

UNIT 7 EXCHANGE CONTROL REGULATIONS AND FACILITIES CONCERNING EXPORTS

Structure

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- 7.1 Introduction
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7.0 OBJECTIVES

After studying this unit, you should be able to:

- define foreign exchange
- explain the objectives of exchange control
- describe an overview of Foreign Exchange Management Act, 1999
- explain the foreign exchange regulation concerning exports
- describe the procedures of various export declaration forms
- discuss other provisions related to export.

7.1 INTRODUCTION

You have learnt various methods of payment in the export business in Unit 6. Exchange Control is another important area of international trade. The term exchange control applies to the rules and regulations designed to regulate transactions involving foreign exchange. The objective of the exchange control is primarily to regulate the demand for foreign exchange for various purposes within the limits set by available supply. Exchange control becomes necessary when the country's external reserves are not adequate for meeting its current and potential requirements. In this unit, you will learn the objectives of exchange control and various provisions of Foreign Exchange Management Act, 1999 related to regulation and management of foreign exchange and procedures of export declaration forms.

7.2 FOREIGN EXCHANGE

Foreign exchange means foreign currency and includes:

- i) all deposits, credit and balances payable in foreign currency,
- ii) any drafts, traveller's cheques, letters of credit and bills of exchange expressed or drawn in Indian currency but payable in any foreign currency and;

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

Foreign exchange accrues out of foreign exchange transactions. The regulation and control of foreign exchange implies, therefore, regulation and control of foreign exchange transactions.

Foreign Exchange Transactions

A foreign exchange transaction is ultimately the purchase or sale of one national currency against another arising out of import or export of goods and services, foreign remittances and foreign travel both inward and outward, etc. The goods refer to raw materials, intermediary or finished products, capital goods, etc., comprising the visible items of a country's foreign trade. Services refer to shipping, air travel, insurance, banking, supply of technical know-how, consultancy, transfer of capital by way of lending and or investment, interest on such capital and dividends on such investment, tourists income and expenses, cost of Indian students abroad and of foreign students in India, gifts and donations, remittances, etc., which taken together comprise the invisible items of a country's foreign trade. **A foreign exchange transaction is thus transfer of purchasing power, i.e. acquisition or parting with the right to wealth in a foreign country.** As you must be knowing that the foreign exchange is precious for a country. Hence, government regulate and control the foreign exchange transactions. Let us learn what exchange control is ?

Exchange Control : Exchange control means official intervention with the foreign exchange of a country. It is a system of rationing foreign exchange among competing demands for it, effected by controlling the receipts and payments thereof. The control of receipts aims at centralising the country's means of external payments in a common pool in the hands of its monetary authorities. Reserve Bank of India is the monetary authority in India. It facilitates judicious use of foreign exchange. The control of payments aims at restraining the demand for foreign exchange broadly in consonance with the national interests within the limits of available resources.

7.3 OBJECTIVES OF EXCHANGE CONTROL

Most of the developing countries including India found it necessary to continue exchange control introduced during the Second World War on a systematic and long-term basis. Exchange control became essential in view of the substantial requirements of foreign exchange for the planned developmental effort undertaken by them. Over the years, the scope of exchange control in India has steadily widened. The regulations have become progressively more elaborate with the increasing foreign exchange outlays under successive Five Year plans and the relative inadequate earnings of foreign exchange. During the span of more than 40 years that the control has remained in force, appraisals and reviews of policies and procedures have been undertaken periodically and modifications made as and when considered necessary.

In specific terms, the broad objective of the exchange control are:

- 1) to prevent flight of capital,
- 2) to ensure the availability of sufficient foreign exchange for specific purposes such as meeting the international commitments,
- 3) to stabilize the external value of the domestic currency, and
- 4) to insulate the economy from external economic pressures.

You should note that the basic objective of exchange control in India is conservation of the foreign exchange resources and proper utilisation thereof in the interest of economic development of the country.

7.4 FOREIGN EXCHANGE MANAGEMENT ACT, 1999

The Foreign Exchange Management Act (FEMA), 1999 has been operationalised. The basic objective of this act is to consolidate and amend the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India. There are seven chapters in this act. The first chapter deals with various definitions and scope of this act. Chapter two explains about the dealings, holding, transactions, realisation and repatriation of foreign exchange. The third chapter discusses about the authorised persons and Reserve Bank's power related to the authorised person. Fourth chapter deals with the procedures of penalties and enforcement. Fifth chapter explains the procedures of adjudication and appeal. Chapter six deals with the directorate of enforcement, power of search and seizure. The last seventh chapter explains the miscellaneous aspect of the act.

Check Your Progress A

1) What do you mean by foreign exchange?

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2) What is exchange control ?

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3) Distinguish between trade control and exchange control ?

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7.5 REGULATION AND MANAGEMENT OF FOREIGN EXCHANGE

You have learnt the objectives of exchange control and an overview of FEMA, 1999. The second chapter of FEMA Act, 1999 is very important for exporters and importers. It deals with various provisions related to regulation and management of foreign exchange. Let us learn them in detail.

1. **Dealing in foreign exchange, etc.:** Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall:
 - (a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person;

- (b) make any payment to or for the credit of any person resident outside India in any manner;
 - (c) receive otherwise through an authorised person, any payment by order or on behalf of any person resident outside India in any manner;
 - (d) enter into any financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, any asset outside India by any person.
2. **Holding of foreign exchange, etc.:** Save as otherwise provided in this Act, no person resident in India shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India.
 3. **Current account transactions :** Any person may sell or draw foreign exchange to or from an authorised person if such sale or drawal is a current account transaction; provided that the Central Government may, in public interest and in consultation with the Reserve Bank, impose such reasonable restrictions for current account transactions as may be prescribed.
 4. **Capital account transactions:** The provisions for capital account transactions include:
 - i) subject to the provisions of sub- section (2), any person may sell or draw foreign exchange to or from an authorised person for a capital account transaction.
 - ii) The Reserve Bank may, in consultation with the Central Government, specify-
 - (a) any class or classes of capital account transactions which are permissible;
 - (b) the limit up to which foreign exchange shall be admissible for such transactions:
 provided that the Reserve Bank shall not impose any restriction on the drawal of foreign exchange for payments due on account of amortization of loans or for depreciation on direct investments in the ordinary course of business.
 - iii) Without prejudice to the generality of the provisions of sub- section (2), the Reserve Bank may, by regulations, prohibit, restrict or regulate the following:
 - (a) transfer or issue of any foreign security by a person resident in India;
 - (b) transfer or issue of any security by a person resident outside India;
 - (c) transfer or issue of any security or foreign security by any branch, office or agency in India of a person resident outside India;
 - (d) any borrowing or lending in foreign exchange in whatever form or by whatever name called;
 - (e) any borrowing or lending in rupees in whatever form or by whatever name called between a person resident in India and a person resident outside India;
 - (f) deposits between persons resident in India and persons resident outside India;
 - (g) export, import or holding of currency or currency notes;
 - (h) transfer of immovable property outside India, other than a lease not exceeding five years, by a person resident in India;
 - (i) acquisition or transfer of immovable property in India, other than a lease not exceeding five years, by a person resident outside India;
 - (j) giving of a guarantee or surety in respect of any debt, obligation or other liability incurred: by a person resident in India and owed to a person resident outside India; or by a person resident outside India.

5. A person resident in India may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.
6. A person resident outside India may hold, own, transfer or invest in Indian currency, security or any immovable property situated in India if such currency, security or property was acquired, held or owned by such person when he was resident in India or inherited from a person who was resident in India.
7. Without prejudice to the provisions of this section, the Reserve Bank may, by regulation, prohibit, restrict, or regulate establishment in India of a branch, office or other place of business by a person resident outside India, for carrying on any activity relating to such branch, office or other place of business.
8. **Export of goods and services:** The provisions are as follow:
 - (i) Every exporter of goods shall-
 - (a) furnish to the Reserve Bank or to such other authority a declaration in such form and in such manner as may be specified, containing true and correct material particulars, including the amount representing the full export value or
 - (b) if the full export value of the goods is not ascertainable at the time of export, the value which the exporter, having regard to the prevailing market conditions, expects to receive on the sale of the goods in a market outside India;
 - (c) furnish to the Reserve Bank such other information as may be required by the Reserve Bank for the purpose of ensuring the realisation of the export proceeds by such exporter.
 - (ii) The Reserve Bank may, for the purpose of ensuring that the full export value of the goods or such reduced value of the goods as the Reserve Bank determines, having regard to the prevailing market conditions, is received without any delay, direct any exporter to comply with such requirements as it deems fit.
 - (iii) Every exporter of services shall furnish to the Reserve Bank or to such other authorities a declaration in such form and in such manner as may be specified, containing the true and correct material particulars in relation to payment for such services.
9. **Realisation and repatriation of foreign exchange:** Save as otherwise provided in this Act, where any amount of foreign exchange is due or has accrued to any person resident in India, such person shall take all reasonable steps to realise and repatriate to India such foreign exchange within such period and in such manner as may be specified by the Reserve Bank.
10. **Exemption from realisation and repatriation in certain cases:** The exemption may be granted in the following cases:
 - (a) possession of foreign currency or foreign coins by any person up to such limit as the Reserve Bank may specify;
 - (b) foreign currency account held or opted by such person or class of persons and the limit up to which the Reserve Bank may specify;
 - (c) foreign exchange acquired or received before the 8th day of July, 1947 or any income arising or accruing thereon which is held outside India by any person in pursuance of a general or special permission granted by the Reserve Bank;
 - (d) foreign exchange held by a person resident in India up to such limit as the Reserve Bank may specify, if such foreign exchange was acquired by way of gift or inheritance from a person referred to in clause (c), including any income arising therefrom;

- (e) foreign exchange acquired from employment, business, trade, vocation, services, honorarium, gifts, inheritance or any other legitimate means up to such limits as the Reserve Bank may specify; and
- (f) such other receipts in foreign exchange as the Reserve Bank may specify.

7.6 OTHER PROVISIONS

You have learnt the objective of exchange control and provisions for regulation and management of foreign exchange. Let us now learn various other provisions related to the export.

Foreign Currency Accounts: Persons resident in India, including exporters, are allowed to open and maintain foreign currency Accounts in or outside India. Exporters are permitted to maintain Exchange Earners Foreign Currency (EEFC) Accounts in India. Foreign Currency Account outside India is also allowed by an exporter who is exporting goods on deferred payment term. This facility is also extended to the turnkey project or civil construction contract abroad.

The account may be held or maintained in any currency other than the currency of India, Nepal or Bhutan. This account may be maintained in the form of (i) Resident Foreign Currency Account (ii) Exchange Earners Foreign Currency Account (iii) Foreign Currency Account outside India and (iv) other Accounts.

Agency Commission: There is no limit for payment of agency commission on exports. The payment may be either by remittance or by deduction from invoice value. The application is to be sent by letter to an authorised dealer. The amount of commission need not even be declared on Forms if there is a valid agreement between exporter and overseas beneficiary.

Export Claims: The limit on remittances in settlement of claims made by overseas buyers on account of compensation for non-fulfilment of contracts, shortage in weight/length, inferior quality of goods supplied penalty for late shipments, etc. has been raised to 15% of invoice value. There is no limit for this amount. Application along with the details of shipment may be made to the authorised dealer. The application should be accompanied with the documentary evidence.

Other Remittances: Authorised dealers may effect, on behalf of their exporter constituents, remittances connected with exports like controlling charges, expenses incurred on dishonoured/unaccepted bills, legal expenses related to trade disputes, testing charges, etc. Exporters are expected to submit supporting documents for these remittances.

7.7 EXPORT DECLARATION FORMS

All exports to which the requirement of declaration applies must be declared on appropriate forms. These forms are as follows:

- **GR Form (in duplicate):** It is used to export to all countries other than Nepal and Bhutan
- **PP Form (in duplicate):** It is used to export to all countries other than Nepal and Bhutan by parcel post.
- **SOFTEX Form (in triplicate):** It is used to export computer software in non-physical form.
- **SDF Form:** The statutory Declaration Form (SDF) is required in case of exports where shipping bills are electronically processed.

Procedures for Furnishing the Forms

The declaration form GR (in duplicate) shall be submitted in duplicate to the commissioner of Customs. After duly verifying and authenticating the declaration form the Commissioner of

Customs will forward the original form to the nearest office of the Reserve Bank. The duplicate form is handed over to the exporter for being submitted to the authorised dealer with whom the export documents are negotiated.

The declaration form PP (in duplicate) shall be submitted to the authorised dealer in foreign exchange named in the form. The authorised dealer shall countersign on the form and hand over the original form to the exporter. The exporter will submit the form to the postal authorities through which the goods are being despatched. The postal authorities after despatch of the goods, shall forward the declaration form to the nearest office of the Reserve Bank. On realisation of export proceeds the authorised dealer shall after due certification submit the duplicate form to the nearest office of the Reserve Bank.

Export of Computer Software

Export of Computer Software in physical form is done of GR/ PP forms. Export of computer software in non- physical form should be declared on SOFTEX form. The SOFTEX form is submitted in triplicate. Each exporter will have to designate a single branch of an authorised dealer to whom the export documents are submitted. Valuation of exports will be done by officials authorised by the Department of Electronics, Government of India. After verifying all the three copies of SOFTEX forms, the official will directly forward the original copy to the office of Reserve Bank under whose jurisdiction the exporter falls. The certified duplicate SOFTEX forms will be returned to the exporters together with all supporting documents and bills drawn on overseas buyers. The triplicate copy will be retained by the designated official for record to the Department of Electronics.

SDF Form is appended by the exporter to the shipping bill. The custom officer verifies and authenticate the declaration in SDF. The shipping bill marked Exchange control copy where SDF has been appended, is handed over to the exporter. The exporter submits it to the authorised dealer.

Check Your Progress B

1. What is SOFTEX form ?

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2. What do you mean by current account transactions ?

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3. What is capital account transaction?

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4. State whether the following statements are True or False.

- i) Indian residents are allowed to acquire immovable property situated outside India.
- ii) Reserve bank may prohibit or restrict the issue of any security by a person resident outside India.
- iii) Any Indian Person can deal in or transfer any foreign exchange to any person not being an authorised person.
- iv) SDF form is required when shipping bills are electronically processed.
- v) Export of computer software in non- physical form is declared on SOFTEX form.

7.8 LET US SUM UP

Exchange control applies to all the rules and regulations designed to regulate transactions involving foreign exchange. The basic objective of exchange control is conservation of the foreign exchange resources and their proper utilisation in the interest of economic development of the country. Exchange control is governed by the Foreign Exchange Management Act, 1999.

The law provides that foreign exchange related to the exported goods or services must be realised in full and with utmost promptness. Exporters are required to give declaration for all exports to realise export proceeds within the prescribed period. The regulation of foreign exchange concerning export include : dealing in foreign exchange, holding of foreign exchange, current account transactions, capital account transactions, export of goods and services, realisation and repatriation of foreign exchange and the exemption from realisation and repatriation. The forms on which exports are declared include : GR form, PP form, Softex form and SDFform. Other provisions discussed regarding export exchange regulations are : Foreign currency account, agency commission and export claims.

7.9 KEY WORDS

Authorised Dealers: Commercial Banks licensed to deal in foreign currencies.

Exchange Control: The rules and regulations applicable to all transactions involving foreign exchange.

GR Form: A form of declaration for exports by any mode except post to all countries other than Nepal and Bhutan. It is required to be submitted in duplicate to the custom authorities.

PP Form: A form of declaration for all postal exports to all countries other than Nepal and Bhutan.

Softex Form: A form of declaration used to export computer software in non- physical form.

7.10 ANSWERS TO CHECK YOUR PROGRESS

B 4 1) False ii) True iii) False iv) True v) False

7.11 TERMINAL QUESTIONS

1) What do you mean by exchange control ? Describe the broad objectives of exchange control.

- 2) Explain various provisions related to regulation and management of foreign exchange.
- 3) All exports to which the requirement of declaration applies must be declared on appropriate forms. Discuss. Explain the procedure for furnishing the forms.
- 4) Write notes on:
 - i) Foreign Currency Account.
 - ii) Procedure for furnishing the SOFTEX Form.

UNIT 8 EXPORT FINANCE

Structure

- 8.0 Objectives
- 8.1 Introduction
- 8.2 Institutional Framework
- 8.3 Pre-shipment Finance
 - 8.3.1 Packing Credit
 - 8.3.2 Advance against Incentives
 - 8.3.3 Pre-shipment Credit in Foreign Currency
- 8.4 Post-shipment Finance
 - 8.4.1 Negotiation of Export Documents Under Letters of Credit
 - 8.4.2 Purchase/ Discount of Foreign Bills
 - 8.4.3 Advance against Bills Sent on Collection
 - 8.4.4 Advance against Goods Sent on Consignment
 - 8.4.5 Advance against Export Incentives
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 - 8.4.7 Advance against Retention Money
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- 8.5 Exports Under Deferred Payments
- 8.6 Deferred Credit Facilities
- 8.7 Role of Export Import Bank of India
- 8.8 Recent Developments in Export Financing
- 8.9 Let Us Sum Up
- 8.10 Key Words
- 8.11 Answers to Check Your Progress
- 8.12 Terminal Questions

8.0 OBJECTIVES

After studying this unit, you should be able to:

- describe the procedure of pre-shipment credit
- explain various types and procedure of post-shipment credit
- explain the role of Export Import Bank of India
- describe the recent development in export finance.

8.1 INTRODUCTION

You have learnt various provisions of Exchange Regulations in Unit 6. Export financing is another important area of export business. Export finance refers to the credit facilities extended to the exporters at pre-shipment and post-shipment stages. It includes any loan to an exporter for financing the purchase, processing, manufacturing or packing of goods meant for overseas markets. Credit is also extended after the shipment of goods to the date of realisation of export proceeds. In this unit, you will learn various schemes of finance available to exporters at pre-shipment and post-shipment stages. You will also be acquainted with the role of EXIM Bank in export finance.

8.2 INSTITUTIONAL FRAMEWORK

Institutional framework for providing finance comprises Reserve Bank of India, Commercial Banks, Export Import Bank of India and Export Credit and Guarantee Corporation. Reserve