trade Zone (FTZ) of Export Processing Zone (EPZ) Several concessions are given to the units in these zones and it was started from 1965. It was restricted to certain specific areas (like backward areas) and they were given concessional space, building etc. the number of EPZ did not increase much and therefore to complement the efforts of EPZ, EOU (Export Oriented Units) were approved in 1980-81. You would study more about EOU in Unit V

100% EOU-Facilities

These units can be started anywhere in India on the basis of export promotion facilities available in the place. Though EOU's are not getting space at concessional rate, the EOU's are eligible for many other benefits:

- Duty Free imports of capital goods, raw material, components
- Concession in central excise and other central levies, sales tax, corporate income tax.
- More liberal foreign collaboration terms.
- Export finance at concessional rate of interest
- Supply of goods to another 100% EOU is considered as deemed export.
- Can export their goods through Export Houses/Trading houses etc.
- 25% of the production can be sold in the DTA (Domestic Tariff Area)
- Foreign Direct Investment permitted upto 100%
- Can have private bonded warehouse
- Priority in giving telephone, telex.
- Can operate foreign currency account in bank
- Can get MDA
- Can insure with ECGC
- Can open overseas offices
- Self certification of prehsipment inspection permitted
- Can send representatives on foreign delegation

Infrastructure Facilities

The exporters are provided with infrastrucral facilities in the following areas:

- Air transport
- Ocean Transport and Containerization
- Rail Transport and
- Power

Air Transport

The infrastructural ground handling facilities and air cargo services are considered for efficient transportation. Some of the measures taken in this activity are.

- Air Cargo complexes have been set up in the gateway airports of Delhi, Mumbai and Chennai. Such facilities are provided in inland airports of Bangalore, Ahmedabad, Hyderabad, Trivandrum, Varanasi, Jaipur, Srinagar, Cochin, Amirtsar. It is possible to have air cargo booking, pre-shipment in section and customs clearance from these airports.
- In order to assess and monitor backlog of cargo to gateway airports, and to provide additional services through sectional flights Monitoring cells have been established.
- 40 to 50% of freight rate can be discounted for fresh fruits and vegetables to Gulf countries and for leather exports to European countries.
- Varying specific commodity rates of discounts have been notified for garments, carpets, drugs, pharmaceuticals, opium mica, chemicals, toys, games, athletic and sports goods, news paper, magazines, periodicals, printed materials, handicrafts and data processing equipment for different destination. These facilities help to export goods with ease and to get the financial concessions through discounts.

Ocean Transport and Containerization

Facilities provided in this field are:

- Export Promotion Councils (EPC) have provided Export Cargo projections to the shipping sector.
- The problems of port using exporters are smoothly solved by co-ordination with the Ministry of Surface Transport, Major port trust, and EPCs.
- The Export documentation formalities are completed under one roof by setting up Export Documentation centre (EDC) at the ports of Chennai and Kolkota.

- The cost for standard services in the shipyards has been streamlined to avoid unnecessary dispute and delay.
- Continued efforts are taken through Working Group of the Ministry of Surface Transport to simplify the procedures, reduce handling charges and to improve handling facilities.

Rail Transport

The major facilities provided apart from the general facilities for parcel/goods through trains to the ports and neighbouring countries have been sorted out by mutual discussions by the Ministry of Railways and Ministry of surface Transport.

- Wagon allotments are made on preferential basis for movement of export goods by rail.

Power

Measures have been taken to provide supply of power without power cut or disruption for the export industries. So also, steps have been taken to provide continued supply of diesel oil at comparable international price to the units exporting 25% or more of the production.

Conclusion

Infrastructure facilities are essential for speedy and efficient movement of the export goods. Since time is cost in any business, more so in export business, any amount of delay will drastically affect the export trade.

Other Incentives and Facilities

The Govt. of India is providing several other incentive and facilities to promote export trade. Some of them are:

(a) Buyer-Seller Meet

(b) Export awards

(c) Export training

(d) Foreign travel to study of the market

(e) Foreign exchange facilities

(f) Insurance Risk Cover

(g) Relaxation of MRTP Act

(h) Research studies

(i) Subsidies

(j) Tax Concessions

(k) Technology and capital goods facilities

(l) Trade Fairs and Exhibitions

(m) Air Freight subsidy

(n) Facilities offered by Spices Board

(o) Facilities by APEDA/MPEDA

(a) Buyer-Seller Meet

The Trade Development Authority (TDA) organizes such meets to help the exporters to get better contacts. The objectives of Buyer-Seller meet are.

- To know the demand for our products
- To familiarize importers on the quality and range of materials available in India
- To identify areas of capacity creation, product development, adaptation, improvement in quality control and sales techniques
- To establish market contacts and booking spot orders
- To generate enquires for Indian products.

(b) Export Awards

Exporters with outstanding export performance are awarded with certificates of merit and trophies, to encourage them by giving due recognition. These awards are given even for small scale sector also. Some of the criteria applied to select the best awardees on an objective basis are.

- Development of new markets abroad for products of India
- Substantial increase in it export of non-traditional and finished products

- Successful introduction of new products in the export market
- Product development
- Breakthrough in difficult markets abroad.

(c) Export Training

Training the exporters and their personnel is an important step to promote export. Then only they will know the latest trends in export market and the methods and techniques adopted by developed countries for the export promotion.

(d) Foreign Travel

Such orientation tours are organized by the IIFT and ITC especially in respect of select non-traditional products. The exporters and their personnel visit important foreign market and study the needs of such markets. This enables them to plan their products to suit the needs of such markets, understood through such study tours. They are permitted to book orders when they are on study tour also.

(e) Foreign Exchange Facilities

Forex is provided upto certain limits to the exporters for maintenance and other purposes when they visit foreign countries for export promotion, trade fair etc.

Blanket forex permit is also issued by RBI to firms earning forex for more than ₹ 10lakhs and consultants earning ₹ 5 lakhs or more.

(f) Insurance Risk Cover

Risk cover upto 90% is given by ECGC for political, commercial and other risks. There are other special schemes also.

(g) Relaxation on MRTP

Big industrial houses or allowed to enter the middle sector, of they agree to export atleast 75% of their production export sales will be excluded to compute its dominance. In allowing automatic expansion of a dominant undertaking, consideration would be given for its previous export performance.

(h) Research Studies

Research Studies are undertaken by specialized export supporting agencies like IIFT, TDA, Export Promotion Council, Commodity Boards. There are general studies and specific studies on specific products in specific markets abroad.

(i) Subsidies

In order to make Indian Commodities competitive in the world market, subsidies are given. For example freight subsidy is given mostly to goods transported by air (leather goods). MDA subsidy is another form of subsidy.

RBI gives subsidies to Commercial Banks and EXIM Bank to certain lines of credit.

(j) Tax Concessions

Tax concessions are given for export of technical know-how in technical service. Dividend Royalty, fees etc received on such service are exempted from tax.

There are tax concessions for maintenance of office/agency outsides India, presentation of tenders and the expenditure to prepare them, distribution expenses outside India etc.

(k) Technology and Capital Goods

Import of technology and capital goods for export production are allowed freely by the Government. Imports of spares, equipment and components are also permitted subject to certain conditions. Export Houses, Trading Houses etc. are permitted to import design, drawings and other documents for manufacturing export goods.

(l) Trade Fair and Exhibitions

Trade Fair and Exhibitions in India and abroad provide excellent opportunity for export promotion informing the interested importers the availability of products, their quality, and utility.

The Trade Fair Authority of India (TFAI) co-ordinates such activities and invites registered firms and export houses to participate in the fairs.

Subsidised participation charges on freights, insurance, handling, forwarding and clearing charges, construction of stands, publicities are available to participants in all such fairs and exhibitions.

(m) Air Freight subsidy on Horticulture and Floriculture Exports

The Agricultural and Processed Foods Exports Development Authority (APEDA) provides air freight subsidy on selected fruits, vegetables and floriculture products exports from India.

Products Coverage and Rates

The various items eligible for air subsidy are as follows:

- Fresh fruits: mangoes other than alphonso, banana, strawberries, papaya, Watermelon
- Fresh Vegetables: Asparagus, Brocolli, Mashroom
- Floriculture products: Cut flowers, live plant/bulbs, gladiolus and other live plants.
- Rates of subside, Conditions, Applications are prescribed.

(n) Facilities Offered by the Spices Board

The spices Board provides various facilities for the marketing of spices to the exporters having Spice House certificate or Spices board Logo are eligible for the grant of financial assistance for various export promotion activities.

Rates have been fixed for different activities like, product promotion, printing brochures packaging, sending samples (air freight), ISO 9000 Technology transfer and R&D.

(o) Facilities by APEDA

The APEDA provides financial assistance for the development and promotion of export of agricultural, horticultural and meat product. Packaging Development, Quality Control Assistance, Upgradation of Meat Plants, Organisation building and Human Resource Development.

The Marine products Export Development Authority (MPEDA) provides financial assistance to the exporters of marine products under the following schemes. Infrastructure Development, Prawn farming, Diversification and Modification, Quality Control, Marketing Services.

The financial assistance rates have been fixed by APEDA / MPEDA is in the nature of reimbursement of expenses incurred by the export firms registered with these agencies.

Note: (m), (n), (o) are Marketing Assistance.

Check your Progress – 2

7. The two agencies which provide MDA are (a)……………… (b)………………
8. Assistance for establishing ware house and show room is provided by…………..
9. The percentage of incentives such as air fare is ………….. depending on the first or second etc. participation
10. Cash compensation scheme was discontinued in ………….. year
11. The Replenishment license and Exim scrip were replaced by ……………
12. State any three of the facilities / incentives.

Summary

The Government of India is taking efforts to help the exporters in all possible means. Export assistance is provided in the forms of Market Development, cash compensation (which has since been abolished), EXIM Scrip for importing materials required for production for Exporting goods, (Since abolished) Duty drawback to reduce the burden of duty on export, and Advance Licence to make them eligible for duty exemption.

In addition, infrastructure facilities are provided for easy and effective transportation of goods, though air, ship, train. Power and Energy supply in provided at concessional rates apart from other general incentives and facilities.

The 100% EOU is a scheme to encourage interested exporters to avail total and integrated facilities available to such EOU's.

In this lesson a birds-eye-view of all schemes except the 4 major schemes and related ones are discussed these four major schemes are discussed in the next lesson.

Keywords

CCS	:	Cash Compensatory Scheme
DDS	:	Duty Drawbacks Scheme
Deemed Exports	:	Certain supplies of goods which are not physically exported but given in India itself as inputs to the exportable goods
DES	:	Duty Exemption Scheme: it is also known as ADl (Advance Licensing Scheme)
EOU	:	Export Oriented Units
MDA	:	Market Development Assistance
MRTP	:	Monopolies and Restrictive Trade Polices

Answers

1. (a) Fiscal incentives. (b) other incentives
2. EXIM Policy, Export incentives, Organisational support and providing infrastructural facilities
3. Higher Price Level, Tough Competition from other countries
4. 1970.
5. Foreign Trade Policy 2004-2009.
6. 1949.
7. (a) Federation of Indian Export Organisations and (b) Ministry of commerce
8. Ministry of commerce.
9. Decreasing.
10. 1991.
11. LERM
12. Export awards, Buyer-Seller meet, Research

Question

1. Explain the role of export incentives?
2. What are negative force acting against export promotion?
3. Trace the EXIM policy evolution Since 1970?
4. Discuss in detail the high lights of Foreign Trade policy 20.04.2009
5. Describe the special efforts taken for export by Govt.?
6. Analyse salient feature of the following in centers

   (a) MDA

   (b) CCS

   (c) REP

   (d) 100EOU
7. Which "other incentives and facilities" you consider important for export promotion elucidate with your reason

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Lesson 4.2 - Major Export Incentives

Learning Objective

- To compare the incentives and their classifications
- To recall the definition of various major incentive schemes EPCG, DD, DFRC, DEP, ALS
- To analyse the benefits / incentives provided Tax benefit under above schemes
- To syntesise the procedure for claiming above incentives.
- To distinguish the characteristics of the different schemes
- To develop the skill of collecting latest information on these topics through websites, journals and business news paper.
- To understand Duty entitlement Pass Book Scheme

Introduction

Incentives are motivating factors Indian Government offers various incentives and facilities to the exporters to help them improve their competitiveness in the foreign markets. These incentives and facilities relate to exports performance, promotion of exports, fiscal incentives, schemes aimed at facilitation of imports for exports and various subsidies. These schemes are classified according to the interpretation of their purpose. Some authors classify all major incentive like Duty Drawback, Tax Concession MDA, EPCG, (CCS discontinued and even concessional export Credit/Finance and Air Freight Subsidy as fiscal incentives)some classify them as financial incentives).

You know fiscal means concerned with public revenue ultimately all these concessions may have an impact on public revenue. Financial incentives means incentives connected with resources of state. PK Khurana classifies them elaborately in his book Export Management as follows:

I. Incentives linked to Export Performance

a) Duty drawback

b) Duty Free Replenishment Certificate

c) Duty Entitlement Pass Book Scheme

d) Special Import Licence

e) Green Card

II. Incentives for Marketing of Export Goods

a) Marketing Development Assistance

b) Air Freight subsidies on export of horticulture and floriculture products

c) Assistance for product promotion and packaging development schemes of the Spices Board

d) Subsidy Schemes of APEDA for agricultural, horticultural and meat products

e) Subsidy for the marketing of marine products.

III. Fiscal Incentives

a) Exemption from Sales Tax

b) Exemption from Income tax

IV. Import Facilitation for Exports

a) Export Promotion Capital Goods Scheme

b) Duty Exemption Scheme

c) 100% EOU /EPZ Unit / SEZ / STP

V. Export Financing

a) Pre-shipment finance at concessional rates of interest (unit II)

b) Post-shipment finance at concessional rates of interest.(unit II)

VI. Foreign Currency Retention

a) Exchange Earner's Foreign Currency Account

VII. Recognition of Exporters

a) Export House, Trading House, Star Trading House and Super Star Trading House (unit III)

b) International Service Export House, International Service Trading House, International Service Star Trading House and International Service Super Star Trading House (unit III)

(Now the criteria and nomenclature have been modified)

Further the EXIM Policy 2002-07 States that advance licence, Duty free Replenishment certificate DEPB, EPCG are Duty neutralization Instruments. you could see the discussion on these are spread over all units of the study material. In this unit we are discussing almost all incentives except EOU/EPZ, Export financing, recognition of exporters which are explained in detail in respective units as indicated in brackets.

Incentives for marketing, and other incentive have been discussed in lessons of this unit under overview of export Incentives. Now in this lesson we emphasize, EPCG Incentives linked to export performance (like Duty drawback), Tax incentives, and Duty Exemption scheme.

The subjects connected with Foreign Trade are all dynamic in nature. Books and Text materials could only trace the specific topics development over a period, their theoretical principles, but the rates, percentages, mode of operation may all changes over time which will be notified in the concerned policy declarations and websites of concerned ministries (Ministry of commence and Industry and Finances)

Hence you have to look to these websites, journals, News papers, for upto date information on rates, percentage etc.

Export Promotion of Capital Goods Scheme (EPCG)

Why?

Export Promotion of Capital Goods Scheme has been introduced for the purpose of encouraging exports. Under this scheme capital goods import is permitted with concessional import duty. Modern textile mills and readymade garment units are in need of modern machineries and improved equipments available in the developed and newly industrialized nations. International market wants quality. Modern Advanced and updated technology oriented plant and machineries contribute quality which is insisted in the international market.

With an aim to help the Indian exporters to import advanced machineries from the developed countries, the Government of India introduced a useful scheme, 'Export Promotion of Capital Goods (EPCG) Scheme from the year 1990-91.

While introducing this scheme 15 percent import duty was charged for the capital goods import upto ₹ 20 crores. Import above ₹ 20 Crore, import duty was nil. EPCG scheme is totally export linked. If the capital goods import is made under 15 percent import duty (upto ₹ 20 Crore), the export commitment is 4 times of the CIF value of import during 5 years, from the date of license to import is given under the EPCG scheme.

If the capital goods import is made under zero duty scheme, the export commitment is 6 times of the CIF value of import during 8 years. This scheme is an incentive to the exporters to import capital goods at concessional duty which are needed to produce exportable commodities. All these have been modified several times and the present scheme in presented below

The Present Scheme

The scheme allows import of capital goods for pre production, production post production (including CKD/SKD thereof as well as computer software systems) at 5% Customs duty subject to an export obligation equivalent to 8 times of duty saved on capital goods imported under EPCG scheme to be fulfilled over a period of 8 years reckoned from the date of issuance of licence. Capital goods would be allowed at 0% duty for exports of agricultural products and their value added variants.

However, in respect of EPCG licence with a duty saved of ₹ 100 crore or more, the same export obligation shall be required to be fulfilled over a period of 12 years.

In case CVD is paid in cash on imports under EPCG, the incidence of CVD would not be taken for computation of net duty saved provided the same is not Cenvated.

The capital goods shall include spares (including refurbished/ reconditioned spares), tools, jigs, fixtures, dies and moulds, EPCG licence may also be issued for import of components of such capital goods required for assembly or manufacturer of capital goods by the licence holder.

Second hand capital goods without any restriction on age may also be imported under the EPCG Scheme.

Spares (including refurbished/ reconditioned spares), tools refractories, catalyst and consumable for the existing and new plant and machinery may also be imported under the EPCG scheme.

However, import of motor cars, sports utility vehicles/all purpose vehicles shall be allowed only to hotels, travel agents, tour operators or tour transport operators whose total foreign exchange earning in current and preceding three licencing years is ₹ 1.5. Crores. However, the parts of motor cars, sports utility vehicles/all purpose vehicles such as chassis etc cannot be imported under the EPCG Scheme.

Spares (including refurbished/reconditioned spares), tools, spare refractories, catalyst & consumable for the existing plant and machinery may also be imported under the EPCG Scheme subject to an export obligation equivalent to 8 times of duty saved to be fulfilled over a period of 8 years reckoned form the date of issuance of licence.

For Projects

An EPCG licence can be issued for import of capital goods for supply to project notified by the Central Board of Excise and Customs under S.No. 441 of Customs Exemption Notification No.21/2002 dated 01.03.2002 wherein the basic customs duty on imports is 10% with a CVD of 16%.

The export obligation for such EPCG licences would be eight times the duty saved. The duty saved would be the difference between the effective duty under the aforesaid Customs Notification and the concessional duty under the EPCG Scheme.

Eligibility

The Scheme covers manufacturer exporters with or without supporting manufacturer(s)/Vendor(s), Merchant exporters tied to supporting manufacturer(s) and service providers.

User Condition

Import of capital goods shall be subject to Actual User condition till the export obligation is completed.

Detailed conditions for the fulfillment of export obligation are given in rule 5.4 of FTP

The following conditions shall apply to the fulfillment of the export obligation:-

The export obligation shall be fulfilled by the export of goods capable of being manufactured or produced by the use of the capital goods imported under the scheme.

The export obligation may also be fulfilled by the export of same goods, for which EPCG licence gas been obtained

EPCG for Agro Units

In the case of EPCG licences issued to agro units in the Agri export zones, a period of 12 years reckoned from the date of issue of the licence would be permitted for the fulfillment of export obligation.

The agro units in the Agri export zones would also have the facility of moving the capital good(s) imported under the EPCG within the Agri export zone.

A LUT/Bond in lieu of BG may be given for EPCG licence granted to units in the Agri Export Zones provided the EPCG licence is taken for export of the primary agricultural product (s) notified in Appendix 15 or their value added variants.

Technological Upgradation of existing EPCG machinery EPCG licence holders can opt for Technological Upgradation of the existing capital good imported under the EPCG licence.

The conditions governing the Technological Upgradation of the existing capital good are as under:

(i) The minimum time period for Technological Upgradation of the existing capital good imported under EPCG is 5 years from the date of issuance of the licence.

(ii) The minimum exports made under the old capital good must be 40% of the total export obligation imposed on the first EPCG licence

(iii) The export obligation would be refixed such that the total export obligation mandated for both the capital goods would be the sum total of 6 times the duty saved on both the capital goods.

Latest changes in EPCG Licence

A number of amendments has been made in the EPCG Scheme. These amendments, inter alia, are as follows:

(i) An option has been allowed to the importer to pay CVD in cash. Para 5.1 of the new Policy provides that in case CVD is paid in cash, the incidence of CVD would not be taken for computation of net duty saved provided the CENVAT credit of CVD has not been taken

(ii) In respect of capital goods imported for technological upgradation the export obligation has been reduced to six times the duty saved.

(iii) In case of a sick unit as notified by the *Board for Industrial and Financial Reconstruction* or where a rehabilitation scheme is announced by the concerned State Government in respect of sick units for their revival, extension of the export obligation period as per rehabilitation package or upto 12 years where such rehabilitation period is not specified has been permitted. Paragraph 5.5.1 of the Policy may be referred to for details.

(iv) The provision relating to block wise fulfillment of export obligation has been amended vide paragraph 5.8 of the Handbook and two blocks have been prescribed for fulfillment of export obligation. Hitherto, there were four blocks for fulfillment of export obligation.

The EPCG Scheme allows import of capital goods to service providers in the Port Handling sector with the benefit that the export obligation may also be fulfilled by earning of such service charges in Indian rupees which are otherwise considered as having been paid for in free foreign exchange by the Reserve Bank of India. It may be noted that this facility has been extended to the service providers in major sea ports where the service charges are regulated in terms of *Tariff Authority for Major Ports* (TAMP) Act under which the major ports are statutorily bound to receive payments from service users *only in Indian currency*, The service providers in ICDs/CFS/ Air Cargo Terminals Land Customs Stations, etc. are, therefore, not entitled to the aforesaid benefit of fulfilling export obligation from earnings in Indian currency.

Application under EPCG Scheme

The application for the grant of EPCG licence (10 copies) should be submitted on the prescribed form (Appendix 10A) to the Regional Licensing Authority for the import of capital goods including computer, computer sub-systems and service equipment.

The application should be accompanied by the following documents/information

(a) Bank receipt/demand draft for payment of application fee.

(b) Self certified copy of proforma invoice showing F.O.B. value, freight and insurance.

(c) Manufacturer's catalogue or pamphlet about the item.

(d) A statement (in the form Appendix 26) showing the past average level of exports of products manufactured by the firm/ services in the preceding three licensing years duly certified by the Chartered Accountant, who is not a partner, director or an employee of the firm or its associate concerns.

(e) A certified photocopy of SSI registration certificate or industrial licence or letter of intent or the IEM acknowledgement filed with Secretariat for Industrial Approvals, if any. **OR**

(f) In case the service provider, a proof indicating the profession to which the applicant belongs.

(g) Photocopy of RCMC

(h) Where the applicant is a service provider, he shall state the nature of the service to be provided.

In case the application is for the import of capital goods for the value exceeding ₹ 50 crores, the application is to be submitted to the Director General Foreign Trade.

Under this scheme, the importer has to execute the following documents before clearance of the goods through customs.

(a) Indemnity-cum-Surety Bond for fulfillment of Export Obligation.

(b) Bank guarantee for the amount equal to the full value of duty saved.

Failure to fulfill export obligation implies that

(a) Bank guarantee can be invoked.

(b) Interest at the rate of 24% is charged on the amount of duly saved from the date of import and

(c) Action can be initiated under the Foreign Trade (Development & Regulation) Act, 1992 and the Customs Act, 1962.

Duty Drawback

Why and What?

All over the world, Governments of all countries have agreed in principle to relieve the exporters from the burden of duties borne by then/ some of them, intended for imports), so that the prices of the commodities could be globally competitive.

There are various schemes like EOU, SEZ, DEEC, manufacture under bond etc. are available to obtain inputs without payment of customs duty/excise duty or obtain refund of duty paid on inputs. In case of Central Excise, Manufacturers can avail Convert credit of duty paid on inputs and utilize the same for payment of duty on other goods sold in India, or they can obtain refund.

Schemes like manufacture under bond are also available for customs. Manufacturers or processors who are unable to avail any of these schemes can avail duty drawback'. Here the amount of the excise duty and customs duty paid on inputs is refunded to the exporter of finished product by way of 'duty drawback'. Section 75 of Customs Act provide for drawback on materials used in manufacture or processing of export product.

Section 37 of Central Excise Act allows Central Government to frame rules for purpose of the Act. Under these powers, 'Customs and Central Excise Duties Drawback Rules, 1995' have been framed.

Please note that duty drawback under section 75 is granted when imported materials are used in the manufacture of goods which are then exported, while duty drawback under section 74 is applicable when imported goods are re-exported as it is and article is easily identifiable.

Drawback of Customs and Excise Duty Paid on Inputs

Drawback means the rebate of duty chargeable on any imported materials or excisable materials used in manufacture or processing of goods which are manufactured in India and exported. Export means taking out of India. Supply of stores for use in vessel or aircraft proceeding to foreign port is also covered, since it is treated as 'export' as per section 89 of Customs Act.

Duty Drawback is equal to (a) customs duty paid on imported inputs including SAD plus (b) excise duty paid on indigenous inputs. Duty paid on packing material is also eligible. However, if inputs are obtained without payment of customs/excise duty, no drawback will be paid. If customs/excise duty is paid on part of inputs or rebate/rebate/refund is obtained, only that part on which duty is paid and on which rebate/refund is not obtained will be eligible for drawback. No drawback is available on other taxes like sales tax and octroi.

Duty drawback of SAD (Special Additional duty) is allowable.- MF(DR) circular No.58/2002-Cus dated 12-9-2002.

Processing also Eligible for Drawback

Drawback is allowable if any manufacture, process or any operation is carried out in India [section 75(1) of Customs Act]. Thus, drawback is available not only on manufacture, but also on processing and job work, where goods may not change its identity and no 'manufacture' has taken place.

An exporter is entitled to claim the amount of duty drawback as soon as export of goods takes place. Under section 2(10) of the Customs Act, 1962, export means taking goods out of India to a place outside India. Delivery of goods at the port of destination is not essential. Export of goods is complete as soon as the ship carrying the cargo passes the territorial waters of India and title to the goods passes to the buyer. The 'Export' for the purpose of filing the claim for the grant of duty drawback is evidenced by the LET EXPORT order of the customs proper officer clearing the shipment for exports.

Non Admissibility of Duty Drawback

Duty drawback is admissible for the export of all the notified products. But, it is not admissible in the following cases:

- No excise/customs duties were paid for the manufacture of export product.
- Manufacture and/or export is for fulfilling export obligation under Duty Exemption Scheme.
- Amount of the drawback is less than 1% of the F.O.B. value (except where the amount of drawback is more than ₹ 500)
- Manufacture and/or export is by 100% EOU/EPZ unit/SEZ unit.
- Product is manufactured wholly or partially in bond under section 65 of the Customs Act, 1962.
- Goods are manufactured and/or exported under Rule 12(1) (a) or 13(1) (a) of the Central Excise Rules.
- If the export proceeds are not realized within six months.

Type of Drawback Rates

All Industry Drawback rates are fixed by Directorate of Drawback, Dept. of Revenue, Ministry of Finance, Govt. of India, Jeevan Deep, Parliament Street, New Delhi-110 001. The rates are periodically revised-normally on 1st June every year. Data from industry is collected for this purpose. The types of rates are as follows:

All Industry Rate

This rate is fixed under rule 3 of Drawback Rules by considering average quantity and value of each class of inputs imported or manufactured in India. Average amount of duties paid is considered. These rates are fixed for broad categories of products. The rates include drawback on packing materials. Normally, the rates are revised every year from 1st June, i.e. after considering the impact of budget, which is presented in February every year. All Industry drawback rate is not fixed if the rate is less than 1% of FOB Value, unless the drawback claim per shipment exceeds ₹ 500.

The AIR (All Industry Rate) is usually fixed as % FOB price of export products. However, in respect of many export products, duty drawback cap (ceiling) has been prescribed, so that even if an exporter gets high price, his duty drawback eligibility does not go above the ceiling prescribed.

The table gives allocation of the drawback allowed under two heads namely-Customs and Central Excise. The Customs portion covers basic customs duty, surcharge and SAD. Excise portion covers basic and special excise duty and CVD, Duty drawback of customs portion can be paid even if exporter has availed Cenvat credit, as Cenvat credit is only of excise duty and CVD

The All Industry Rate (AIR) is fixed on the basis of weighted averages of consumption of imported/indigenous inputs of a representative cross section of exporters and average incidence of duties. Hence, individual exporter is not required to produce any evidence in respect of actual duties paid by him on inputs.

Brand Rate

It is possible to fix All Industry Rate only for some standard products. It cannot be fixed for special type of products. In such cases, brand rate is fixed under rule 6. The manufacturer has to submit application with all details to Commissioner, Central Excise. Such application must be made within 60 days of export. This period can be extended by Central Government by further 30 days. Further extension can be granted even upto one year if delay was due to abnormal situations as explained in MF(DR) circular No.82/98-Cus dated 29-10-1998.

Special Brand Rate

All Industry rate is fixed on average basis. Thus, a particular manufacturer may find the actual duty paid on inputs is higher than All Industry Rate fixed for his product. In such case, he can apply under rule 7 of Drawback Rules for fixation of Special Brand Rate, within 30 days from export. The conditions of eligibility are (a) the all Industry rate fixed should be less than 80% of the duties paid by him (b) rate should not be less than 1% of FOB value of product except when amount of drawback per shipment is more than ₹ 500 (c) export value is not less than the value of imported material used in them-i.e. there should not be 'negative value addition'.

Drawback on Deemed Export

Deemed export refers to goods which are not *Physically Exported*. *Deemed Exports* are also eligible for duty drawback. The following supplies are considered as 'Deemed Exports' and they are listed in the EXIM policy also.

- Supply of goods against duty free licenses issued under the Duty exemption scheme.
- Supply of goods to *Export Oriented* units or units in export processing zones etc.
- Supply of capital goods to holders of licences under the Export Promotion of Capital Goods (EPCG) scheme.

- Supply of goods to projects financed by multilateral or bilateral agencies/funds notified by the Department of Economic Affairs, Ministry of Finance, etc.
- Supply made against International competitive bidding (circular 59/2004)

The above supplies are eligible to avail the benefit of duty drawback on deemed exports. The suppliers of goods can claim duty drawback. Duty drawback on deemed export is granted by the office of the *Directorate General of Foreign Trade*, Ministry of Commerce. All industry rates and brand rates are applicable to deemed exports. The procedure for fixation of duty drawback and claiming duty drawback for deemed exports are the same adopted for physical exports.

Drawback Rate Fixation

Forms and procedures have been prescribed for submitting details to jurisdictional Commissioner of Central Excise, who will fix the rate of duty drawback. [Earlier, it was done by Director of Drawback, New Delhi, upto 31-03-2003

Drawback Claim Procedure

Exporter shall endorse on the 'shipping bill' the description, quantity and other details to decide whether goods are eligible for duty drawback. He should submit one extra copy of shipping bill for drawback purposes. Copy of Invoice should be submitted.

Declaration by Exporter

A declaration should be made rule 12(1) (a) (ii) of Duty Drawback Rules, on shipping bill or bill of export that claim of drawback is being made and that duties of customs and excise have been paid on materials, containers and packing materials and that no separate claim for rebate of duty will be made. If the exporter or his authorized agent was unable to make such declaration due to reasons beyond his control, Commissioner of Customs can grant exemption from this provision of making declaration on shipping bill or bill of export.

Further declarations are also required when brand rate or special brand rate has been fixed. These declarations have to be signed by exporter.

Triplicate copy of shipping Bill is the drawback copy and should be marked as 'Drawback Claim Copy'. It should be submitted with pre-receipt on reverse side with revenue stamp.

Declaration For Non-Availment of Cenvat

(a) If the manufacturer-exporter or supporting manufacturer of merchant exporter is registered with Central Excise, fact of non-availment of Cenvat credit can be verified from ARE-1 form furnished

(b) If the manufacturer-exporter or supporting manufacturer of merchant exporter is not registered with Central Excise, they have to submit self-declaration about non-availment of Cenvat in prescribed form. – MF(DR) circular No. 8/2003 The drawback rate consists of two components – customs portion (consisting of basic customs duty, surcharge and SAD) and excise portion (consisting of basic excise duty, special excise duty and CVD). The Cenvat credit is only in respect of central excise. Hence, it has been clarified that even if Cenvat credit has been availed, duty drawback in respect of customs portion will be available.

How to File Duty Drawback Claim

The procedure for filing the claim for the grant of duty drawback depends upon whether the processing of the shipping documents has been done under the computerized system or not.

In case of custom stations where there is computerized processing of the shipping documents, the exporter is not required to file a separate claim for the grant of duty drawback. The exporter files the prescribed declaration for the claim of duty drawback at the time of submitting documents for the customs clearance of the export shipment. The exporter is also required to open the current account with the designated branch of the bank as specified by the customs authorities. This account is necessary as the amount of duty drawback is directly credited to the account of the exporter after the sanction of the drawback. The processing of the drawback claim is done by the customs authorities after the Export General Manifest is filed.

In the case of custom stations where there is no computerized processing of the shipping documents, the exporter is required to file a separate claim for the sanction of duty drawback. The procedure for shipments sent by post and other than by post (i.e. air/sea./road) is explained below:

Filing Claim for Drawback on Goods Exported by Air/Sea/Road

The procedure for filing a claim for drawback in case of goods exported other than by post i.e., by air/sea/road has been explained in Rule 13 of the Customs and Central Excise Duties Drawback Rules, 1995.

Time for Filing Claim

The drawback claim can be filed by an exporter within three months from date relevant for applicability of amount or rate of drawback in terms of sub rule (3) of Rule 5 i.e. within three months from the date of "Let Export" Order.

The exporter can seek extension of time beyond three months as provided under Rule 13 if the Assistant Commissioner is satisfied that exporter was prevented by sufficient cause from filing his claim within the prescribed period of three months. The extension of time can be granted upto a maximum of three months.

Wherever a sample has been drawn for test from a shipment to determine the contents of the basic materials with reference to which the amount of drawback is to be fixed, the exporter is required to file his claim along with a copy of the test report. Custom Houses are required to supply a copy of test report to the exporter within a period of three months from the date of drawal of the sample.

Time taken in testing of the sample, in excess of one month, is required to be excluded for computing the period of three months specified for filing of a claim by the exporter. Thus, where testing of sample takes one month and twenty days, exporter will be eligible to file his claim within three months and twenty days from the date of 'Let Export' Order.

The claim has to be accompanied by documents specified in sub-rule (2) of the Rule 13. The claims which are complete in all respects are required to be affixed with dated receipt stamp and an acknowledgment is issued to the exporter within fifteen days from the date of filing of claim. The time limit of three months for payment of drawback shall commence from the date of such acknowledgment. Any claim which is incomplete is returned to the exporter with a deficiency memo within fifteen days of its receipt.

Documents Required for Claim

The following documents should be submitted to the Directorate of Duty Drawback for claim of duty drawback:

(a) Application form as prescribed under Rule 13
(b) Pre-receipt for drawback claim in the prescribed form
(c) Triplicate copy of Shipping Bill
(d) Copy of Bank Certified Invoice
(e) Copy of Packing List
(f) Copy of Packing List.
(g) Copy of Bill of Lading/Airway Bill
(h) Copy of AR4 Form, whenever applicable
(i) Insurance certificate where necessary
(j) Copy of Test Report where the goods have been subjected to a test.
(k) Copy of the Communication regarding rate of drawback where the drawback claim is for a rate determined by the Central Government under rule 6 or rule 7 of these rules. (i.e. brand name rate fixation letter or special brand rate letter)
(l) Declaration for Duty drawback to be filed by the exporter under these rules.
(m) Any other document as may be specified in the deficiency memo.

Date of Receipt of Drawback Claim

The date of filing of the claim for the purpose of Section 75A, is the date of affixing the dated receipt stamp. an acknowledgement in the prescribed form is issued in those cases where the claim is complete in all respects. The date of acknowledgement of the claim is the date of receipt of the claim.

Any claim which is incomplete in any material particulars or is without the documents specified in sub-rule (2) is not accepted for the purpose of Section 75A and such claim is returned to the claimant with a deficiency memo in the form prescribed by the Commissioner of customs within fifteen days of submission and shall be deemed not be have been filed.

If the exporter removes the deficiencies and resubmits the claim within 30 days from the date of deficiency memo, then the date of deficiency memo shall be treated as the date of receipt of the claim. If the claim in not resubmitted within 30 days from the date of deficiency memo then the claim is treated as fresh claim and processed accordingly.

Payment of Duty Drawback

The payment for duty drawback claim is made within a period of two months from the date of receipt of the claim. In case, there is a delay then the exporter is entitled to a claim of interest at the rate of 15% per annum for the period of default as provided under section 75A of the Customs Act, 1962.

Procedure for Goods Exported by Post

In case of export of goods under claim of Duty Drawback, the exporter should comply with the following requirements:

(a) The outer packing carrying the address of the consignee should state in bold letters the words “DRAWBACK EXPORT”.

(b) The application for drawback in the prescribed form ‘D’ as provided under Rule 11 should be submitted in quadruplicate to the Foreign Post Office alongwith all other documents for booking of the parcel for export.

The remaining procedure is the same as explained above.

Drawback Under the Duty Exemption Scheme

In the case of exports under Duty Exemption Scheme, the exporter is eligible to claim drawback in respect of central excise portion only, at the same All Industry Rate which is applicable to the product of export.

Recovery of Drawback Amount

In case the amount of drawback is wrongly credited to the exporter or excess credit for drawback has been given or the exporter fails to realize the export proceeds within a period of six months then the Directorate of Duty Drawback shall send a notice to the exporter to refund the amount of drawback within a period of three months from the date of notice. In case the exporter makes a default, then the exporter is required to refund the same with interest at the rate of 20% per annum.

Duty Drawback on Re-Export

Section 74 of Customs Act, 1962 provide for drawback if the goods are re-exported as such or after use. This may happen in cases like import for exhibitions, goods rejected or wrong shipment etc. The re-exported goods should be identifiable as having been imported and should be re-exported within two years from date of payment of duty when they were imported. This period (of two years) can be extended by CBE&C on sufficient cause being shown. These should be declared and inspected by Customs Officer. Original shipping bill under which the goods were imported should be produced. The goods can be exported as cargo by air or sea, or as baggage or by post. After inspection, export and submission of application with full details, 98% of the customs duty paid while importing the goods is repaid as drawback.

Distinction between Section 74 And 75

Section 74 is applicable when imported goods are re-exported as it is and article is easily identifiable, while section 75 is applicable when imported materials are used in the manufacture of goods which are then exported –it was held that there is no provision for refund of import duty, if imported goods are re-exported. The assessee can only claim duty drawback u/s 74.

Value at the Time of Export is Relevant

As per section 74(4), goods are deemed to have been entered for export on the date rate of duty is to be calculated under section 16. As per section 16, value of export goods will be taken on the date on which proper officer makes an order permitting clearance of goods for export under section 51 of Customs Act. Hence, Value' for the purposes of section 76(1)(b) will be value at the time of export and not the original value of import of the goods. This was stated by Commissioner, Custom; at the meeting of Customs Advisory Committee held at Mumbai dated 28-10-93. (Ref.: W.O.B. 45/93 dated 9-11-93).

Goods Can Be Re-Exported To Any Party and From Any Port

It has been clarified that goods can be re-exported to any party (and not only to the same supplier) and re-export can take place from any port. – CBEC circular No. 72/2002-Cus dated 1-11-2002.

Drawback for Used Goods

If the imported goods are used before re-export, the drawback will be allowed at a reduced percentage [section 76(2) of Customs Act, 1962]. If the goods were in possession of the importer, they might be treated as used by the importer. As per the rules framed by Central Government, the table is as follows:

Duration	**Percentage**
Use upto 6 months	85%
6 months to 12 months	70%
12 months to 18 months	60%
18 months to 24 months	50%
24 months to 30 months	40%
30 months to 36 months	30%
over 36 months	Nil

Drawback is allowed if the use is over 24 months, only with permission of Commissioner of Customs if sufficient cause is shown.

Goods for Personal Use

If the goods (including motor car) were imported for personal use, the reduction in import duty refundable is 4% per quarter for first year, 3% per quarter for second year, 2.5% per quarter for third year and 2% per quarter for fourth year.

Check Your Progress

1. Incentives like EPCG are given subject to ______________________
2. Failure to fulfill export obligation under EPCG interest at the rate of ________ will be changed on the duty saved from the date of _____________________
3. Duty drawback forms _________should be submitted to _____________________
4. The draw back claim cane filed by an exporter with in ________ months.

Other Incentives

There are some other incentives concerned with Duty and performance. These are briefly discussed now. Duty Remission Scheme enables post export replenishment/ remission of duty on inputs used in the export product. Duty remission consists of (a). DFRC and (b) DEPB.

Duty Free Replenishment Certificate

The duty free replenishment certificate is a facility extended to both the merchant exporter and the manufacturer exporter for the duty free import of inputs used in the manufacture of goods for their replenishment.

The term duty free here means that the exporter is exempt from the payment of basic custom duty and Special Additional Duty (SAD) at the time of custom clearance of the import consignment. The additional custom duty equal to the central excise duty is however, payable at the time of import.

The term 'inputs' refers to the inputs as defined under the standard input output norms as given in the Handbook of Procedure, Volume II. The exporter who wants to avail this facility should give a declaration in the export promotion copy of the shipping bill indicating the serial number and the product group of the standard input output norms of the export product at the time of seeking custom clearance of the export shipment. Besides the exporter should also declare the quality, technical characteristics and specifications of the inputs used in the export product.

The application for the grant of DFRC should be submitted to the Regional Licensing Authority having jurisdiction over the firm in the prescribed form in appendix 11H along with the following documents:

(a) Bank draft for payment of application free.

(b) Export promotion copy of the shipping bill

(c) Bank certificate of export and realization in the prescribed form appendix 25.

(d) A statement of export giving separately each shipping bill number and date, FOB value in Indian rupees as per shipping bill and the description of the resultant product.

The exporter can file application within a period of 90 days from the date of realization of the export proceeds. The date of realization is reckoned from the last date of realization in respect of various shipments for which DFRC is being claimed. The period of 90 days is increased to 180 days in case of export shipments sent under irrevocable letter of credit.

The CIF value of imports that can be made against DFRC is arrived at, on the basis of the international price of the inputs as given under standard input out put norms. The FOB value shall be calculated on the basis of the bank realization certificate. The value of DFRC is determined, keeping in view the minimum value addition of 33%. In case the value addition on the FOB/CIF value is less than 33% then the CIF value is proportionately reduced so as to adhere to the minimum prescribed value addition of 33%

The exporter should register the export contract with the port from where shipment is to be sent as the DFRC is issued with the single port of registration i.e. the port from the export has been made. The exporter should file one application relating to one export product from one port of export. The validity of DFRC shall be 18 months.

The DFRC and the material imported against it are freely transferable. It should be ensured that the imports under DFRC should be made from the same port from where the exports have been made.

The custom authorities shall verify the details of the exports as given on DFRC with their own records before permitting the import against DFRC.

Duty Entitlement Pass Book

Under the Duty Entitlement Pass Book (DEPB) Scheme, an exporter is eligible to claim import duty credit as a specified percentage of FOB value of exports

Circular 59/2003-Cus at 21-10-2004: Transfer of import entitlement of canalised fuel to canalizing agencies is authorized by Ministry of Petroleum Natural Gas.

Made in freely convertible currency. The credit is granted against such export products and at such rates as may be specified by the Director General of Foreign Trade by a Public Notice issued in this behalf. the rates of DEPB benefit (import duty credit rates) are given in the Handbook of Procedures, Volume I.

The exporter can use this credit to pay for the import duty on the import of inputs whether required for the manufacture of the export product or not.

Exporters are required to use Blue Shipping bill to get benefit under DEPB scheme. The DEPB is valid for a period of 24 months from the date of its issuance.

Both the merchant exporter and manufacturer-exporter are eligible for the benefit under the DEPB scheme. The can apply for this benefit within 180 days from the date of exports or within 90 days from the date of realisation which ever is later, reckoned from the last date of realisation / exports, in respect of shipments for which the claim has been filed.

The import duty credit granted under the DEPB scheme to the materials imported against it are freely transferable. The transfer of DEPB shall however, be for import at the port specified in the DEPB which shall be the port from where exports have been made. Imports from a port other than the port of export shall be allowed under TRA facility as per terms and conditions of the Dept. of Revenue.

Application for the Grant of Import Duty Credit Under DEPB

The application should be made to the licensing authority concerned in the form given in Appendix – 11C alongwith the following documents

a. Demand Draft for the amount of prescribe application fee
b. Export promotion copy of the DEPB shipping Bill
c. Bank Certificate of Exports and Realisation in Appendix 25
d. Self attested copy of valid RCMC

The applicant may file one or more applications subjects to the condition that each Application shall contain not more than 25 shipping bills. All the shipping bills in any one Application must relate to exports made from one custom house only.

The DEPB shall be issued with single port of registration, which will be port from where the exports have been effected.

According to FTP 2004-2009, DEPB scheme will be operative till it is replaced by another scheme.

One significant amendment made in DEPB Scheme is that additional customs duty paid through debit under DEPB shall be allowed to be availed as CENVAT credit or duty drawback. Hither the additional customs duty paid through debit under DEPB was not being allowed as CENVAT credit or duty drawback. However, it may be noted that this facility would be available only in respect of the licences issued under the new Foreign Trade Policy. Licences issued under the previous Polices would be governed by the provisions of earlier Policies.

Special Import Licence

The Export-Import Policy: 1997-2002 was provideds for the scheme of special import licence (SIL) under this scheme, certain specified categories of exporters were granted the facility of special Import Licence which enabled them to import items specifically earmarked for import against this licence. There were about 685 items reserved for import against this licence as on 31.03.2000. This has been gradually with drawn

Green Card

The Export-Import Policy,1997-2002 as a part of the modification announced on 31.03.2000, provides for the issue of Green Card to exporters with a view to reduce their transaction cost. The facility of Green Card would enable the eligible exporters to avail of the following facilities:

- Automatic issue of import licences.
- Automatic customs clearance for exports
- Automatic customs clearance for imports related to exports

The following categories of exporters are eligible for the issue of Green Card;

(a) All status holder (i.e. export houses etc.);

(b) Manufacturer exporter exporting more than 50% of their production subject to a minimum turnover of ₹ 1core in the preceding year;

(c) Service providers rendering service in free foreign exchange for more than 50% of their services turnover subject to a minimum volume of ₹ 35 lakhs in free foreign exchange in the preceding year;

Application for the issue of Green Card should be submitted in the prescribed form (Appendix 56) to the Regional Licensing authority.

Green card is valid for a period of 3 years from the date of issue and a firm / company may obtain upto 5 Green Cards

Duty Exemption Scheme or Advance Licesing Scheme

Introduction

This scheme is relating to import of goods of export production. For quality production and for sophisticated items import is inevitable and if the import component and pries are high, the export of the product made out of would be costly. So to encourage exporters to import necessary and essential inputs, the Duty exemption scheme is introduced. This has been extended to wider areas and expanded including new items according to new developments. We will trace its progress from its inception.

Advance licence was introduced in 1977. Two categories of licence are covered under this scheme. Advance licence, for supply of intermediate products and special import licence. This scheme permits the import of raw materials, components consumables and spare parts meant for export production.

Licence issued under. Duty Exemption Scheme is called advance Licence. Advance licence is intended to supply the imported input or output for export production. Every advance licence after fulfilling the relevant export obligation shall become eligible for getting import replenishment licence for the balance value.

Who are Eligible?

Advance licences are issued to registered exporters for import of materials that are eligible for duty exemption and products that have to be exported abroad. Advance licence for supply of intermediate products are issued to registered manufacturer-exporter for export of materials with the condition that the resultant materials have either to be supplied to a unit located in a free trade zone in India or a 100% export oriented unit or an advance licence holder under intermediate items for manufacturing finished goods to be exported abroad.

In addition fuel, oil energy, catalyst which are consumed are also allowed apart from mandatory spares upto 10% of CIF value of Licence.

The scheme that was limited to only few items earlier has been broadened under the new export-import policy to cover all item where two stage operations can be undertaken jointly by two different manufacturing units. Both the manufacturer and the final exporter would be jointly and individually responsible of the fulfillment of the export obligations. This will help in saving of foreign exchange and better utilisation of indulgence manufacturing capacity.

In addition fuel, oil, energy, catalyst which are consumed are also allowed apart form mandatory spares upto 10% of CIF value of Licence.

New Developments

AL is issued on the basis of inputs and export items given under SION and ADHOC norms.

The new trade policy statement announced by the Government in July 1991 contains major reforms in advance licensing. The new EXIM policy has widened the scope of the scheme in such a way to cover 5 types of licences

Under the Duty Exemption Scheme, Imports of duty free raw materials, components, Intermediates, consumables, parts, spares including mandatory spares packing material and computer software required for the purpose of export production may be permitted by the component authority under the five categories of licences mentioned hereinafter.

AL Can be issued for

a) Physical exports
b) Intermediate supplies
c) Deemed Exports

Five Categories

(i) An Advance Licence is granted for the duty free import of raw materials, components, intermediates, consumables, parts, spares including mandatory spares, packing material and computer software. Such licences shall be subject to the fulfillment of a time-bound export obligation and value addition as may be specified. Advance Licences may be based on either value or quantity. An exporter may apply for a value based or quantity based Advance Licence.

They are also exempt from customs duty additional customs duty, education as antidumping duty and safeguard duty if any. All is issued on Actual user condition and hence not transferable.

Value Based Advance Licence

A value based Advance Licence shall specify-

- The names and description of items to be imported and exported
- The C.I.F. Value of
- imports
- The F.O.B. value of exports, and
- The value addition in accordance with the standard input-Output norms published by means of a Public Notice or, in respect of items for which such norms have not been published, value addition as may be specified by the competent authority.

For the items described as sensitive items, or where the competent authority considers it necessary to do so, quantity or C.I.F. value or both of each sensitive items intended to be imported shall also be specified in the licence.

Quantity Based Advance Licence

A quantity based advance Licence shall specify-

- The names and description of items to be imported and exported.
- The quantity of each item to be imported or, in any case where the quantity cannot be indicated, the value of the item.
- The CIF value of imports.
- The quantity and F.O.B. value of exports, and
- The value addition.

Procedure for the Grant of Advance Licence

An application for the grant of duty-free licence (Advance licence) for the import of raw materials, components, spares etc. for export should be made to the Regional Licensing Authority in the form given in Appendix 11B of the Handbook of Procedures. Two copies of the application (if Standard Input-output Norms fixed and 10 copies if the norms are not fixed.) should be submitted alongwith:

i. Bank Receipt / Demand Draft for payment of application fee.
ii. Export order / letter of credit.
iii. Surety Bond-Cum-Legal Undertaking (LUT) equivalent to the CIF value of imports.
iv. Photocopy of the valid RCMC.

Duty Exemption Entitlement Certificate (DEEC) is also issued alongwith the duty free licence. The DEEC has two parts namely:

Part 1: Details of items allowed for import under the licence.

Part 2: Details of items for export and the export obligation imposed.

The above information will be filled by the licensing authority. The details of actual exports / imports shall be entered and authenticated by the customs authorities.

The duty free licence holder can endorse the DEEC in favour of his supporting manufacturer.

Under advance licence, the export obligation is imposed in terms of value addition to be achieved. The standard input-output and value addition norms have been prescribed for individual products.

The value of export to be achieved as export obligation is mentioned in the advance licence.

The period allowed to fulfil export obligation is 18 months for all the items.

The above time period can be extended upto 6 months by the Regional Licensing Authority and beyond 6 months by the Director General, Foreign Trade. The application for extension of time should be made on the prescribed form given in the Handbook of procedures, 1997-2002 (Vol 1). SEZ has also to fulfill Export Obligation Every licence holder shall maintain a true and proper account of licence-wise consumption and utilization of imported goods. This record should be preserved for a period of at least three years from the date of redemption.

Application for the Grant of Advance Licence for Annual Requirement

An exporter should submit application, in the prescribed form (Appendix 57) in duplicate, for the grant of advance licence to meet annual requirement of inputs under Export Production Programme. The application should be accompanied by the following documents:

a) Bank Receipt / Draft for payment of application fee.
b) Preceding year's exports in the format given in Appendix 26 duly certified by a Chartered Accountant.
c) Copy of manufacturing licence of the applicant or his supporting manufacturer

Status holder (1 to 5 star Export Houses are entitled for this Merchant exporters are also eligible, provided agree to the endorsement of the supporting manufacturers Entitlement 200% of FOB value with positive value addition).

(i) Advance Intermediate Licence: An Advance Intermediate Licence is granted for the duty free import of raw materials, components, Intermediates, consumables, parts, spares and packing materials by the intermediate manufacturer for supply to the ultimate exporter holding a licence under the Duty Exemption Scheme.

(ii) Special Imprest Licence: A Special Imprest Licence is granted for the duty free import of raw materials, components, intermediates, consumables, parts, spares including mandatory spares and packing materials to main/sub contractors for the manufacture and supply of products in certain cases mentioned in the EXIM policy. Special Imprest Licence shall be quantity based and the input-output norms shall be as may be determined by the competent authority.

(iii) Advance Customs Clearance Permit; Advance Customs Clearance Permit (ACCP) is granted for the duty free import of goods for the purpose of jobbing, repairing, servicing, restoration, reconditioning, renovation and may also include patterns, drawings, jigs, tools, fixtures, moulds, tackles and instruments as are directly related to the export order and are supplied free of cost by the foreign buyer. But these shall be re-exported along with the export product. Requests for retention of imported moulds, patterns etc., may be made after the fulfillment of the export obligation and may be permitted by the ALC subject to the payment of customs duty leviable on the date of import and such other conditions as may be specified by the competent authority.

Any merchant exporter or manufacturer exporter who holds an Importer-Exporter Code number, a specific export order/letter of credit and is in a position to realise the export proceeds in his own name may apply for duty free licences.

Licences under Production Programme

Exporters may apply for duty free licences, except Special Imprest Licence, without an export order. In the case of an application without an export order, the value of the licence may not exceed the average of the F.O.B. value of exports of the applicant during the preceding three licensing years.

Manufacturers and merchants having an average annual turnover of ₹ 5 crores or more during the preceding three licensing years may apply for duty free licences, except Special Imprest Licence, to meet their needs of export production, without an export order. The value of the licence may not exceed 25 percent of the said average annual turnover.

(iv) Advance Release Orders: A holder of a duty free licence may either import items allowed under the licence directly or obtain them from indigenous sources/ canalising agencies against Advance

Release orders denominated in foreign exchange/Indian rupees.

A holder of a duty free licence may source or clear any goods already imported and kept in a customs bonded warehouse. A holder of a duty free licence may also source or clear a goods manufactured or processed in units in EPZs or in EOUs.

In the case of an AL, the drawback in available in respect of any of the duty paid materials.

Tax Relife to Exporter

General Tax Incentives

The Government offers many incentives to investors in India with a view to stimulating industrial growth and development. The incentives offered are normally in the government's economic philosophy, and are revised regularly to accommodate new areas of emphasis. The following are some of the important incentives offered, which significantly reduce the effective tax rates for the beneficiary companies.

- Five year tax holiday for;
- Power projects
- Firms engaged in exports
- New industries in notified states and for new industrial units established, in electronic hardware/software parks.
- Export oriented unit and units in free trade zones
- As of 1994-95 budget firms engaged in providing infrastructure facilities, can also avail of this benefit.
- Tax deductions of 100 percent of export profits
- Deduction of 30 percent of net (total) income for 10years for new industrial undertakings.
- Deduction of 50 percent on foreign exchange earnings by construction companies, hotels and on royalty, commission etc. earned in foreign exchange.

Let us discuss details on specific cases

1. No Tax on Exports

Under the provisions of section 80HHC of the income tax act, 100percent deduction was allowed to the exporters for the profit derived from the export of goods to foreign countries

The essential requirement of section 80HHC is listed below.

- The assessee (exporter) must be an Indian company or a person resident in India
- The assessee should be involved in the business of exporting goods at merchandise to foreign countries.
- Income tax deduction is also available to the suppliers of goods at merchandise to export houses/trading houses.
- Income tax deduction under section 80 HHC is allowed if the sale proceeds are receivable in convertible foreign exchange. Deduction under this section will be allowed only if the sale proceeds are receivable in or brought into India within a period of six months from the end of the relevant previous year, with effect from the assessment year 1991-92.

2. Tax Concession for The Export of Computer Software and for Import of System.

Under section 80HHE of the income tax act, income tax concession was provided for the export of computer software and for the import of system.

Indian companies and resident non-tax payers will be eligible for a deduction of an amount equal to the profits arising from the export of computer software.

Any lump sum payment for getting use of systems software supplied by a non-resident manufacturer along with hardware shall not be subjected to income tax.

The approval of the central government about the agreement for applying the lowest rate of tax at 30% shall not be applicable in cases where the royalty payment is for the use of software permitted to be imported under OGL.

Following are the conditions for availing the deduction

- The sum equal to 50% of the profits is to be brought by the assessee within a period of six months from the end of the previous year inconvertible foreign exchange.
- Assessee should maintain a separate account for the overseas projects.
- Assessee should create a 'Foreign project Reserve account' equal to 50 percent of the profit derived from the overseas project. It is to be utilised by the assessee for a period of 5 years next following for business purposes other than for distribution of dividends or profits.
- Any break of the above conditions will forfeit the benefit of income tax concession tax holidays for the Free Trade Zone/Export processing zone units and Software Technology Parks.
- In addition, civil construction Projects outside India got 50% of Export of Films – 80HHF 100% profits under 80 HHB Hotels etc 50% under 80HHD.

3. Tax Holidays

- Under section 10A of the income Tax Act, a five year tax holiday is provided to the units in Free Trade Zone/ Export Processing Zones and Electronic Hardware / Software Technology Parks. The profit of the newly established industrial units in Free Trade Zones are not taxed for a period of five year, out of eight assessment years relevant to the previous year in which the industrial units begin production.

The tax holiday period for export processing zone/export oriented units is extended from five years to ten years as packages to boost export announced by the commerce ministry, Government of India on 4th August 1998.

Under Section 10B of the Income Tax Act, the 100% Export Oriented Units can avail tax holiday for a period of ten years.

Present Rates of Income Tax Exemption.

The Percentages of benefits were modified after 2000 budget

The export firms are eligible for deduction under section 80 HHC in respect of income from export turnover on their incomes earned in the previous year in a phased manner as given below.

Assessment Year	Extent of Deduction
2001-02	80%
2002-03	70%
2003-04	50%
2004-05	30%
2005-06	nil

Similar deduction is available to the units engaged in the export of computer software (to include customized electronic data or any other product or service of a similar a nature as may be notified by the Central Board of Direct Taxes) under section 80 HHE.

Under Section 10 A, Tax holiday has been provided for 10 years beginning assessment year 2000-2001 for the newly established industrial under takings in free trade zones, special economic zones, electronic hardware Technology Park or software technology park as well as 100% export oriented units.

One of the basic conditions is that the export proceeds must be realised in free foreign exchange i.e. freely convertible foreign currency.

Sales Tax Exemption

Exporters are eligible to claim exemption from the levy of sales tax on the supplies taken by them for manufacture of goods meant for production of export product or supplies of goods for exports against specific export orders. This facility is available to the exporters both under the Central Sales tax Act 1956 and under the Local Sales Tax Acts of the specific states. The exporters are required to give form H to the suppliers of goods / materials from another state and the exemption from prescribed by the sales Tax Department of the State concerned in case of supplies procured from within the State.

Conclusion

Focus on Export growth and employment through incentives

Shri Kamal Nath, Union Minister of Commerce and Industry, unveiled on 07.04.2006 a series of important trade initiatives to put Indian exports on a trajectory of quantum growth and announced that India's merchandise exports had crossed the magic figure of US & 100 billion 2005-06.

The Minister announced the introduction of new schemes to give a push to employment generation, particularly in semi-urban and rural areas – a key objective of the Foreign Trade Policy. These 2 schemes are: the "focuse Product Scheme" to give a thrust to the manufacture and export of certain industrial products which could generate large employment per unit of investment compared to other products; and the "Focus Market Scheme" to penetrate markets to which India's exports were comparatively low and which Indian exporters had perhaps been neglecting due to high freight costs undeveloped networks but were markets of the future.

The focus Product Scheme would allow duty-credit facility at 2.5% of the FOB value of exports on 50% of the export turnover of notified products, such as value added fish and leather items. The Focus Market Scheme, on the other hand, allows duty credit facilities are 2.5% of the FOB value of exports of all products to the notified countries. The scrip and the items imported against it for both these schemes would be freely two scheme transferable. These would replace the *Target Plus Scheme.*

In order to take the benefits of foreign trade further to rural areas, the minister announced that the Krishi Vishesh Upaj Yojana was being expanded to include village and cottage industries and was being renamed as the Vishi Krishi Upaj aur gram Udyag Yojana. Thus, it had been decided to incentives export of village and cottage industry products by awarding duty-free scrip at the rate of 5% of FOB value of exports under the expanded scheme, he said. In another major initiative, Shri Kamal Nath announced that the incidence of Unrebated Service Tax and Fringe Benefit Tax on exports would be factored in the various duty neutralization and remission schemes, adding that details of this were being worked out and would be announced separately.

In order to promote service exports which account for 52% of India's GDP, and provide jobs to a large number of urban educated youth, a number of features were being added in the Served from India Scheme to remote services exports, he said. "The Scheme will now allow transfer of both the scrip and the imported input to the Group Service Company, whereas earlier transfer of imported material only was allowed.

Further, the salient features of the Advance Licensing Scheme (Which allows imports of inputs before exports) and Duty Free Replenishment Certificate (which allows transfers of import entitlements) have been clubbed to launch a new scheme called "Duty Free Import Authorisation scheme" The rationale is that export production requires use of many inputs in small quantities as per the stranded input-output norms, and though such inputs were allowed to be imported duty-free under the Advance Licence Scheme, exporters generally were not importing such items because of lack of economies of scale and were forced to source them locally at a higher price.

The new scheme addresses the issue by offering the facility to import the required inputs before exports and allows the transfer of scrip once the export obligation is complete.

The scheme will be effective from 1st May, 2006. Simultaneously, the DFRC scheme would be phased out and shall be available only for exports effected upto 30th April, 2006

The Supplement introduce certain flexibilities in the conditions relating to maintenance of average export performance under the export promotion capital goods (EPCG) scheme as in a number of situation exporters ware finding it difficult to maintain A average export performance and undertake additional export obligations either because of sickness or international market dynamics or technology changes.

Further, as an export facilitation measure, it has been decided to extend the period of export obligation fulfillment by a further period of two years based on certain condition. As a trade facilitative measure, it has been decided that interest on delayed payment of refunds would be paid by the government to ensure accountability and cut delays. Further, fast track clearance procedures would be put in place for units of Export Oriented Units (EOUs) having turnover of ₹ 15crore.

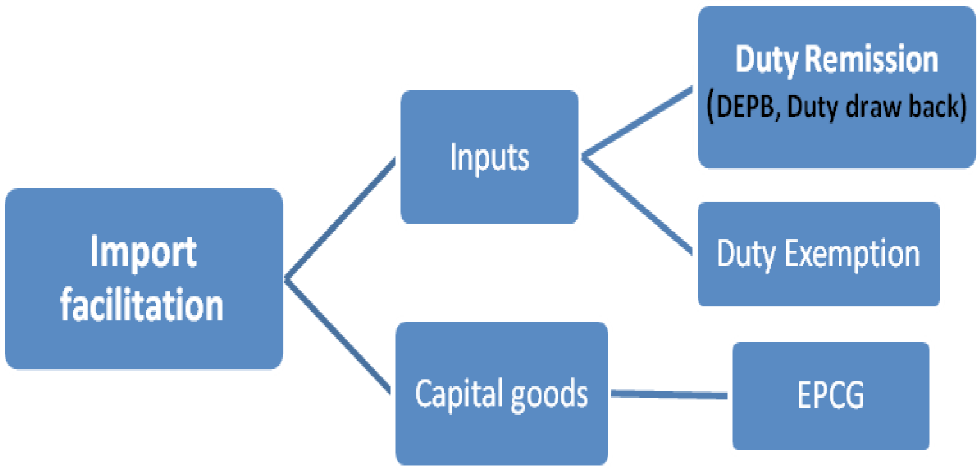
Announcing major initiatives on the Electronic Data Interchange (EDI) or e-commerce front, Shri Kamal Nath said: “We are committed to simplifying procedures relating to international trade and putting in place an exporter friendly regime for obtaining import authorizations and disbursement of export linked incentives. A web based online system of filing import & export applications is functional. Requests for obtaining authorizations relating to Advance Licence, EPCG Licence and DEPB are to be filed on the DGFT website with a digital signature and supporting documents are required to be submitted. All application are processed within one working day.

Duty Entitlement Pass Book Scheme (DEPB)

Several steps have been taken by the government of India to facilitate exports by creating the right environment, infrastructure and offering incentives to the exporters both fiscal and non fiscal. The schemes of Foreign Trade Policy of India are classified under four heads as:

1. Export promotion
2. Import substitution
3. Import facilitation
4. Export zones

The import facilitation is classified into two categories (chart -1) such as (a) capital goods and (b) inputs. Under capital goods EPCG (export promotion capital goods scheme) was introduced for importing input factors such as (i) duty exemption and (ii) duty remission schemes. These were introduced through Foreign Trade Policy of India. The major duty remission schemes are Duty Entitlement Pass Book Scheme (DEPB) and Duty Draw back scheme. Policy relating to DEPB both of which are given in Chapter- 4 of the Indian Foreign Trade Policy. Let us first understand DEPB in detail.



DEPB Scheme was first announced on 1.4.1997 under EXIM Policy 1997-2002. DEPB is an export incentive scheme of the Indian Government provided to exporters in India. The DEPB scheme consists of (a) post-export DEPB and (issued after exports, the exporter is given a duty entitlement pass book scheme at a predetermined credit on the FOB value) and (b) pre -export DEPB (was abolished with effect from (w.e.f.) 1/4/2000).

Under duty remission schemes, the exporter imports the inputs by paying customs duty or procures them indigenously paying excise duty. After shipment the duty is refunded to the exporter or he is provided with duty credit which he can use to pay the duty on further imports made of any products, permissible under the foreign trade policy. Foreign Trade Policy provides for issue of duty credit under Duty Entitlement Pass Book Scheme. Customs Act provides for cash refund in the form of duty drawback. An exporter can avail either but not both in respect of the same shipment.

Duty Entitlement Pass Book Scheme (DEPB) is one in which an exporter is issued a Pass Book by the Licensing Authority. Under this scheme, the exporter will apply to the licensing authority, after exporting, for duty credits. Duty credits at prescribed rates (roughly equivalent to import duty paid on the estimated imported inputs which have gone into the exported goods) will be credited in the Pass Book. These credits can be utilized by the exporter to pay import duty whenever he imports capital goods or raw materials. In other words, the duty payable on imports will be adjusted by way of debits in the pass book.

Application for DEPB shall be filed within six months from the date of release of shipping bill (or) six months from date of realization, whichever is later.

The DEPB Rates are applied on the basis of FOB value or value cap whichever is lower. The DEPB rate and the value cap shall be applicable as existing on the date of exports as defined in paragraph 15.15 of Handbook of Procedure (Vol.1) published by the DGFT. The Government of India review the DEPB rates after getting the appropriate data on FOB (shipping) value of exports and Cost, Insurance and Freight (CIF) value of inputs used in the export product, as per SION (standard input output norms). Such data and information is usually obtained from the concerned Export Promotion Councils. It is necessary for Custom House at ports to maintain a separate record of details of exports made under DEPB schemes. The DGFT have so far notified DEPB rates for nearly 2700 export products.

The DEPB rates specified in the pass book shall not be applicable to export of a commodity or product if it is manufactured partly or wholly in a warehouse, by a unit licensed as hundred percent export oriented unit (100% EOU) and produced by units situated in free trade zones and export of foreign origin.

Credit under DEPB

In respect of products where rate of credit entitlement under DEPB scheme comes to 10% or more, amount of credit against each such export product shall not exceed 50% of Present Market Value (PMV) of export product. During export, exporter shall declare on shipping bill that benefit under DEPB scheme would not exceed 50% of PMV of export product. However PMV declaration shall not be applicable for products for which value cap exists irrespective of DEPB rate of product. Credit given under DEPB Schemes is utilized for payment of Indian Customs Duty.

Re- Export of Goods Imported Under DEPB Schemes

In case of return of any exported goods, which has been found defective or unfit for use may be again exported according to the EXIM guidelines as mentioned by the Department of Revenue. In such cases 98% of the credit amount debited against DEPB for the export of such goods is generated by the concerned Commissioner of Customs in the form of a Certificate, containing the amount generated and the details of the original DEPB. On the basis of the certificate, a fresh DEPB is issued by the concerned DGFT Regional Authority. It is important to note that the issued DEPB have the same port of registration and shall be valid for a period equivalent to the balance period available on the date of import of such defective goods.

In case where EP copy of shipping bill has been lost, DEPB and other duty credit certificates, claim can be considered subject to submission of documents like: a duplicate copy of shipping bill issued by customs authority, application fee of 2% of the DEPB, an affidavit by exporter about loss, and indemnity bond. Claim is preferred within a period of 6 months from date of release of duplicate copy.

In case the Original Bank Realization Certificate (BRC) has been lost, the DEPB claim can be considered subject to submission of a duplicate copy of BRC, an affidavit by exporter along with an indemnity bond.

The exports/imports made from the specified ports given shall be entitled for DEPB.

- **Sea Ports**: Mumbai, Kolkata, Cochin, Dahej, Kakinada, Kandla, Mangalore, Mormugao, Mundra, Chennai, Nhava Sheva, Paradeep, Pipavav, Sikka, Tuticorin, Vishakhapatnam, Surat, Nagapattinam, Okham Dharamtar and Jamnagar.
- **Airports**: Ahmedabad, Bangalore, Bhubaneshwar, Mumbai, Kolkata, Coimbatore, Cochin, Delhi, Hyderabad, Jaipur, Srinagar, Trivandrum, Varanasi, Nagpur and Chennai.
- **ICDs** : Agra, Ahmedabad, Bangalore, Bhiwadi, Coimbatore, Delhi, Pune, Faridabad, Guntur, Hyderabad, Jaipur, Jallandhar, Jodhpur, Kanpur, Kota, Ludhiana, Madurai, Meerut, Nagpur, Nasik, Pitampur, Rudrapur, Salem, Singanalur, Surat, Tirupur, Udaipur, Vadodara, Varanasi, Pondicherry, Amritsar, Karur, Miraj and Rewari.
- **LCS**: Ranaghat, Singhabad, Raxaul, Jogbani, Nautanva (Sonauli), Petrapole and Mahadipur.
- **SEZs** : Santacruz, Kandla, Kochi, Vishakhapatnam, Chennai, Surat and NOIDA.

The DEPB scheme will be convenient to large exporters who make a large number of exports and imports as it avoids payment of duty in cash and getting drawback on application. The facility is available in respect of those goods included in the DEPB schedule published annually as a public notice. The scheme is said to be not WTO compliant. The scheme introduced in 1997 has been extended periodically. It has been rescinded since 1st October 2011.

Withdrawal of DEPB Scheme

Recently, the government withdrew the popular export incentive, DEPB scheme that had been prevalent since the mid-1990s. A transitional Duty Drawback Scheme has replaced the existing scheme. This has evoked mixed responses as it might result in a marginal reduction of benefits to exporters due to lower tax incentive structures. The DEPB scheme was helping the export community and even smaller industries to compete in the global market and they will be the most affected.

Under the Duty Drawback scheme, exporters get the reimbursement of taxes (i.e. customs duty, excise and service tax) after the actual export has taken place, while under the DEPB scheme, exporters get immediate benefit at the time of export as per the rates notified from time to time for each commodity by Directorate General of Foreign Trade (DGFT) on the Free on Board (FOB) value of the exports.

In view of these, exporters requested the government that DEPB scheme should be continued for the policy period 2009-14 also.

Summary

In this lesson, we discussed in detail on major Export incentive – EPCE, DD, DFRC, DEPB, Duty Exemption Scheme or Advance Licensing Scheme Tax relief to exporter

The contusions gives the snapshot of latest decision taken by The Ministry of Commerce and Industry on Advance Licensing Scheme, EPCG, focus products and Focus market and the incentives provided for this. As suggested in the beginning you have to be always looking head for latest information through websites and journal / Papers

Check Your progress-2

5) The validity of DFRC will be................ Months

6) DEPB in valid for a period of................. months from the date of its assurance

7) For advance Licence LUT equivalent to the CIF value of should be submitted

8) For newly established undertaking SEZ Tax holiday has been provided for years beginning assessment year 2000-2004

9) 100% EOU/EPU are eligible are entitled for full reimbursement of Paid by them

10) Under Duty free Import Authorization scheme the features of............ and are clubbed.

Keywords

ALS : Advance License Scheme
DD : Duty Drawback
DEPB : duty entitlement passbook
DES : Duty Exemptions scheme
DFRC : Duty Free replenishment certificate
EPCG : Export promotion capital goods
LUT : Legal undertaking
SIL : Special import License.

Answers to SAQS

1. Export commitment.
2. 2.) 24%, import.
3. 3.) To the jurisdictional commissioner of central excise
4. 4.) 3 (months)
5. 5.) 18.
6. 6.) 12.

7. 7.) Import
8. 8.) 10.
9. 9.) Central sales tax.
10. 10.) ALS and DFRC.

Questions

1. Explain how you would apply for EPCG.
2. What are the different types of Duty drawback?
3. Explain drawback claim Procedure?
4. List out the documents required to claim DD
5. Write short notes on
   (a) DFRC
   (b) DEPB
   (c) Green Card
6. Who are eligible for DES/ALS
7. Explain the procedure for the grant of ALS
8. Discuss Income tax benefits for exports
9. Write a note on sales fax exemption to exporters?
10. Give a short note on new developments in ALS and EPC?

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UNIT – V

Lesson 5.1 - Trading Houses: Export Houses

Government of India, like almost all other nations, has been endeavoring to develop exports.

Export development is important to the firm and to the economy as a whole Government measures aim, normally at the general improvement of the export performance of the nation for the general benefit off the economy. Such measures help exporting firms in several ways.

The benefits of export lead to the economies of scale and growth. Secondly the supply of many commodities, as in the case of a number of agricultural products in India, is more than the domestic demand. Thirdly exports enable certain countries to achieve export led growth.

Fourthly export markets may help mitigate the effects of domestic recession. Fifthly a country may need to boost its exports to earn enough foreign exchange to finance its imports and service its foreign debt. It also helps in the case of countries which are suffering from trade deficit and foreign debt. Lastly, even in the case of countries with trade surplus, export promotion may be required to maintain its position against international competition and the level of domestic economic activity.

The principal objectives of export promotion measures in India are to;

(i) Compensate the exporters for the high domestic cost of production

(ii) Provide necessary assistance to the new and infant exporters to develop their export business.

(iii) Increase the relative profitability of the export business vis-à-vis the domestic business.

The origin of export houses in our country goes back to the beginning of the second Five Year Plan. During this period, there was an acute shortage of foreign exchange. Therefore the Government took various export promotion measures particularly to boost up the export of non traditional items which we have studied already. The non traditional items were produced mainly by small scale sectors. But these small industrialists have no sufficient knowledge about the export formalities and even big industrialists have no drive to explore possibilities for export markets. Whereas the international area consists of highly experienced and resourceful trading houses. Therefore the Government realized that unless positive steps were taken to build up a number of merchant houses, concentrating exclusively on exports and developing the various special skills and expertise therein it would be impossible to succeed against the international giants. Therefore in 1960, the government evolved the criteria for the recognition of export houses. The objective of the scheme of registration of export houses and the grant of special facilities is to strengthen their negotiating capacity in Foreign Trade and to build up a more enduring relationship between them and their supporting manufacturers (Import and Export Policy).

As a result of the active encouragement on the part of the Government, the number of recognized export houses increased substantially. The number of export houses was only 3 in 1962 but it roses to 600 in 1979. Many public sector undertaking also work as export houses. An example, state trading corporation, MMTC, etc.

Export Houses

From the beginning of the Second Five year plan, the foreign exchange problem began to assume serious proportions, and the government began to realise the need for vigorous export promotion. It was very clear that concerted efforts should be made for the promotion of the export of non traditional items. It was also realized that un less positive steps were taken to build up a number of merchant houses, concentrating almost exclusively on export and capable of undertaking trade on a sustained basis, it would be impossible to compete successfully against the highly experienced and resourceful trading houses of other countries. The importance of promoting merchant houses was further underlined by the need for proving channels for the export of the products of the small scale sector.

An export house is defined as "a registered exporter holding a valid Export Houses Certificate issued by the Director General of Foreign Trade".

Objective

The Objective of the scheme is to recognize established exporters as Export House, Trading Houses, star Houses and Superstar Trading Houses with a view to build marketing infrastructure and expertise required for promotion. Such houses should operate as highly professional and dynamic institutions and act as important instruments of export growth.

Eligibility:

Merchant as well as manufacturer exporters, EOUs and units located in EPZ/EHTP/STP may be recognized as Export Houses, Trading Houses, Star Trading Houses and Superstar Trading Houses subject to the fulfillment of the criteria laid down by the government.

Criterion for Recognition

The eligibility criterion for such recognition shall be either on the basis of the FOB/Net Foreign Exchange (NFE) value of export of goods and services, including software export, made directly by the exporter during the preceding three licensing years or the preceding licensing year, at the option of the exporter. The exports made both in free foreign exchange and in Indian Rupees shall be taken into account for the purpose of recognition.

Exports made by Subsidiary Company

The export made by a subsidiary of a limited company shall be counted towards export performance of the limited company for the purpose of recognition. For this purpose, the company shall have the majority share holding in the subsidiary company.

Export Performance Level

The applicant is required to achieve the prescribed average export performance level subject to the condition that

a. Exports made under the Passbook Scheme shall be counted only if the exporter applies for recognition on the basis of FOB criterion.

b. If the eligibility is claimed on FOB criterion, the FOB value of exports of diamond, gem and jewellery products shall be counted at 50% of the actual FOB value of exports.

Weightage to Exports

For the purpose of recognition, weightage is given to certain categories of exports as indicated below provided such exports are made in freely convertible currency.

1. Double weightage on FOB or NFE on the export of:

   (i) Products manufactured by small scale/tiny/cottage units respectively.

   (ii) Fruits and vegetables, floriculture and horticulture produce/ products.

   (iii) Goods manufactured in North Eastern States.

2. Double weightage on exports to specified developing countries.

3. Double weightage on FOB value and Triple weightage on NFE on exports of products manufactured by handlooms and handicrafts sector (including handloom silk), hand-knotted carpets, carpets made of silk.

Export Houses/Trading Houses/Star Trading Houses/Super Star Trading Houses are entitled to special import licenses as per the criteria laid down, related to the export/net foreign exchange earnings. The amount of entitlement is lowest for Export Houses (6% on FOB basis and 7.5% on NFE basic) and highest for Superstar Trading Houses (12% and 15%)

Definition of Export House

According to clause 3.23 of the EXIM Policy, 1997-2002, "Export House/Trading Houses/Star Trading Houses/Super Star Houses" means an exporter holding and Export Houses/Trading Houses/Star Trading Houses/Super Star Houses certificate issued by the Directorate General of Foreign Trade.

The certificate shall be valid for a period of 3 years. However, after the expiry of the period, the export houses are eligible for renewal provided such houses satisfy the prescribed conditions.

Objectives

The objective of the scheme is to recognize established exporters as Export House, Trading House, Star Trading Houses and Super Star Trading Houses with a view to build marketing infrastructure and expertise required for export promotion. Such Houses should operate as highly professional and dynamic institutions and act as important instruments of export growth.

Eligibility Conditions for the Issue of Certificate

An export, to get registered as a recognized export house should satisfy the following conditions:

1. Merchant as well as Manufacturer exporters, Export Oriented Units (EOU)/Units located in Export processing Zones (EPZs) /Electronic hardware Technology parks (EHTPs)/Software Technology Parks (STP) shall be eligible for such recognition.
2. The eligibility criterion for such recognition shall be either on the basis of the FOB/Net Foreign Exchange (NFE) value of export of goods and services, including software exports, made directly by the exporter during the preceding three licensing years or the preceding licensing year, at the option of the exporter. The exports made, both in free foreign exchange and in Indian rupees, shall be taken into account for the purpose of recognition.
3. The export made by a subsidiary of a limited company shall be counted towards export performance of the limited company for the purpose of recognition. For this purpose, the company shall have the majority shareholding in the subsidiary company
4. The applicant is required to achieve the prescribed average export performance level subject to the condition that
   i. Deemed exports and exports under paragraph 11.7 of the policy shall not be counted under export performance.

ii. Exports made under the Pass book Scheme shall be counted only if the exporter applies for recognition on the basis of FOB criterion.

iii. If the eligibility is claimed on FOB criterion, the FOB value if exports if diamond, gem & jewellery products shall be counted at 50% of the actual FOB value of exports.

Calculation of NFE

For the purpose of calculation of the Net Foreign Exchange earned on exports, the value of all the licences including the value of 2.5 times of the DEPB credit earned/granted and the value of duty free gold/silver/platinum taken from nominated agency shall be deducted from the FOB value of exports made by the person. However, the value of freely transferable Special Import Licences, EPGC licences and the value of licences surrendered during the validity of the licences and shall not be deducted.

Recognition for State Corporations

With a view to encourage participation of state Government and Union Territories in Export promotion, one state corporation nominated by the respective state Government/Union Territories may be recognized as an Export House.

Transitional Arrangement

Export Houses, Trading Houses, Star Trading Hoses and Super Star Trading Houses shall continue to hold the recognition accorded to them for the period for which such recognition was accorded. However, at the expiry of the aforesaid period, they shall renew their recognition awarded.

In order to encourage trading houses which have increased their exports substantially and had a tremendous potential, Government brought in the concept of Star Trading House and Super Star Trading House in addition to export house and trading house.

The New EXIM policy, 2002 – 2007 has given double weightage in terms of value to project exports. Further an additional SIL will be given based o n incremental exports as given below

25 – 50 percent over preceding year: 1 percent

50 – 75 percent over preceding year: 2 percent

75 – 100 percent over preceding year: 3 percent

Over 100 percent over preceding year: 5 percent

General Provisions Regarding Exports and imports

Exports and Imports Free unless Regulated

Exports and Imports shall be free, except to the extent they are regulated by the provisions of this policy or any other law for the time being in force.

Regulation

The Central Government may, in public interest, regulate the import or export of goods by means of a Negative List of Imports or a Negative List of “Exports as the case may be.

Negative Lists

The Negative Lists may consist of goods, the import or export of which is prohibited, restricted through licensing or otherwise, or canalized. This Negative List of Imports and the Negative List of Exports shall be as contained in Policy.

Prohibited Goods

Prohibited items in the Negative list of imports shall not be imported and prohibited items in the Negative List of Exports shall not be exported.

Restricted Goods

Any goods, the export or import of which is restricted through licensing, may be exported or imported only in accordance with a licence issued in this behalf.

Terms and conditions of a Licence

Every licence shall be valid for the period of validity specified in the licence and shall contain such terms and conditions as may be specified by the licensing authority which may include:

a. The quantity, description and value of the goods
b. Actual User condition
c. Export obligation
d. The value addition to be achieved
e. The minimum export price

Licence not a Right

No person may claim a licence as a right and the Director General of Foreign Trade or the licensing authority shall have the power to refuse to grant or renew a licence in accordance with the provisions of the Act and the Rules made there under.

Canalized Goods

Any goods, the import or export of which is canalized, may be imported or exported by the canalizing agency specified in the Negative Lists. The Director General of Foreign Trade may, however, grant a licence to any other person to import or export any canalized goods.

Importer-Exporter Code Number

No export or import shall be made by any person without an importer Exporter Code (IEC) number unless specifically exempted. An Importer – Exporter code (IEC) number, shall be granted, on application by the competent authority in accordance with the procedure specified, unless specifically exempted under the policy.

Registration – Cum – Membership Certificate

Any person, applying for (i) a licence to import/export except items falling under the negative list of imports or (ii) any other benefit or concession under this Policy shall be required to furnish Registration

– cum – Membership Certificate (RCMC) granted by the competent authority in accordance with the procedure specified in the Handbook (vol 1) unless specifically exempted under the policy.

Trade with Neighbouring Countries

The Director General of foreign Trade may issue, from time to time, such instructions or frame such schemes as may be required promoting trade and strengthening economic ties with Neighbouring countries.

Transit Facility

Transit of goods through India from or to countries adjacent to India shall be regulated in accordance with the treaty between India and those countries.

Execution of BG/LUT

Wherever any duty free import is allowed or where otherwise specifically stated the importer shall execute a Legal Undertaking (LUT)/ Bank Guarantee (BG) with the customs

Authority before clearance of goods through the Customs, in the manner as may be prescribed. In case of indigenous sourcing, the licence holder shall furnish BG/LUT to the licensing authority before souring the material from the indigenous supplier/nominated agencies.

Penalty

If a licence holder violates any condition of the licence or fails to fulfil the export obligation, he shall be liable to action in accordance with the Act, the Rules and Orders made there under, the policy and any other law for the time being in force.

Consignments of items allowed for exports shall not be withheld / delayed for any reason by any agency of the Central/State Government. In case of any doubt the authorities concerned may ask for an undertaking from the exporter.

Export Documents

Importance of Documentation

Documentation is one of the most importance aspects of overseas trade. For the beginner it is confusing and irksome aspect, but it has to be mastered and the pattern of documents used is repetitive so that practice makes perfect in the end.

Correct documentation is very important because it alone can secure the swift passage of goods through the customer resulting in prompt payment of goods exported.

Following are the main documents involved in overseas trade:

Export Order

An order is a commercial transaction which is not only important to the exporter and importer, but it is also of concern to their respective countries, since it affects the balance of payment position of both the countries. It is therefore, not just a matter of product, manufacturing, packing, shipment and payment but also one of the concerns to licensing authorities, exchange control authorities and banks dealing in export trade.

The exporter is required to produce copies of export order to various Government department/Financial institutions e.g. obtaining export licenses when the product is covered under the restricted items or canalized items for exports, availing post shipment finance and other incentives and dealing with inspection authorities, insurance underwriters, customs offices and exchange control authorities etc for various purposes.

Order Acceptance

The Order Acceptance is another important commercial document prepared buy the exporter confirming the acceptance of order placed by the importer. Under this document he commits the shipment of goods covered at the agreed price during a specified time. Sometimes, the exporter needs a copy of his order acceptance signed by the importer. The order acceptance normally covers the name and address of the indentor, name and address of the consignee, port of shipment, country of final destination, the description of goods, quantity, price each and total amount of the order, term of delivery, details of freight and insurance, mode of transport, packing and marking details, terms of payment etc.

Letter of Credit

Letter of Credit is a document issued by the Importers Bank in favors of the exporter giving him the authority to draw bills up to a particular amount (as per the contract price) covering a specified shipment of goods and services and assuring him of payment against the deliver of shipping documents. The operations of Letters of Credit have been regulated and are governed by the Articles of "Uniform Customs and Practice for Documentary Credits" i.e. UCP 500 and / or UCP 2002 (Supplement to UCP 500 for Electronic presentatio0n) of International Chamber of Commerce, Paris.

Mate's Receipt

Mate Receipt is issued by the Chief of Vessel after the cargo is loaded, and it contains the name of shipping line, vessel, port of loading, port of discharge, place of develivery, marks and numbers, number and kind of packages, description of goods, container status/seal number, gross weight, condition of cargo at the time of its receipt on board the vessel and shipping bill number and date. The mate receipt is of a transferable nature and must be presented immediately at the shipping company's office to be exchanged into Bill of Lading.

Transport Documents

The following documents are used in export business as transport document:

- Ocean Freight : Various types of Bills of Lading
- Air Freight : Airway bill/Air consignment Note
- Rail/Road : Railway Receipt / Consignment Note
- Post : Post Parcel Receipt
- Courier : Courier Receipt/ Way Bill

Bill of Lading

The Bill of Lading is a document issued by the Shipping Company or its agent acknowledging the receipt of goods mentioned in the bill for shipment on board the vessel, and undertaking to deliver the goods in the like order and condition as received, to the consignee or his order of assignee, provided the freight and other charges as specified in the Bill of Lading have been duly paid.

From the legal point of view, a Bill of Lading is

- A formal receipt by the ship owner or the master of the ship acknowledging that the goods of the stated specifications, quantity and condition in certain ship or at least received in the custody of the ship owner for the purpose of shipment.
- A memorandum of the contract of carriage, repeating in detail, the terms of the contract which was in fact concluded prior to the signing of the bill and
- A document of title of the goods enables the consignee to dispose off the goods by endorsement and delivery of the bill of lading.

Airway Bill/Air Consignment Note

Airway Bill or Air Consignment Note is the receipt issued by the Airline Company for the carriage of goods, in terms of the conditions of the contract of carriage of goods. Airway Bill or Air Consignment Note is not treated as a document of title and is not issued in negotiable form.

Post Parcel Receipt

Post Parcel Receipt evidences the receipt of goods for exports by the Post Office and it is also not treated as a document of title. If the Post Parcel Is sent directly in the name of the buyer, the buyer can take immediate possession of the goods sent by the exporter sometimes without paying for it. Hence, it will be in the interest of the exporter to send post Parcel in the name of foreign correspondent bank unless the condition of Letter of Credit provides for the dispatch of goods directly in the name of buyer. In such a case, they buyer can take possession of the Post Parcel from the foreign correspondent bank, only after the payment of bill drawn by the exporter.

Bill of Exchange

Bill of exchange is also known as "Draft". According to S.5 of the Negotiable Instrument Act, 1881, a bill of exchange is an instrument in writing containing an unconditional order, signed by the maker directing a certain person to pay a certain sum of money only to or to the order of a person or to the bearer of the instrument.

Insurance Policy/Certificate

In the international trade, when the goods are in transit, they are exposed to marine perils. Marine Insurance is intended to protect the insured against the risk of loss or damage to goods in transit due to marine perils. Marine Insurance Policy is a contract whereby the insurer (Insurance Company) in consideration of a payment or premium by the insured agrees to indemnify the latter against loss incurred by him in respect of goods exposed to perils of the sea.

Certificate of Origin

This certificate is issued by a Chamber of Commerce stating that the goods being exported are of Indian Origin.

Manufacturer's Certificate

Some countries require a certificate from the manufacture himself stating that the goods export by him are manufactured in India and the manufacture of such goods does not contain the raw material or components imported in India from other country or manufactured in third country.

G.S.P. Certificate

The EEC Countries comprising France, Germany, Belgium, Luxembourg, Netherlands, Italy, UK, Ireland, Denmark and Greece have adopted the Generalized System of Preferences. Under this system, manufactures and semi manufacturers from developing countries including India are entitled to a concessional rate of import duty in these countries.

The Government of India has authorized the Export inspection Council of India and its various agencies to issue the Certificate of Origin. The Export Promotion Offices at Mumbai, Kolkata, Chennai and Cochin and the heads of the Licensing Offices have also been authorized to issue the Certificate of Origin.

Certificate of Inspection

Certificate of Inspection is issued by the Inspection Agency concerned certifying that the consignment has been inspected as required under the Export (Quality Control and Inspection) Act, 1963 and satisfies the conditions relating to quality control and inspection as applicable to it and is certified export worthy. In addition to this certificate, some countries need 'Clean Report-of-findings' under SGC Certificate.

Antiquity Certificate

This certificate is issued by the Archaeological Survey of India in the case of exports of antiques.

Certificate of Measurement

Fright can be charged either on weight or measurement basis. When it is charged on weight basis, the weight basis, the weight declared by exporter is accepted. However, a certificate of measurement from the Indian Chamber of Commerce or any other approved organization is required to be obtained by the exporter and given to the shipping company for calculating of necessary freight. The certificate contains the name of vessel, port of destination, description of goods, quantity, length, breadth, depth etc. of the packages.

Packing List/Note

A Packing List/Note contains the date of packing, connecting invoice number, order number, details of shipping such as the name of steamer, bill of lading number and date of sailing, case number to which the list/note relates the details of goods such as quantity and weight and / or item-wise details.

Export Declation Forms

As per the exchange control regulations, exporters are required to submit following declaration forms to the prescribed authority before any export of goods from India is made:

- Exchange Control Declaration : Exports to All Countries made otherwise (GR Form) than by Post.
- Form SDF : To be used for declaring exports in the case of specified customs offices and specified categories of shipping bills under EDI System.
- PP Form: Exports to all countries by parcel post, except when made on 'Value Payable' or 'Cash on Delivery' basis.
- Form SOFTEX : To be used for declaring software exports

Through Date communication links and receipt of royalty on the software packages/ products exported.

Trans-Shipment Bill

This document is used for goods imported into a customs port/ airport intended for transshipment

Trans-Shipment Permit

The transshipment permit is the permission for trans-shipment of goods from the vessel on which the same are booked originally to another for shipment.

Shipping Order

Shipping order is issued by the Shipping (Conference) Line intimating the exporter about the reservation of space for shipment of cargo through a particular vessel from a specified port and on a specified date.

Cart/Lorry Ticket

This ticket is prepared for admittance of cargo through the port gate. This is also known as 'Vehicle Ticket or Gate Pass'. This includes the details of export cargo i.e. Shipper's Name, Cart/Lorry Number, Marks on Packages, Quantity and description.

Shipper's Declaration Form

The exporter has to submit his declaration to the Customs Authorities regarding the value, sort. Specification, quantity and description of goods being exported. This declaration is usually typed in the shipping bill

Commercial Invoice

An invoice is a document which contains the detailed description of goods consigned, the consignor's name, consignee's name, name of the steamer, number and date of bill of lading, order acceptance or contract number and date, country of origin, marks and number of packages, special marketing's, if any, quantity shipped, selling price to the buyer for each unit and total price, terms of payment, terms of sale (FOB, C&F,CIF etc), amount of freight and insurance, if applicable, Import license number, particulars about packing, consular and customs declaration. Commercial invoice is a prima facie evidence of the contract of sale and purchase. The invoice should be strictly in accordance with the contract of sale and should be on the paper of seller and must be signed by the exporter or by the person acting on his behalf.

Consular Invoice

Consular Invoice is a document required mainly be the Latin American Countries like Kenya, Uganda, Tanzania, Mauritius, New Zealand, Myanmar, Iraq, Australia, Fiji, Cyprus, Nigeria, Ghana, Guinea, Zanzibar etc. This invoice is most important document which needs to be submitted for certification to the Embassy of the country concerned. Consular invoice is an invoice which is sworn to as being correct in all particulars before the consul of the country to which the goods are destined. It facilitates the clearings of goods through customs of the importing country.

Legalized Invoice

Legalized Invoice is required by some of the Latin America Countries. There is no prescribed form for this invoice, but exporter is required to get their commercial invoices certified from the concerned Embassies.

Customs Invoice

U.S.A Canada and Australia require customs invoice. This invoice is required to be certified by the export himself.

Shipping Advice

A shipping Advice is used to inform the overseas customer about the shipment of goods. There is no particular form of shipping advice. The exporter only advises his importer about the invoice number, Bill of Lading/Airway Bill Number and date, name of the vessel with date, the port of export, description of goods and quantity and the date of sailing of the vessel.

Shipping Bill

Shipping Bill is an important document required by the Customs Authorities for allowing shipment. It is prepared by the exporter and it contains the name of vessel, master or agents, flag, port at which goods are to be discharged. Country of final destination, exporter's name and address, detail about packages, numbers and description of goods, marks and numbers, quantity, details in the Sea Customs Act, whether Indian or Foreign merchandise to be re-exported, total number of packages with total weight and value and the name and address of the importer.

Freight Declaration

Freight declaration is required to be attached to the export documents, if the importer agrees to pay freight charges. When the exporter pays freight, he also should submit the same declaration.

Health Certificate

Health certificate is required for exports of food products, seeds, animal's meat products etc. The Health Department of exporting country issues this certificate.

Certificate of Value

Though the value is indicated in Commercial invoice. Some countries need Certificate of Value separately.

Bank Certificate of Export and Realisation

After shipment, the exporter should get his exports certified by an authorized dealer in foreign exchange in the prescribed form namely 'Bank Certificate of Export and Realisation'.

Duty Entitlement Pass Book (DEPB) and Export promotional Capital Goods (EPCG) Schemes Retained

DEPB and EPCG are important tools of promoting exports. Contrary to apprehensions among the export community, the DEPB and EPCG schemes have not only been retained but also have been made more flexible. The time granted for fulfillment of export obligation has been increased to 12 years in the case of EPCG imports worth more than ₹ 100 crore, "Let me now end the suspense and say that DEPG and all other schemes will continue, along with existing dispensation of not having any value caps," commerce and industry minister Murasoli Maran said in his EXIM Policy speech. Besides, in the DEPG and EPCG schemes new initiatives have been granted to the cottage industries, handicrafts, chemicals and pharmaceuticals, textile and leather products.

Strengthening Special Export Zones (SEZ)

The new long-term EXIM policy has sought to enable Indian SEZs to come on par with international rivals. To this effect, Mr.Maran said that both SEZ units as well as developers would be eligible for income tax concessions, in addition to total exemption from customs and excise levies. The details of the income tax exemption would be incorporated in the 2002 Finance Bill.

The EXIM policy has given a boost to banking sector reforms by permitting Indian banks to set up overseas banking units in SEZs. This means that exporters operating out of the SEZ units and developers would be permitted to hold dollar accounts and the OBUs operating out of the SEZs would be able to deal in multiple currencies. Additionally, through OBUs, exporters in SEZs would have access to financing at international costs. This is because the OBUs would be exempt from CRR, SLR and priority sector lending requirements, which would permit them to operate on par with their overseas branches. "They are like the branches of Indian banks abroad," said Mr.Maran. Under the new scheme, foreign banks registered in India would also be permitted to set up OBUs in SEZs through the finer details of the scheme would be announced later. The scheme is to be extended to foreign and Indian banks.

Soft Options for Computer Hardware Industry

The Export Import (EXIM) policy has put the Indian computer manufacturers at par with manufacturers in other parts of the world. Companies manufacturing or assembling computers in the country will be able to import both capital and raw materials at lower duty rates to sell in the domestic market. The EXIM policy has also removed the export obligations on these manufacturers against imports being made by them. This puts the Indian manufacturers at par with manufacturers in china free trade zone and the Dubai jebel Ali Free trade zone.

As per the Information Technology Agreement, which is part of the World Trade organization zero duty agreement on IT sector, 217 IT components would attract a zero duty by 2005. Therefore, foreign companies can import these products into the country while Indian manufacturers who did the same had to meet export obligations on their imports. Now, the new EXIM policy states that domestic's sales will be considered as a fulfillment of the export obligation, thereby freeing the domestic manufacturers from export completely.

Furthermore, relaxation in monitoring the NFEP criteria from annual to cumulative for a block of five years will significantly ease the pressure on the industry. Net Foreign exchange Earning as a percentage of exports (NFEP) shall be calculated cumulatively for a period as in most cases, exports cannot immediately happen on commencement of production. Earlier, NFEP was calculated on an annual basis.

Liberalization of Imports of Gold and Silver

Imports of gold and silver have been permitted free of any commission that was earlier made to Government agencies. Similarly, import of rough, uncut and semi-polished diamonds will not be now valued for export obligations. Quantitative restrictions on gold and silver have also been lifted. These measures will give a big boost to exports of gems and jewellery.

Encouraging Tourism

Another important measure to Mini EXIM policy 2004 was the duty free import facility available to star hotels extended to heritage hotels, one and two star hotels and stand alone restaurants. All these hotels are allowed duty-free imports of some necessary inputs such as equipment, wine etc. equivalent to 5 per cent of their earnings in three proceeding years.

Other service providers in tourism industry are also allowed duty free import of equipment and furniture worth 10 per cent of the export earnings. All these measures were expected to give a fillip to low end foreign n tourism arrivals and domestic tourism.

Facilitation of Imports

To push service exports, duty-free imports of capital goods were allowed. But import of cars, daily products and agricultural items have not been permitted under this window. However, hotels and travel agents with export earnings of over ₹ 1.5 crore annually are entitled to imports car and sports utility vehicles. Further, under the duty free- replenishment certificate scheme, industrial firms have been allowed duty free import of fuels to offset the higher power cuts while making products. This was expected to make Indian products and services competitive in the external markets.

To facilitate imports, simpler quality norms have been prescribed for import of various items including food products. Similar is the case with imports of inputs for the textile industries as even imports from countries allowing use of azo-dyes have been allowed, of course subjects to quality norms.

Reduction in Transaction Costs through E -Commerce

Mini EXIM policy of Jan.2004 has also sought to slash transaction costs through introduction of electronic signature and electronic fund transfer, that is, with the use of e-commerce in foreign trade transactions. Accordingly, electronic fund transfer for transactions like duty drawback and payments of duty, besides, exports have been encouraged to use digital signatures for import licenses. The electronic data interchange (EDI) system connecting various agencies like customs, airlines, clearing agents, banks and Container Corporation was being introduced.

Liberalization of Fertilizer Exports

Another important feature of Mini EXIM policy 2004 is that it has opened up the fertilizer exports. All types of fertilizers including urea, DAP, SSP, Muriate of potash (MOP) and complex can be exported by the domestic fertilizer companies. Besides, on most of these fertilizers no quantitative restrictions have been imposed. While no condition has been imposed on export of urea, on phosphates and complex, government has announced that no subsidy or adhoc concessions would be claimed by the fertilizer companies.

As a result of the liberalizations of fertilizer exports there is plenty of scope of increase in urea exports as India has some price advantage with regard to production of urea.

However, despite liberalization there is unlikely to be much increase in exports of other fertilizers like DAP, SSP and MOP because India remains uncompetitive in these products.

Comments

The Governments trade policy has been to strengthen the hands of the exporters white encouraging trade and industry to exploit the country's immense manufacturing potential. The measures are bold, innovative and comprehensive covering all segments of exports – merchandise, service and projects. The objectives of the governments policy is to make India a manufacturing hub, reduced transaction costs and introduce transparency in export administration.

The governments new export strategy aimed at achieving a target of $80 billion by 2007 and cornering at least one per cent share of the world trade seems to be quite ambitious in view of the protectionist policies still being pursued by the developed countries, especially the USA, EU and Japan despite the establishment of WTO whose objective is to liberalize multilateral trade system.

It is true, as stated in EXIM policy, that while other countries were struggling against negative export growth at a time of global recession (2001-2003) India managed to reverse the trend. But to achieve a target of 12 percent annual growth rate of export during the Tenth plan, (2002 – 07) there must exist efficiently support structure for exports. Availability of world class infrastructure, cheap power (Indian industry pays far more for electricity than its counter-parts in big exporting countries) cheap pre and post-shipment credit and a flexible labour policy at least in the special export zones are indispensable if India is to realize its export target.

Export Promotion Schemes

Almost all the facilities are provided by the Indian Government in the various spheres of the export trade of our country. These facilities are of immense use to our exporters. The various schemes are evolved with a realistic approach. Some of the schemes are really innovative in nature. They cover almost all the areas and try to avoid all the possible problems that may arise in the course of export i.e., since production to consumption by the foreign buyer. Still there are some topics which are yet to be discussed. These topics have an academic interest and hence a detailed discussion is also needed. Therefore in this chapter we shall discuss the following topics.

- FTZs /EPZs
- 100% EOUs and
- Export Houses, Trading Houses, star Trading Houses and super Star Trading Houses

1. Free Trade Zones (FTZs)

In simple words, free trade means free international trade. The classical economists like Adam Smith, Ricardo and others strongly favoured free trade and this doctrine held the field for nearly one hundred years. How ever later, the countries all over the world began to adhere to the policy of imposing restrictions in one form or other

In our country also, particularly after independence, the Government, being committed to the Socialistic pattern of society imposed several restrictions on free trade. Imports of certain commodities were completely banned and reckless outflow of foreign exchange was curtailed. At the same time, various efforts were taken to promote our export trade to build up our foreign exchange reserves. FTZ is one among the various novel tools which aims at earning of foreign exchange. It is an attempt to sell our labour for foreign exchange.

History and Development

During the last 20 years, the labour charges in developed countries have increased substantially. According to a recent estimate, the labour cost is nearly ₹ 30 per hour for semi-skilled workers in most European Countries, U.S and Japan. This high labour cost was due to the acute shortage of both skilled and unskilled labour in most of these countries. Countries like Germany, France, Switzerland, Sweden, Austria, Belgium and England even imported laborers from other countries. Therefore, the cost of production involving a considerable labour content has become uncompetitive in these countries. Therefore, these countries prefer to send the raw materials and components to developing countries where trained man power and skill are available at a comparatively lower cost. So that they may have finished products which they can market at competitive prices.

In order to take advantage of this situation, various developing countries which have strong labour force began to organize FTZs in their countries. These FTZs not only provide employment to millions of people in these under developed countries and improve their economy, but also provide an opportunity to earn foreign exchanges to the extent of the conversion costs.

The foreign business men establishing their units in these zones are generally not willing to buy the parts or products made by the local producers since these local products could not meet their needs for the supply, reliability and quality control. This is especially true for original equipments i.e., parts going into the production. Since these components, raw materials and equipments can only be obtained in the world markets, the countries organizing FTZs have liberalized their import and currency regulations considerably.

Today, there is a keen competition amongst the developing countries to attract more and more foreign investors to establish their units in the FTZs organized in their countries. Particularly, countries which have no natural or other resources and have only labour force are very keen in attracting the foreign investors to their countries. Countries like Singapore, South Korea, Hong Kong, and Greenland developed strong competition for investments in FTZs.

Hong Kong for example, has no restrictions on the use of dollar accounts on the import of materials or equipments. Ireland has been very successful in obtaining foreign investment by granting, a 15 year tax holiday on all profits from exports, South Korea, Singapore and Taiwan offer similar benefits and have created an attractive investment climate.

Today, there are more than 80 FTZs, Trade Free Zones or Custom Free Areas in one form or the other operating free in different parts of the world. Their number is also increasing and wherever they have established they have benefited the foreign trade of the country and proved as an effective device in the reduction of investment costs mainly due to the exemptions from Customers and Central Excise duties and simplification of procedures.

Meaning of Free Trade Zones

The expression FTZ consists of two terms Free Trade and Zones. In simple words, it refers to an area where free trade is allowed. But this is not a sufficient definition to explain the broad features of a FTZ.

According to E.Miracle and S.Albaum, “a free trade zone is basically an enclosed, policed area without resident population, in adjacent to or near a port of entry into which foreign goods, not otherwise prohibited, may be brought without formal customs entry or payment of duties. While the area is technically outside the customs territory of the country in which it is located, it is subjected, equally with adjacent regions, to all laws, pertaining to public health, carrier inspection, postal service, labour conditions and immigration".

This definition is exhaustive enough to highlight the various special features of a FTZ. They are as follows.

- The FTZ is located in a country or a territory where free trade is legally prohibited.
- Resident population is disallowed in that zone.
- The boundaries of the zone must be adequately guarded. Policemen are generally in charge of the security force.
- The zone should be located nearer or adjacent to a port of entry. This stipulation is prescribed to solve administrative difficulties. If the zone is situated far away from a port of entry, the goods imported should be transported once again to the zone causing considerable hardship to the customs authorities. Since the whole territory other than the FTZ is actually subject to import control, the customs authorities should ensure that the goods are really transported to the FTZ or elsewhere on each occasion. This will not only upset the production schedule of the industrial unit but also cause undue administrative problems.
- The goods imported for the productive use of the industrial units of the zone should not be subjected to any import duty or customs formalities.
- All other laws except import laws and regulations are equally applicable to the FTZ also.
- Thus FTZ is a boon to under developed countries particularly to countries where there is a large mass of unemployed semi skilled and skilled labour force. Since we are also facing acute problems of unemployment and under employment, the FTZs can offer immense opportunities to our labour force. Besides, they will also help us sufficiently in building up our foreign exchange reserve.

The FTZs can also help our country to solve a number of problems. In our country, exports of non traditional goods are gaining more importance. The Government is also providing substantial facilities for export of non traditional goods. India is already exporting a large number of new products such as light engineering goods, textile and ready made garments, plastic products, machinery and plants and electric equipments.

With the facilities available in the FTZ, there is no doubt that it will become easier for our products exported from this zone, to sell at competitive rates in foreign countries. For progressing units, more ever these Export processing Zones can provide the added advantages of new technology and technical know how which are of considerable use and benefit to our domestic economy.

The industries operating in the FTZ do not compete with the domestic enterprises. This is because, they use only labour intensive components or assemblies which are again shipped back to the home country for completion or if they produce finished products, the producer sells them through his established sales and service organization. Host country manufacturers could not also compete in other markets since they could neither afford to maintain the expensive sales nor service net work needed abroad.

Keeping all these factors and advantages in mind, the Government has decided to organize FTZs in our country also. India entered this being with the establishment of Kandla FTZ in Gujarat and later Santa Cruz EPZ in Mumbai

2. 100% EOU

Another important export promotion measure introduced recently is the scheme for 100% Export Oriented Units. This scheme is applicable to units manufacturing engineering goods, specified items of chemical, plastics, leather and sports goods, specified items of food, agricultural and forest products, certain varieties of textiles, handicrafts, silver and gold, jewellery as well as fabricated mica.

Under this scheme, a 100% Export oriented Unit means an industrial unit which offers its entire production for export. An agreed time limit for achieving the 100% export will be permitted on the merits of each case. The product manufactured or proposed to be manufactured by the unit should not be subjected to export control quota ceilings and should have very good export potential. Export targets should be fixed by the concerned Export Promotion Council or the Commodity Board. Minimum value added content should be 20%. Indigenous raw materials will also be treated as imports for computing this value addition.

Units intending to avail the benefits of this scheme should apply to the Secretariat for Industrial Approval, Ministry of Industry, and New Delhi. The applications will be considered by a committee headed by the Commerce Secretary.

Special Economics Zones (SEZ)

Scheme

This may be called the Special Economic Zones Scheme

Definitions:

For the purpose of Special Economic zone scheme, unless the context otherwise requires, the following words and expressions shall have the meanings attached to them as given in the policy.

Eligibility

Special Economic Zones (SEZ) are growth engines' that can boost manufacturing, augment exports and generate employment. The private sector has been actively associated with the development of SEZs. The SEZs require special fiscal and regulator regime in order to impart a hassle free operational regime encompassing the state of the art infrastructure and support services. Special Economic Zones (SEZ) are duty free enclaves which are set up separately from the DTA, for the purpose of low cost production of goods meant for export, provided with facilities like infrastructure, machinery, customs, expertise, etc.

Goods and services going into the SEZ area from Domestic Tariff Area (DTA) shall be treated as export and goods coming from the SEZ area into DTA shall be treated as export and goods coming from the SEZ area into DTA shall be treated as if these are being imported.

What takes place in a SEZ?

1. SEZ units may export goods and services including agro-products, party processed goods, sub-assembling and components except prohibited items of exports in ITC (HS). The units may also export by products, rejects, waste scrap arising our of the production process. Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) shall be subject to fulfillment of the conditions indicated in the ITC (HS) Classification of Export and Import items. SEZ units, other than trading/service e unit, may also export to Russian Federation in Indian Rupees against repayment of State Credit/Escrow Rupee Account of the buyer, subject to RBI clearance, if any

2. SEZ unit may import/procure from the DTA without payment of duty all types of goods and services, including capital goods. Whether new or second hand, required by it for its activities or in connection therewith. Provided they are not prohibited items of imports in the ITC (HS). However, any permission required for import under any other law shall be applicable. Goods shall include raw material for making capital goods for use within the unit. The units shall also be permitted to import goods required for the approved activity, including capital goods, free of cost or on loan from clients.

3. SEZ units may **procure goods** required by it **without payment of duty**, from bonded warehouses in the DTA set up under the Policy and/or under section 65 of the Customs Act and from Internationals Exhibitions held in India.

4. SEZ units may import/ procure from DTA, without payment of duty, all types of goods for creating a central facility for use by units in SEZ. The Central facility for software development cal also is accessed by units in the DTA for export of software.

5. **Gem & Jewellery units may** also source gold/silver/platinum through the nominated agencies.

6. **SEZ Units may** import/procure goods and service from DTA without payment of duty for setting up, operation and maintenance of units in the Zone.

Leasing of Capital Goods

SEZ units may, on the basis of a firm contract between the parties, source the capital goods from a domestic/foreign leasing company. In such a case the SEZ unit and the domestic/foreign leasing company shall jointly file the documents to enable import/procurement of the capital goods without payment of duty.

Net Foreign Exchange Earning (NFE)

SEZ unit shall be a positive Net foreign Exchange Earner. Net Foreign Exchange Earning (NFE) shall be calculated cumulatively for a period of five years from the commencement of production.

Monitoring of Performance

- The performance of SEZ units shall be monitored by the Unit Approval Committee.
- The performance of SEZ units shall be monitored as per the guidelines

Legal Undertaking

The unit is required to execute a legal undertaking with the Development Commissioner concerned and in the event of failure to achieve positive foreign exchange earning it shall be liable to penalty in terms of the legal undertaking or under any other law for the time being in force.

Approvals and Application

Applications for setting up a unit in SEZ other than proposals for setting up of unit in the services sector (except software and IT enabled services, trading or any other service activity as may be delegated by the BOA), shall be approved or rejected by the Units Approval Committee within 15 days as per procedure.

Proposals for setting up units in SEZ requiring Industrial Licences may be granted approval by the Development Commissioner after clearance of the proposal by the SEZ Board of Approval and Department of Industrial Policy and Promotion within 45 days on merits.

DTA Sales and Supplies

- SEZ unit may sell goods, including by procedure, and service in DTA in accordance with the import policy in force, on payment of applicable duty.
- DTA sale by service/trading units shall be subject to achievement of positive NFE cumulatively. Similarly for units undertaking manufacturing and services/trading activities against a single LOP. DTA sale shall be subject to achievement of NFE cumulatively.
- The following supplies effect in DTA by SEZ units will be counted for the purpose of fulfillment of positive NFE:

  a. Supplies effect in DTA

  b. Supplies made to bonded warehouses set up under the policy and/ or under Section 65 of the Customs Act.

  c. Supplies to other **EOU/SEZ/EHTP/STP/BTP** units provided that such goods or services are permissible to be procured/ rendered by these units.

  d. Supplies against special entitlement of duty free import of goods.

  e. Supplies of goods and service to such organizations which are entitled for duty free import of such items in terms of general exemption notification issued by the Ministry of Finance.

  f. Supply of service (by service units) relating to exports paid for in free foreign exchange or for such service rendered in Indian Rupees which are otherwise considered as having been paid for in free foreign exchange by RBI.

  g. Supplies of Information Technology Agreement (ITA-I) items and notified zero duty telecom/electronic items.

Inter-Unit Transfer and Other Entitlements

- SEZ units may transfer manufactured goods, including party processed/semi finished goods and services from one SEZ unit to another EOU/SEZ/EHTP/STP unit.

- Goods imported/procured by a SEZ unit may be transferred or given on loan to another unit within the same SEZ which shall be duty accounted for, but not counted towards discharge of export performance.
- Capital goods imported/procured may be transferred or given on loan to another EOU/SEZ/EHTP/STP unit with prior permission of the Development commissioner and Customs authorities concerned.
- Transfer of goods in terms of sub-para (a) and (b) above within the same SEZ shall not require any permission but the units shall maintain proper accounts of the transaction.

Sub Contracting

- SEZ unit may sub contract a part of their production or production process through units in the DRA or through other EOU/SEZ/EHTP/STP, with the annual permission of Customs authorities. Sub-contracting of part of production process may also be permitted abroad with the approval of the Development Commissioner.
- All units, including gem and jewellery, may sub-contract part of the production or production process through other unites in the same SEZ without permission of Custom authorities subject to records being maintained by both the supplying and receiving units.

Exit from SEZ Scheme

- SEZ unit may opt out of the scheme with the approval of the Development Commissioner. Such exit from the scheme shall subject to payment of applicable Customs and Excise duties on the imported and indigenous capital goods, raw materials etc, and finished goods in stock. In case the unit has not achieved positive NFE, the exit shall be subject to penalty, which may be imposed by the adjudicating authority under Foreign Trade (Development and Regulation) Act, 1992.
- SEZ unit may also be permitted by the Development Commissioner, as one time option, to exit from SEZ scheme on payment of duty on capital goods under the

Prevailing EPCG scheme, subject to the unit satisfying the eligibility criteria of that scheme and standard conditions.

Personal Carriage of Export/Import Parcel

Import/export through personal carriage of gem and jewellery items may be undertaken as per the procedure prescribed by Customs, Import/export through personal carriage for units. Other than gem and jewellery unit, shall be allowed provided the goods are not in commercial quantity.

Export/Import by post/Courier

Goods including free samples may be export/imported by airfreight or through Foreign Post office or through courier, subject to the procedure prescribed by Customs.

Disposal of Rejects/scrap/Waste/Remnants

Rejects/scrap/Waste/Remnants arising out of production process or in connection therewith may be sold in the DTA on payment of applicable duty. No duty shall be payable in case scrap/waste/remnants/ rejects are destroyed within the zone after intimation to the custom authorities or destroyed outside the SEZ with the permission of Custom authorities. Destruction as stated above shall not apply to gold, silver, platinum, diamond, precious and semi-precious stones.

Management of SEZ

- SEZ will be under the administrative control of the Development Commissioner.
- All activities of SEZ units within the Zone, unless otherwise specified, including export and re-import of goods shall be through self certification procedure.

Samples

SEZ units may on the basis of records maintained by them, and on prior intimation to customs authorities:

- Supply or sell samples in the DTA for display/market promotion on payment of applicable duties
- Remove samples without payment of duty on furnishing a suitable undertaking to Customs authorities for bringing the goods back within a stipulated period.
- Export free samples, without any limit, including samples made in wax moulds, silver moulds and rubber moulds through all permissible mode of export including through couriers agencies/ post

Entitlement for SEZ Developer

For development, operation and maintenance of infrastructure facilities in SEZs, the developer shall be eligible for the following entitlements

- Income tax exemption as per Section 80 IA of the Income tax Act.
- Import/procure goods without payment of Customs/Excise duty.
- Exemption from Service tax.
- Exemption from CST.

Export Promotional Capital Goods Scheme

Scheme

Capital goods, both new and secondhand, may be imported under the Export Promotional Capital Goods (EPGC) Scheme. The import of secondhand capital goods under the scheme shall be subject to such conditions as prescribed in the Handbook

(Vol 1). Import of computer system may also be imported under the EPCG Scheme.

Import on Concessional Duty

Capital goods (CG), including spares jigs, fixtures, dies, moulds upto 20% of the CIF value of the capital goods, may be imported at a Concessional rate of customs duty subject to an export obligation to be fulfilled over a period of time. The period for fulfillment of the export obligation shall be reckoned fro m the date of issue of the import licence

Eligibility

(a) Under the Scheme, manufacture exporters, merchant exports tied to supporting manufacture(s) and service providers' are eligible to import capital goods.

(b) If the licence issued under the zero duty scheme has actually been utilized for import of a value in excess of or less than 10% of the CIF value of the licence, licence shall be deemed to have been enhanced/reduced by that proportion. Export obligation shall accordingly be enhanced / reduced as per the actual utilization of the licence.

Conditions for Import of Capital Goods

Import of Capital goods, both new and secondhand, shall be subject to Actual User condition till the export obligation is completed.

Export Obligation

The following conditions shall apply to the fulfillment of the export obligation:

(i) The export obligation shall be fulfill by the export of goods manufactured or produed by the use of the capital goods imported under the scheme. However, if exporter is processing further to ad value on the goods so manufactured, the export obligation shall stand enhanced by 50%.

(ii) The exports shall be direct exports in the name of the EPCG licence holder. However, the export through third party(s) is also allowed provided the name of the EPCG Licence holder is also indicated on the shipping bill. If a merchant exporter is the importer, the name of the supporting manufacture shall also be indicated on the shipping bill. At the time of export, the EPGC licence No and date shall be endorsed on the shipping bill which, are proposed to be presented towards discharge, of export obligation.

(iii) Export proceeds shall be realized in freely convertible currency.

Clearance of Goods from Customs

The licence issued under this scheme shall be valid for the goods already shipped/arrived provided customs duty has not been paid and the goods have not been cleared from Customs.

Import of Components and Goods in SKD/CKD condition

A person may apply for a licence under the EPGC scheme to import the capital goods in disassembled/ un assembled condition to be assembled into capital goods by the importer or components of such capital goods required for assembly or manufacturer of capital goods by the importer. This facility shall not be available for replacement of parts.

Indigenous Sourcing of Capital Goods

A person holding an EPCG licence, may source the capital goods from a domestic manufacture instead of importing them. In the event of a firm contract between the arties for such sourcing, the domestic manufacture may apply under the scheme of the import of components required for the manufacture of the said capital goods, at a rate of duty at which EPGC licence for capital goods is issued.

The domestic manufacture supplying may also replenish the components after supply of capital goods to the EPCG licence holder. However, the export obligation relating to an EPCG licence shall be reckoned with reference to the CIF value of the licence, actually utilized.

LUT and /or Bank Guarantee

Deleted

Compliance with Policy

Deleted

Penalty Deleted

Duty Exemption Scheme

Duty Exemption Scheme

The Duty Exemption Scheme consists of Duty Free Licence and Duty Entitlement Pass Book (DEPB)

Duty Free Licence

'Duty Free Licence' includes Advance Licence, Advance Intermediate Licence and Special Impress Licence. Import of raw materials, intermediates, components, consumables parts, accessories, mandatory spares (not exceeding 10% of the CIF value of the licence) and packing material (hereinafter referred to as "input") may be permitted against a Duty Free Licence.

Advance Licence

1. An Advance Licence is granted to a merchant-exporter or manufacturer exporter for the import of inputs required for the manufacture of goods without payment of basic customs duty. However, such inputs shall be subject to the payment of additional customs duty equal to the excise duty at the time of import. The said additional customs duty shall be adjusted in the following manner:

   (a) If the importer uses the inputs for production for export goods, which are otherwise liable to a duty of excise and eligible for Modvat, he may avail of Modvar credit in respect of the additional customs duty so paid, immediately upon the said inputs entering his factory.

   (b) If the importer uses the inputs for production of export goods, which are otherwise not excisable or not dutiable or not eligible for Modvat benefit, he may claim drawback in respect of the additional customs duty so paid at the time of export of goods in which such inputs have been used.

2. Notwithstanding anything contained above, exemption from payment of additional Customs duty and Anti dumping duty shall be allowed in respect of advance Licences, issued with actual user condition to.

(a) Manufacturer exporter

(b) Merchant exporter where the merchant exporter agrees to the endorsement of the name(s) of the supporting, manufacturer(s) on the relevant DEEC Book.

Advance Intermediate Licence

An Advance Intermediate Licence (AIL) is granted to a manufacture exporter for the import of inputs required in the manufacture of goods to be supplied to the ultimate exporter holding an Advance Licence/Special Impressed Licence.

Description of a Duty Free Licence

A Duty Free Licence and the relevant DEEC Book shall specify:

(a) The names and description of items to be imported and exported/ supplied

(b) The quantiry of each item to be imported or wherever the quantity cannot be indicated, the value of the item shall be indicated. However, if in Standard input output norms, the quantity and value of individual inputs is a limiting factor, the same shall be applicable.

(c) The aggregate CIF value of imports; and

(d) The FOB/FOR value and quantity of exports/supplies

Value Addition

Unless otherwise specified, in a Standard Input-Output Norms, a duty free licence shall have a minimum value addition of 33%. The ALC may, however, consider requests on merits for grant of a duty free licence on a lower value addition, upto 25% and in exceptional cases even below 25%.

Exports not Covered by Freely Convertible Currency

Export for which payment are not received freely convertible currency shall be subject to value addition. However, the Director General of Foreign Trade may permit a lower value addition, which shall be not less than 75% in respect of such class or category of goods as may be specified by him in this behalf.

Third Party Exports

An Advance Licence holder may export directly or through third party(s) and discharge his export obligation.

Jobbing, Repairing etc., for Re – Export

The import of goods in terms of supplied free of cost may be permitted for the purpose of jobbing without a licence as per the terms of notification issued by Department of Revenue from time to time

Export Obligation

The period for fulfillment of the export obligation under a duty free licence shall commence from the date of issuance of the licence. The export obligation shall be fulfilled within a period of 18 months except in the case of supplies under special Imprest Licence/Advance licence to the projects/turnkey projects in India/abroad where the export obligation must be fulfilled during the contracted duration of execution of the project/turnkey projects.

Advance Release Orders

A duty licence holder intending to source the inputs from indigenous sources/canalizing agencies/EOU/EPZ/EHTP/STP units in lieu of direct import has the option to source them against Advance Release Orders denominated in foreign exchange/Indian rupees. In such a case the licence shall be invalidated for direct import and a permission in the form of ARO shall be issued which will entitle the supplier to the benefits of deemed export. The transferee of the duty free licence shall also be eligible for ARO facility.

Back - to – Back Inland Letter of Credit

A duty free licence holder may, instead of applying for an Advance Release Order, avail of the facility of Back - to – Back Inland Letter of Credit in accordance with the procedure.

Clearance of Goods from Customs

The goods already imported/shipped/arrived in advanced but not cleared from Customs may also be cleared against the duty free licence issued subsequently.

Prohibited Items

Prohibited items in the Negative List of Imports shall not be imported under the licences issued under the scheme.

Compliance with Export Policy

Goods in the negative list of exports may be exported without specific export licence under advanced licence issued with prior import condition. In such cases, the licence holder shall not be allowed to use indigenous inputs and the exported product shall be manufactured only out of imported inputs under Advance licence.

Re import of Exported Goods under Advance Licence

Goods exported under Advance Licence 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.

Admissibility of Drawback

In the case of an Advance Licence, the drawback shall be available in respect of any of the duty paid materials, whether imported or indigenous, used in the goods exported, as per the all industry/brand rate fixed by Ministry of Finance (Directorate of Drawback). The drawback shall however be restricted to the duty paid materials as indicated in the application for the licence and endorsed as such on the DEEC.

Third Party Exports

Third party exports are also admissible for grant of credit under DEPB.

Validity

The DEPB shall be valid for a period of 12 months from the date of its issuance.

Clearance of Goods from Customs

The goods already imported/shipped/arrived in advanced by not cleared from customs may also be cleared against the DEPB issued subsequently.

Types of DEPB

1. Post – export basis
2. Pre export basis

DEPB on Post Export Basis

DEPB on post export basis shall be granted against exports already made.

Eligibility

Merchant exporter and manufacture exporter are eligible for DEPB on post export basis.

Production Assistance/Facilities

Exports depend, inter alia, on exportable surplus and the quality and price of the goods. Governments have, therefore, taken a number of measures to enlarge and strengthen the production base, to improve the productive efficiency and quality of products and to make the products more cost effective. Measures in these directions include making available raw materials and other inputs of required quality at reasonable prices; facilities to establish and expand productive capacity, including import of capital goods and technology, facilities to modernize production facilities, provisions of infrastructure for the growth of export oriented industries etc.

Marketing Assistance

A number if steps have been to assist the exporters in their marketing effort. These include conducting, sponsoring or otherwise assisting market surveys and research, collection, storage and dissemination if marketing information, organizing and facilitating participation in international trade fairs and exhibitions, credit and insurance facilities, release of foreign exchange for export marketing activities, assistance in export procedures quality control and pre shipment inspection, identifying markets and products with export potential, helping buyer seller interaction, etc., some of the schemes and facilities which assist export marketing are mentioned below. An important export promotion measure taken by the Government is institution of the Market Development Assistance (MDA)

CASE STUDY
DOCUMENTARY CREDIT

M/S Auto India

Introduction

M/S Auto India is a public limited company; they manufacture SUVs (sports utility vehicle), in technical collaboration with General Motors of USA. The company hasestablished their manufacturing base at Ranjangaon in Pune. They have acquired an area of 250 acres and the total project cost is estimated at ₹ 1500 crores. As per the projections, the company is slated to achieve a 25% market share in the Indian market, within a period of two years.

Out of the total project cost, 49% is brought in by General Motors and the rest is tied up with financial institutions, international banks and Indian banks. The working capital is financed by a consortium of banks in which Global bank, Pune branch, is the leader. The company imports many parts of the car engine in a CKD (completely knocked down) condition from General Motors, Detroit, after establishing import letters of credit through its main bankers, Global Bank, Pune Branch.

M/S Auto India approached Global Bank, Pune for opening of import letter of credit as per UCP ICC 600 for USD 100,000, on sight basis, in favour of General Motors, Detroit.

Type of credit - Irrevocable negotiable

Application	- UCP ICC 600
Applicant	- M/S Auto India, Pune, India
Beneficiary	- M/S General Motors, Detroit, USA
Issuing Bank	- Global Bank, Pune, India
Advising Bank	- The American Bank, New York
Negotiating Bank	- The American Bank, New York
Reimbursing Bank	- International Bank, New York
Availability	- Negotiable at sight
Expiry	- At the counters of The American Bank, New York

Amount	- USD 100,000
Merchandise	- Car engine parts
Quantity and price	- 50 units @ USD 2000 per unit

Circumstances

Issuing Bank

Global Bank, Pune issued its irrevocable negotiable credit through its head office in Pune since Global Bank co-ordinated all its accounting and communication functions at its head office. The Bank's head office transmitted the credit through Swift network as instructed by its Pune branch to General Motors, Detroit, through The American Bank, New York.

Advising Bank

The American Bank, New York advised the credit to General Motors, Detroit on receiptof the swift transmission.

Credit

Along with other conditions, the credit clearly stated that the negotiating bank was to forward the documents directly to Global Bank's head office at Pune.

Beneficiary

After export of the consignment, General Motors, Detroit presented the documents under the credit to The American bank, New York.

Negotiating Bank

The American Bank, New York, examined the documents presented by General Motors and determined that they were in compliance with the terms and conditions of the credit. The American bank negotiated the documents and forwarded the documents, as per the credit terms, to the HO of Global Bank in Pune and claimed reimbursement from International bank, New York.

Reimbursing Bank

International Bank, New York honoured the reimbursement claim by crediting the current account of the American Bank, New York and debiting the account of Global Bank, Pune, in its books.

Issuing Bank Head Office

Global Bank's Head Office, at Pune, received the documents and after internal registration of the documents, forwarded the documents to its Pune Branch by inter-office mail.

Issuing Bank Branch

On receipt of the documents by the Pune branch of Global Bank, they examined the documents and determined that they were discrepant. They were (a) 60 units were shipped instead of 50 units, thereby overdrawing the credit value by USD 2000 (b) Inspection certificate by Auto Inspection Council, USA is not submitted, as per credit terms. Global Bank contacted Auto India for waiver of the discrepancies.

Applicant

Auto India requested for copies of the documents to be forwarded by fax and after reviewing the same, they refused to waive the discrepancies. Issuing Bank Branch Global Bank, Pune Branch instructed its HO to transmit an authenticated swift to The American Bank, New York stating that Global Bank had rejected the documents for thenoted discrepancies, requesting the American Bank's instructions as to disposal of the documents, and demanding a refund of the funds reimbursed.

Issuing Bank Head Office

The HO of the Global Bank sent the authenticated swift message to the American Bank, New York, as instructed by its Pune Branch.

Negotiating Bank

On receipt of the swift notification advising that Global Bank had rejected the documents for the stated discrepancies, the American Bank informed Global Bank that it did not accept the rejection of the drawing since the Global Bank did not comply with UCP 600 sub-article 14 for standard examination of documents.

Therefore, Global Bank was said to be stopped from dishonouring its irrevocable obligation.

Issuing Bank

Global Bank, Pune Branch responded by stating that they acted in accordance with UCP article 14, since their action did not exceed five banking days following the day of receipt of the documents at their branch counters after which they scrutinised the documents and determined to refuse them. They maintained that as per article 14 of UCP 600, they notified about the rejection of the documents, by swift, not later than the close of the fifth banking day following the day of receipt of the documents. They had pointed out all the discrepancies and had informed American Bank, New York that they were holding the documents at the latter's disposal.

Negotiating Bank

The American Bank, New York replied as follows:- We disagree with your position that you acted in accordance with UCP 600 article 14. Documents were delivered by courier to your HO as per the terms of the credit, on Monday, January 7, 2008. Your swift notifying rejection of the documents was not sent until Wednesday, Jan 16, 2008 that is, on the eighth banking day after receipt of the documents by your bank.

Issuing Bank

Global Bank, Pune Branch, responded by stating that even though its HO received the documents on January 7,2008; the Global Bank's Pune Branch did not receive the documents until the following Thursday, January 10, 2008, and the swift advice rejecting the documents was sent within the time period permitted in UCP article 14.

Negotiating Bank

The American Bank, New York, replied that it was not their concern how Global Bank's operational policy impacted on their inability to comply with UCP. The American Bank, New York stated that in accordance with the credit terms and conditions, documents were negotiated by them and forwarded to Global Bank's HO by courier. The documents were received by Global Bank on Jan 7, 2008, and any notice of rejection of the documents should have been given within the close of the fifth banking day following receipt of the documents. Global Bank's Pune Branch failed to do so. Therefore, the American Bank, New York's position was firm relative to UCP 600 article 14 and they would not refund the funds reimbursed.

Questions

1) Was Global Bank, Pune Branch correct in its argument, as the credit issuing bank?
2) Was the stand taken by The American Bank, New York correct, as the negotiating bank?

Clue for Solutions

1) Global Bank, Pune was incorrect in its interpretation of UCP 600 article 14. The credit clearly stated that it expired at the counters of the negotiating bank and that the documents were to be sent to the head office of Global Bank. The credit did not contain any indication that presentation at the counters of Global Bank's head office was for administrative purposes only, and that effective presentation to the issuing bank would only be considered when the issuing bank had received the required documents. UCP 600 article 6 states that presentation of documents must be made to issuing bank, or the confirming bank, if any, or any other nominated bank. The beneficiary presented thedocuments to the nominated negotiating bank and American Bank, New York presented the documents to the issuing bank as instructed. Therefore, Global bank's Pune Branch had a duty to determine the number of days remaining in the five banking day period after presentation of the documents at their head office in order to comply with article 14 of UCP 600.

2) Yes, the stand taken by American Bank, New York, as the negotiating bank, is correct. As per the terms and conditions of the credit, they have negotiated the documents and forwarded the same to Global Bank's head office. The American bank, New York should have received the notice of rejection of the documents within five banking days following the day of receipt of the documents at the counters of the head office of the Global bank. The stand of The American Bank, New York is in concurrence with the article 14 of UCP 600.

CASE STUDY
FOREIGN TRADE

M/S Taneja Exports, Mumbai

Introduction

Mr. Gurmeet Taneja and Mr. Rahul Khatri are partners of M/S Taneja exports, Mumbai. Both of them qualified from IIFT, New Delhi in the year 2002. They declined lucrative corporate job offers, since they have decided to plunge into the world of international business.

M/S Taneja Exports is registered as a partnership firm, with Mr. Gurmeet Taneja and Mr. Rahul Khatri sharing the profits in the ratio of 60: 40.

The partners had conducted in depth market survey in the domestic as well as international markets regarding the demand of women's apparels in cotton and hosiery. They have taken the assistance of Apparel export promotion council and the marketing agencies in various countries of European Union.

On account of their knowledge in foreign trade, they were able to quickly assess that Indian exporters have not succeeded in penetrating into the huge apparel market of Europe.

They found out that the main reasons were ineffective marketing, improper quality control and non adherence to the shipping schedules. Mr. Gurmeet concentrated on marketing of the cotton and hosiery apparels abroad and Mr. Rahul ensured on the procurement of the raw materials and timely execution of shipments.

The firm had taken an industrial gala, measuring 700 sq ft, at 501, Mangal Das market, Lower Parel, Mumbai. They were paying a monthly rent of ₹ 35,000/- for the office premises and the stock of garments was kept in a godown in the same gala area, for which the rent payable was ₹ 15,000/- pm

The firm was sourcing their raw materials from the south Indian towns of Tirupur and Coimbatore. As per the export orders, they were providing the raw materials for job works in Mumbai and subject the samples to rigorous quality and specification checks.

The firm had employed 2 accounts staff and 3 contract workers to attend to daily office and godown activities. The firm was able to achieve steady improvement in export sales due to the stringent quality control measures and timely execution of shipment schedules.

The following were the credit facilities enjoyed from M/S International Bank of India, Fort branch, Mumbai.

Facility (Amount in Lakhs)	2003	2004	2005
Fund based			
a) Export packing credit	5.00	7.00	10.00
b) Foreign bill purchased/Foreign			
bill negotiated	5.00	7.00	10.00
Non Fund based			
a) Performance guarantee	2.00	5.00	7.00
Export sales	20.00	30.00	40.00

Towards the security of the credit facilities, the firm had mortgaged the residential house, valued at ₹ 85 lakhs, belonging to Mr. Vikram Taneja, father of Mr. Gurmeet Taneja, and stocks valued at ₹ 15 lakhs was also hypothecated to the Bank. Mr. Vikram Taneja stood guarantee for the facilities sanctioned to the firm.

M/S Taneja exports used to avail the export packing credit facility from International Bank of India and adjust the same by purchase or negotiation of the export bills drawn on their European buyers. Generally the bills carried a tenor period of 60 days. Most of the export bills were drawn and send for collection through international Bank of India, Mumbai Fort Branch, to the foreign buyer's bankers, based on the confirmed purchase order of the buyer. The bills were paid on the due dates and the conduct of the account on the bank's books was quite satisfactory. Based on the past history and the increase in sales turnover achieved by the firm, the bankers were happy to increase the credit limits from ₹ 7 lakhs in 2003 to ₹ 17 lakhs in 2005.

On June 17, 2005, the firm submitted an export document to International Bank of India, Fort Branch, for Euro 53000.00, drawn on M/S St Laurn Fashions, Paris. The documents were drawn on 60 days DA terms as per the contract. The merchandise under the export were ladies garments in cotton and hosiery. In the covering letter of the firm to the bank, they had instructed the bank to present the documents to St Laurn, Paris, through their bankers viz, Credit Lyonnais, Paris. The exporter had submitted bills of exchange, bills of lading, commercial invoice, packing list, inspection certificate, certificate of origin and in the bill of exchange it was typed as 'to be co-accepted by credit Lyonnais'.

The International Bank of India took the documents in its books and sent the documents for collection to Credit Lyonnais, Paris. In due course, they received communication from Credit Lyonnais that the documents were accepted by St Laurn and due date of the documents were August 25, 2005.The bankers informed the due date of the bill to Taneja exports. On August 30, 2005, Taneja Exports informed the bankers that they are yet to receive the payment of the bill for Euro 53000.00 in their books.

The bank sent a swift message enquiring about the fate and payment of the bill. Two days later the bank received a message from Credit Lyonnais saying that the importer, St Laurn, had become bankrupt and they were unable to pay the bill. International Bank of India informed the same to Taneja Exports. They argued with the bank that they had clearly mentioned in the bills of exchange that the documents were to be released against the co-acceptance of the French bank only. Immediately the Indian bank send a message to Credit Lyonnais that since the bill of exchange contained the co-acceptance clause by the French bank, they are liable to pay even though the importer had become bankrupt. The French bank refuted the claim of the Indian Bank and intimated that the bank's collection instruction did not contain any co-acceptance clause by the French bank and they had acted as per the provisions in the uniform rules for collection in the ICC publication No 522. Since payments were not forthcoming,

Taneja Exports filed a suit with the National Consumer Forum, New Delhi for deficiency of services by International Bank of India, Mumbai, on November 10, 2005. They put forth the argument that the bank was deficient in not mentioning about the co-acceptance clause in their covering letter to the French bank and in case of non-coacceptance by the French bank they would have returned the documents to India and the exporter could have arranged for an alternate buyer or reimport of the merchandise. This negligence on the part of the bank had caused them total financial loss. After hearing the arguments of both the parties, The National Consumer Forum gave the judgement, on February 6, 2006, that the International Bank of India was deficient and negligent in their services and ordered them to compensate the value of the export bill of Euro 53000.00 (approx ₹ 24 lakhs) along with 15% interest, till the date of payment.

The bank went on appeal against the order of the consumer forum in the Supreme Court on March 20, 2006. After hearing the counsels of both sides, the Supreme Court gave the judgement that since the original agreement between the exporter and importer do nothave any co-acceptance clause by the importer's banker, the co-acceptance clause on the bill of exchange cannot be binding on the French Bank as well as on the Indian Bank. The bankruptcy of the importer is the reason for loss to the exporter and not the deficiency of service by the bank. The Supreme Court set aside the judgement of the National consumer forum and passed the judgement in favour of the bank, with costs, on March 15, 2007.

Questions

1) Elaborate the deficiency of service on the part of the bank, pointed out by the National consumer redressal forum, in the light of the uniform rules for collection ICC publication No.522.

2) Advise the firm about the precautions they should have taken to avoid such a colossal business loss.

3) Discuss the remedial measures the bank in India should take to avoid such damaging judgements by the consumer forums.

4) Elaborate the Supreme Court judgement in the context of the international banking rules and practises, as guided by the ICC publications.

Clue for Solutions

1) All the export documentary collection bills are governed by uniform rules for collection ICC (International chamber of commerce) publication No. 522. As per article 4a (1) of URC ICC 522, 'All documents sent for collection must be accompanied by a collection instruction indicating that the collection is subject to URC 522 and giving complete and precise instructions. Banks are permitted to act upon the instructions given in such collection instruction, and in accordance with these rules'. We cannot find fault with the French bank since they have acted according to the instruction contained in the covering letter of the remitting bank, which contained no instructions regarding the coacceptance of the documents by the collecting bank (French Bank). In this case, the remitting bank had failed to undertake proper scrutiny of the collection documents received by them.

2) The exporter should not invent and provide any unilateral directions without the underlying agreement and concurrence of the importer and his bank. The co-acceptance of the documents was not agreed upon by the importer and his banker, viz Credit Lyonnais, Paris. The exporter should have taken ECGC's (Export Credit Guarantee Corporation of India) buyer wise credit limit, which would have come to his help in the case of default due to bankruptcies of the buyer.

3) The Bank's trade finance desk should be manned by qualified and trained personnel. The person handling the export document can find out the discrepancy (the clause of coacceptance by the French bank on the bill of exchange) and inform the exporter either to amend it or call for the underlying agreement. This simple step would have saved the reputation, monetary loss and mental agony suffered by the exporter and the bank officials.

4) As per article 4a (2) of URC ICC 522, 'Banks will not examine documents in order to obtain instructions'. The International Bank of India (remitting bank) need not take into account the instructions contained in the body of the documents. Hence, the clause of co-acceptance on the bill of exchange is not binding on the remitting bank as well as collecting bank. There were no express instructions by the exporter to the bank regarding the co –acceptance by the importer's bank in France. Also, there was no express undertaking by the French bank to co-accept the documents. On the forgoing, deficiency of service cannot be charged against the bank

CASE STUDY

The Fashion Industry and Trade Marks

In the Fashion Industry, your company's name or logo is generally its most valuable asset. However, in order to profit from your fashion brand via sales or licensing, you must first register your brand as a trade mark. A brand may consist of a combination of different features - business names, trade marks, shapes, distinctive colour schemes and labelling used to market products or services. Brands are used to distinguish and differentiate goods and services of traders in the market. Famous fashion brands in Australia include Sass & Bide, Collette Dinnigan and Alex Perry.A trademark is a word or logo that:

(1) Identifies one seller's goods and distinguishes them from goods sold by others;

(2) Signifies that all goods bearing the trade mark come from a single source;

(3) Signifies that all goods bearing the trade mark are of an equal level of quality; and

(4) Facilitates in the advertising and selling of goods. A trade mark will generally not be registrable if it is merely descriptive of the goods and services in question.

Unfortunately, many emerging fashion companies fail to trademark their name or logo. Then, after substantial money has been invested in promotions, public relations and other collateral expenditure, such as business cards, invoices and signage, the company learns an expensive lesson: their "brand name" has already been registered as a trade mark by another company and they are unable to register that particular brand name.

Some case examples to learn from…

Christian Louboutin v Yves Saint Laurent USAChristian Louboutin shoes are instantly recognisable by their red-coloured soles. In 1997 Louboutin registered the 'red sole' as a trade mark in the USA. Recently, YSL released a red shoe (with a red sole) as part of its 2011 spring-summer collection. Louboutin alleges that this shoe infringes its 'red sole' trade mark. Though this is a US case, if this case was being decided under Australian trade mark law the following principles might be considered:

- YSL would need to be using the red sole as a trade mark in order to infringe the 'red sole' trade mark. In the present case, the YSL shoe is completely red. YSL may therefore argue—that the use of a red sole by YSL is not as a trade mark or brand and therefore does not infringe Louboutin's mark;
- YSL has previously released shoes with coloured soles in previous collections, such as a blue-soled shoe. This may further support the argument by YSL that the coloured sole is a design element, rather than a branding mechanism.In recent developments Louboutin has initiated an action against Carmen Steffans, a Brazillian footwear designer claiming infringement of the 'red sole trade mark'. Although we are yet to hear the outcome of both cases, they illustrate the complexity involved in trade mark infringement claims and the high stakes involved when protection of a brand name is at stake. Terri Janke and Company can help you develop strategies to deter pirates, predators and poachers from the infringement of your brand name.

Torpedoes Sportswear Pty Ltd v Thorpedo Enterprises Pty Limited Australia's swimming champion Ian Thorpe was successful in his attempt to register his nickname 'THORPEDO' for various classes of goods and services as a trade mark. Registration had been opposed by the sportswear company Torpedoes Sportswear, but the opposition was unsuccessful. Torpedoes Sportswear appealed the decision to the Federal Court, but the court rejected the appeal on the basis that the two trade marks were neither substantially identical nor deceptively similar.

Where a word in common use and associated with a particular person, it is more difficult to establish a likelihood of mistaken impression. In the present case, the evidence led the Judge to the conclusion that, between the words 'THORPEDO' and 'TORPEDOES', the former was the more well-known and, it could be said, famous. Further, the name 'THORPEDO' connoted the idea of Ian Thorpe rather than a torpedo.

Questions

1. How are trademarks relevant to the Fashion Industry?
2. What can Terri Janke and Company do for your Fashion Company?

Clue for Solution

(1) In the Fashion Industry, your company's name or logo is generally its most valuable asset. However, in order to profit from your fashion brand via sales or licensing, you must first register your brand as a trade mark. A brand may consist of a combination of different features - business names, trade marks, shapes, distinctive colour schemes and labelling used to market products or services. Brands are used to distinguish and differentiate goods and services of traders in the market. Famous fashion brands in Australia include Sass & Bide, Collette Dinnigan and Alex Perry.A trademark is a word or logo that: (1) identifies one seller's goods and distinguishes them from goods sold by others; (2) signifies that all goods bearing the trade mark come from a single source; (3) signifies that all goods bearing the trade mark are of an equal level of quality; and (4) facilitates in the advertising and selling of goods. A trade mark will generally not be registrable if it is merely descriptive of the goods and services in question. Unfortunately, many emerging fashion companies fail to trademark their name or logo. Then, after substantial money has been invested in promotions, public relations and other collateral expenditure, such as business cards, invoices and signage, the company learns an expensive lesson:

their "brand name" has already been registered as a trade mark by another company and they are unable to register that particular brand name.

(2) 1. Conduct a preliminary trade mark searches for your company;

2. If the trade mark is available, file a trademark application with the Trademark Office;

3. Respond to reports from IP Australia in relation to your application;

4. Take appropriate action where needed in response to any oppositions to the registration of your trade mark;

5. Assuming there are no objections from the Examiner or another trademark holder, your mark will register. Currently, this takes 3 to 7 months, but can vary greatly application to application.

REFERENCE

1. **B.K Chaudhuri,** FINANCE OF FOREIGN TRADE AND FOREX, *Himalaya PH, Delhi.*
2. **Battacharya,** EXPORTERS HANDBOOK INDIAN INSTITUTE OF FOREIGN TRADE.
3. BEAR ACT OF FOREIGN EXCHANGE REGULATIONS
4. **Cherian and Parab**: EXPORT MARKETING, *Himalayas, New Delhi.*
5. **Choudhury B.K.** FINANCE OF FOREIGN TRADE AND FOREIGN EXCHANGE, *Himalaya Publishing House, Delhi, Bangalore*
6. **Directorate of Distance Education**, EXIM FINANCING AND DOCUMENTATION, *Pondicherry University.*
7. **Govt of India** EXPORT IMPORT POLICY, PROCEDURES,
8. **Govt of India,** HANDBOOK OF *PROCEDURES, IMPORT AND EXPORT PROMOTION, New Delhi*
9. **Govt. of India**, EXPORT IMPORT PROCEDURES (REVISED)
10. **Douglas C. Montgomery,** INTRODUCTION TO SQC *,John Wiley & Sons Inc Singapore*
11. **Khurana P.K.** EXPORT MANAGEMENT, *Galgotia, New Delhi.*
12. **M,L.Varma,** FOREIGN TRADE MANAGEMENT IN INDIA, *Vikas, New Delhi, 1983.*
13. **M.J.Mathew,** MANAGEMENT OF EXPORT MARKETING, *RBSA Publishers, Jaipur, India, 1997*
14. **Richard P. Chase et.al,** PRODUCTION AND OPERATING MANAGEMENT (MANUFACTURING AND SERVICE) , *Tata McGraw Hill NewDelhi*
15. **RBI Exchange control Manual (Revised)**
16. **Pounds etc., al.,** TOTAL QUALITY MANAGEMENT AREA. *McGraw Hill*
17. **V.A Avadhani,** INTERNATIONAL FINANCE THEORY AND PRACTICE, *Himalaya Publishing House, Delhi, 1998.*

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