

## **Master Circular – Export of Goods and Services**

**As on July 1, 2002**

Reserve Bank of India  
Exchange Control Department  
Central Office  
Mumbai 400 001

EC.CO.PCD No. 7 /15.02.76/ 2002-03

August 8, 2002

To  
All Authorised Dealers in Foreign Exchange

Dear Sirs,

### **Master Circular – Export of Goods and Services**

As you are aware Foreign Exchange Management Act, 1999 has been introduced with effect from June 1, 2000. In terms of Section 5 of the Act, any person may sell or draw foreign exchange to and from authorised person under current account transaction. However, Central Government has been empowered to impose certain restrictions for current account transactions in public interest and in consultation with Reserve Bank. Accordingly, Government of India issued Notification No. G.S.R.381(E) dated May 3, 2000 as amended vide its Notification No.S.O 301(E) dated March 30, 2001. A copy of the Notification (as amended upto March 30, 2001) is annexed.

2. In terms of Section 7 of the Act, the need for declaration of realisation of exports by the exporters has been specified. Besides, Reserve Bank has also been empowered to issue necessary directions for complying with the obligations of realisation of exports. Accordingly, RBI has made the Foreign Exchange Management (Export of goods and services) Regulations 2000 and notified vide FEMA 23 / 2000-RB dated the 3<sup>rd</sup> May 2000. Amendments to the above notification have also been made from time to time. Reserve Bank had also issued various circulars containing directions for authorised dealers for export of goods and services from India.

3. In order to enable the Authorised Dealers (ADs) to have all the existing instructions on the subject of "Export of Goods and Services" from India as on July 1, 2002, at one place, this Master Circular has been suitably updated.

4. This Master Circular consolidates the directions contained in the undernoted circulars, as on July 1, 2002.

i)	A.P.(DIR Series) Circular No. 4	.....	August	27, 2001
ii)	A.P.(DIR Series) Circular No. 5	.....	August	27, 2001
iii)	A.P.(DIR Series) Circular No. 6	.....	September	24, 2001
iv)	A.P.(DIR Series) Circular No. 9	.....	October	25, 2001
v)	A.P.(DIR Series) Circular No.10	.....	November	1, 2001

vi)	A.P.(DIR Series) Circular No.20	.....	January	28, 2002
vii)	A.P.(DIR Series) Circular No.30	.....	March	26, 2002
viii)	A.P.(DIR Series) Circular No.34	.....	April	1, 2002
ix)	A.P.(DIR Series) Circular No.35	.....	April	1, 2002
x)	A.P.(DIR Series) Circular No.38	.....	April	12, 2002
xi)	A.P.(DIR Series) Circular No.53	.....	June	27, 2002
xii)	A.P.(DIR Series) Circular No.54	.....	June	29, 2002

Yours faithfully,

**(Grace Koshie)**

Chief General Manager

## **C O N T E N T S**

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### **Part I Introduction**

Export trade is regulated by the Directorate General of Foreign Trade (DGFT) and its regional offices, functioning under the Ministry of Commerce and Industries, Department of Commerce, Government of India. Policies and procedures required to be followed for exports from India are announced by the DGFT. Authorised dealers may conduct export transactions in conformity with the Export-Import Policy in vogue and the Rules framed by the Government of India and the Directions issued by Reserve Bank from time to time under the Act.

2. Attention of authorised dealers is invited to the Government of India Notification No.G.S.R.381(E) dated May 3, 2000, notifying the Foreign Exchange Management (Current Account Transactions) Rules, 2000, in terms of which drawal of exchange for certain current account transactions has been prohibited and restrictions have been placed on certain other transactions. In terms of Rule 4 *ibid*, the transactions specified in Schedule II to the said Notification require prior approval of the Government of India and in terms of the Rule 5, the transactions specified in Schedule III to the Notification require prior approval of the Reserve Bank. Authorised dealers may follow directions contained in Part III while dealing with applications relating to export of goods and services from India. It is further clarified that the directions contained in this Circular should be read with the Rules notified by the Government of India, Ministry of Finance, vide Notification dated May 3, 2000, and annexed as Part II of this circular as also Regulations notified by Reserve Bank vide its Notification No.FEMA 23/2000-RB dated 3<sup>rd</sup> May 2000 as amended from time to time (copy enclosed).

3. The Reserve Bank has made the Foreign Exchange Management (Export and Import of Currency) Regulations, 2000 vide its Notification No.FEMA 6/RB-2000 dated 3<sup>rd</sup> May 2000 and subsequently modified vide Notification No.FEMA 38 / 2001 – RB dated 27<sup>th</sup> February, 2001. Any export of Indian currency of value exceeding Rs.5000/- except to the extent permitted under any general permission granted under the Regulations, will require prior permission of Reserve Bank.

4. In terms of Regulation 4 of the Foreign Exchange Management (Guarantees) Regulations, 2000, notified vide Reserve Bank Notification No.FEMA 8 / RB dated 3<sup>rd</sup> May 2000, authorised dealers have been permitted to issue guarantees on behalf of exporter clients on account of exports out of India.

5. Export of goods and services against repayment of state credits granted by erstwhile Soviet Union will continue to be governed by the extant directions issued by Reserve Bank, as amended from time to time. Further, Reserve Bank will continue to consider as hitherto, counter trade proposals from Indian exporters with Romania involving adjustment of value of exports from India against value of imports made into India in terms of a voluntarily entered arrangement between the concerned parties, subject to the condition, among others that the Indian exporter should utilise the funds for import of goods from Romania into India within six months from the date of credit to Escrow Accounts allowed to be opened.

## **Part II NOTIFICATION**

New Delhi, the 3rd May 2000  
(as amended by the Notification No S.O. 301(E) dated March 30,2001)

G.S.R.381(E).--In exercise of the powers conferred by Section 5 and sub-section (1) and clause (a) of sub-section (2) of Section 46 of the Foreign Exchange Management Act, 1999, and in consultation with the Reserve Bank, the Central Government having considered it necessary in the public interest, makes the following rules, namely :---

1. Short title and commencement.---(1) These rules may be called the Foreign Exchange Management (Current Account Transactions) Rules, 2000; (2) They shall come into effect on the 1st day of June, 2000.

2. **Definitions.**---In these rules, unless the context otherwise requires :

- a. "Act" means the Foreign Exchange Management Act, 1999 (42 of 1999);
- b. "Drawal" means drawal of foreign exchange from an authorised person and includes opening of Letter of Credit or use of International Credit Card or International Debit Card or ATM Card or any other thing by whatever name called which has the effect of creating foreign exchange liability;
- c. "Schedule" means a schedule appended to these rules;
- d. The words and expressions not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.

**3. Prohibition on drawal of Foreign Exchange.**---Drawal of foreign exchange by any person for the following purpose is prohibited, namely :

- a. a transaction specified in the Schedule I; or
- b. a travel to Nepal and/or Bhutan; or
- c. a transaction with a person resident in Nepal or Bhutan.

Provided that the prohibition in clause (c) may be exempted by RBI subject to such term and conditions as it may consider necessary to stipulate by special or general order.

**4. Prior approval of Govt. of India.**---No person shall draw foreign exchange for a transaction included in the Schedule II without prior approval of the Government of India :

Provided that this Rule shall not apply where the payment is made out of funds held in Resident Foreign Currency (RFC) Account of the remitter.

**5. Prior approval of Reserve Bank.**---No person shall draw foreign exchange for a transaction included in the Schedule III without prior approval of the Reserve Bank;

Provided that this Rule shall not apply where the payment is made out of funds held in Resident Foreign Currency (RFC) Account of the remitter.

6 (1) Nothing contained in Rule 4 or Rule 5 shall apply to drawal made out of funds held in Exchange Earners' Foreign Currency (EEFC) account of the remitter.

(2) Notwithstanding anything contained in sub-rule (1), restrictions imposed under Rule 4 or Rule 5 shall continue to apply where the drawal of foreign exchange from the Exchange Earners Foreign Currency (EEFC) Account is for the purpose specified in items 10 and 11 of Schedule II, or item 3, 4, 11, 16 & 17 of Schedule III as the case may be.

#### **Schedule I (See Rule 3)**

1. Remittance out of lottery winnings.
2. Remittance of income from racing/riding etc. or any other hobby.
3. Remittance for purchase of lottery tickets, banned/proscribed magazines, football pools, sweepstakes, etc.
4. Payment of commission on exports made towards equity investment in Joint Ventures/ Wholly Owned Subsidiaries abroad of Indian companies.
5. Remittance of dividend by any company to which the requirement of dividend balancing is applicable.
6. Payment of commission on exports under Rupee State Credit Route.
7. Payment related to "Call Back Services" of telephones.

8. Remittance of interest income on funds held in Non-Resident Special Rupee(Account) Scheme.

**Schedule II**  
**(See Rule 4)**

<b>Purpose of Remittance</b>	<b>Ministry / Department of Govt.of India whose approval is required</b>
1. Cultural Tours	Human Resources Development, (Department of Education and Culture)
2. Advertisement in foreign print media , for the purposes other than promotion of tourism, foreign investments and international bidding (exceeding US\$ 10,000) by a State Government and its Public Sector Undertakings	Ministry of Finance, (Department of Economic Affairs)
3.Remittance of freight of vessel chartered by a PSU	Ministry of Surface Transport, (Chartering Wing)
4. Payment of import by a Govt. Department or a PSU on c.i.f. basis (i.e. other than f.o.b. and f.a.s. basis)	Ministry of Surface Transport, (Chartering Wing)
5. Multi-modal transport operators making remittance to their agents abroad	Registration Certificate from the Director General of Shipping
6. Remittance of hiring charges of transponders	Ministry of Finance, (Department of Economic Affairs)
7. Remittance of container detention charges exceeding the rate prescribed by Director General of Shipping	Ministry of Surface Transport (Director General of shipping)
8.Remittances under technical collaboration agreements where payment of royalty exceeds 5% on local sales and 8% on exports and lump-sum payment exceeds US\$ 2 million	Ministry of Industry and Commerce
9. Remittance of prize money/sponsorship of sports activity abroad by a person other than International/National/State Level sports bodies. If the amount involved exceeds US\$ 100,000Ministry of Human Resources Development (Department of Youth Affairs and Sports)	Ministry of Finance, (Insurance Division)

10. Payment for securing Insurance for health from a company abroad	Ministry of Finance, (Insurance Division)
11. Remittance for membership of P & I Club	Ministry of Finance, (Insurance Division)

**Schedule III**  
**(See Rule 5)**

1. Remittance by artiste e.g. wrestler, dancer, entertainer etc. (This restriction is not applicable to artistes engaged by tourism related organisations in India like ITDC, State Tourism Development Corporations etc. during special festivals or those artistes engaged by hotels in five star categories, provided the expenditure is met out of EEFC account).

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2. Release of exchange exceeding US\$ 5,000 or its equivalent in one calendar year, for one or more private visits to any country (except Nepal and Bhutan).

3. Gift remittance exceeding US\$ 5,000 per remitter/donor per annum.

4. Donation exceeding US\$ 5000 per remitter/donor per annum.

5. Exchange facilities exceeding US \$ 5,000 for persons going abroad for employment.

6. Exchange facilities for emigration exceeding US \$ 5,000 or amount prescribed by country of emigration.

7. Remittance for maintenance of close relatives abroad,

(i) exceeding net salary (after deduction of taxes, contribution to provident fund and other deductions) of a person who is resident but not permanently resident in India and is a citizen of a foreign state other than Pakistan.

(ii) Exceeding US \$ 5000 per year, per recipient, in all other cases. Explanation: For the purpose of this item, a person resident in India on account of his employment of a specified duration (irrespective of length thereof) or for a specific job or assignment; the duration of which does not exceed three years, is a resident but not permanently resident.

8. Release of foreign exchange, exceeding US\$ 25,000 to a person, irrespective of period of stay, for business travel, or attending a conference or specialised training or for maintenance expenses of a patient going abroad for medical treatment or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/check-up.

9. Release of exchange for meeting expenses for medical treatment abroad exceeding the estimate from the doctor in India or hospital/doctor abroad.

10. Release of exchange for studies abroad exceeding the estimate from the institution abroad or US\$ 30,000, per academic year, whichever is higher.

11. Commission to agents abroad for sale of residential flats/commercial plots in India, exceeding 5% of the inward remittance.

12. Short term credit to overseas offices of Indian companies.

13. Remittance for advertisement on foreign television by a person whose export earnings are less than Rs. 10 lakhs during each of the preceding two years.

14. Remittance of royalty and payment of lump-sum fee under the technical collaboration agreement which has not been registered with Reserve Bank.

15. Remittance exceeding US\$ 100,000/ per project, for any consultancy service procured from outside India

16. Remittances for use and/or purchase of trade mark/franchise in India.

17. Remittance exceeding US\$ 100,000/-, by an entity in India by way of reimbursement of pre-incorporation expenses.

### **PART III**

#### **Export of Goods and services**

#### **Section 'A' : General**

##### **A.1 Trade and Exchange Control**

(i) In exercise of the powers conferred by clause (a) of sub-section (1), sub-section (3) of section 7 and sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank has made the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 relating to export of goods and services from India, hereinafter referred to as the 'Export Regulations'. These Regulations have been notified *vide* Notification No. FEMA 23/2000-RB, dated 3rd May, 2000.

(ii) Any reference to Reserve Bank should be made to the office of Exchange Control Department within whose jurisdiction the applicant person, firm or company resides or functions unless otherwise indicated. If for any particular reason, a firm or company desires to deal with a different office of the Exchange Control Department, it may approach the office within whose jurisdiction it functions for necessary approval.

##### **A.2 Exemptions from Declarations**

(i) The requirement of declaration of export of goods and software in the prescribed form will not apply to the cases indicated in Regulation No. 4, *ibid*. The requirement of declaration also shall not apply to goods sent for testing abroad, subject to re-import.

(ii) Gift of goods exceeding rupees one lakh in value require approval of the Reserve Bank.

(iii) Export of goods not involving any foreign exchange transaction directly or indirectly, requires the waiver of GR/PP procedure from Reserve Bank.

### **A.3 Numbering of forms**

GR, PP and SOFTEX forms will bear specific identification numbers. In all applications/correspondence with the Reserve Bank, this identification number should invariably be cited. In the case of declarations made on SDF form, the port code number and shipping bill number should be cited.

### **A. 4 Manner of Payment**

(i) The amount representing the full export value of the goods exported shall be received through an authorised dealer in the manner specified in the Foreign Exchange Management (Manner of Receipt & Payment) Regulations, 2000 notified *vide* Notification No. FEMA 14/2000-RB, dated 3rd May, 2000.

(ii) Payment for export may also be received by the exporter in the following manner :

- (a) In the form of bank draft, pay order, banker's or personal cheques.
- (b) Foreign currency notes/foreign currency travellers' cheques from the buyer during his visit to India.
- (c) Payment out of funds held in the FCNR/NRE account maintained by the Buyer.
- (d) Through International Credit Cards. When payment, in respect of goods sold to overseas buyers during their visits is received in this manner the GR/SDF (duplicate) should be released by the authorised dealers only on receipt of funds in their Nostro account or on production of a certificate by the exporter from the Credit Card servicing bank in India to the effect that it has received the equivalent amount in foreign exchange, if the authorised dealer concerned is not the Credit Card servicing bank. ADs may also receive payment for exports made out of India by debit to the credit card of an importer where the reimbursement from the card issuing bank/organisation will be received in foreign exchange.
- (e) All transactions between a person resident in India and a person resident in Nepal may be settled in Rupees. However, in case of export of goods to Nepal, where an importer resident in Nepal has been permitted by the Nepal Rashtra



Bank to make payment in free foreign exchange, such payments shall be routed through the ACU mechanism.

## **A. 5 Guarantees against Exports**

Prior approval of Reserve Bank should be obtained by authorised dealers for issue of guarantees in respect of caution-listed exporters.

### **A.6 (i) Foreign Currency Accounts –**

Reserve Bank may consider applications in Form EFC from exporters having good track record for opening foreign currency accounts with banks subject to certain terms and conditions. Applications for opening such an account with a branch of an authorised dealer in India may be submitted through the branch at which the foreign currency account is to be maintained. If the foreign currency account is to be maintained abroad the application should be made by the exporter giving details of the bank with which the account will be maintained. An Indian entity has also been permitted to open, hold and maintain in the name of its office/branch set up outside India, a foreign currency account with a bank outside by making remittance for the purpose of normal business operations of the said office/branch or representative subject to certain conditions.

#### **(ii) Diamond Dollar Account –**

Under the scheme of Government of India, firms and companies dealing in purchase/sale of rough or cut and polished diamonds, with track record of at least three years in import or export of diamonds and having an average annual turnover of Rs. 5 crores or above during preceding three licensing years (licensing year is from April to March) are permitted to transact their business through Diamond Dollar Accounts and may be allowed to open not more than five Diamond Dollar Accounts with their banks. Accordingly, eligible firms and companies may apply for permission to the Chief General Manager, Exchange Control Department, Exports Division, Reserve Bank of India, Central Office, Mumbai 400 001, through their authorised dealer.

#### **(iii) Exchange Earners' Foreign Currency (EEFC) Account**

A person resident in India may open, hold and maintain with an authorised dealer in India, a foreign currency account to be known as Exchange Earners' Foreign Currency (EEFC) Account. This account will be maintained only in the form of non-interest bearing current account and no credit facilities either fund-based or non-fund based, should be permitted against the security of balances held in EEFC accounts, by the authorised dealers. The limits of eligible credits to the EEFC accounts are 70% for Export Oriented Units or units in (a) Export Processing Zone or (b) Software Technology Park or (c) Electronic Hardware Technology Park and to 50% for other persons resident in India in respect of inward remittance received through normal banking channel, other than the remittance received pursuant to any undertaking given to the Reserve Bank or which represents foreign currency loan raised or investment received from outside India by the account holder.

The units in Special Economic Zone (SEZ) are now permitted to credit 100% of its foreign exchange receipts in its EEFC account except foreign exchange acquired, by way of purchase against rupees from any person in India other than another unit in a Special Economic Zone. Exporters who have been certified as "Status Holder" in terms of the EXIM Policy are permitted to credit amount upto 100% of their eligible receipts of foreign exchange to their EEFC Account

### **A.7 Counter-trade Arrangement**

(i) Counter trade proposals involving adjustment of value of goods imported into India against value of goods exported from India in terms of an arrangement voluntarily entered into between the Indian party and the overseas party through an Escrow Account opened in India in U.S. dollar will be considered by the Reserve Bank. All imports and exports under the arrangement should be at international prices in conformity with the Exim Policy and Foreign Exchange Management Act, 1999 and the Rules and Regulations made thereunder. No interest will be payable on balances standing to the credit of the Escrow Account but the funds temporarily rendered surplus may be held in a short-term deposit up to a total period of three months in a year (*i.e.*, in a block of 12 months) and the banks may pay interest at the applicable rate. No fund based/or non-fund based facilities would be permitted against the balances in the Escrow Account.

(ii) Application for permission for opening an Escrow Account may be made by the overseas exporter/organisation through the authorised dealer with whom the account is proposed to be opened, to the office of Reserve Bank under whose jurisdiction the authorised dealer is functioning.

### **A.8 Export of goods on lease, hire, etc.**

Export of machinery, equipment, etc., on lease, hire, etc., basis under agreement with the overseas lessee against collection of lease rentals/hire charges and ultimate re-import require prior approval of the Reserve Bank. Exporters should apply for necessary permission, through an authorised dealer, to the concerned Regional Office of the Reserve Bank, giving full particulars of the goods to be exported.

### **A.9 Participation in Trade Fairs abroad**

(i) Participants in international exhibition/trade fair have been granted general permission *vide* Regulation 7(7) of the Foreign Exchange Management (Foreign Currency Account by a Person Resident in India) Regulations, 2000 notified under Notification No. FEMA 10/2000-RB, dated 3rd May, 2000 for opening temporary foreign currency account abroad. Exporters may deposit the foreign exchange obtained, by sale of goods, at the international exhibition/trade fair and operate the account during their stay outside India provided that the balance in the account is repatriated to India within a period of one month from the date of closure of the exhibition/trade fair and full details are submitted to the concerned authorised dealer.

(ii) Firms/Companies and other organisations participating in Trade Fair/Exhibition abroad are now permitted to take/export goods for exhibition and sale outside India without the prior approval of the Reserve Bank of India. Unsold exhibit items may be sold outside the exhibition/trade fair in the same country or in another third country. Such sales at discounted value are also permissible. It would also be permissible to 'gift' unsold goods upto the value of US \$ 5000 per exporter, per exhibition/trade fair.

Authorised Dealers may approve GR Form of export items for display or display-cum-sale in trade fairs/exhibitions outside India subject to the following;

- i) The exporter shall produce relative Bill of Entry within one month of re-import into India of the unsold items.
- ii) The sale proceeds of the items sold are repatriated to India in accordance with Foreign Exchange Management (Realisation, Repatriation, and Surrender of Foreign Exchange) Regulations, 2000.
- iii) The exporter shall report to the Authorised Dealer the method of disposal of all items exported, as well as the repatriation of proceeds to India.

Such transactions approved by the Authorised Dealers will be subject to 100% audit by the internal inspectors/auditors of the Authorised Dealer concerned.

#### **A. 10 Project Exports and Service Exports**

(i) Export of engineering goods on deferred payment terms and execution of turnkey projects and civil construction contracts abroad are collectively referred to as 'Project Exports'. Indian exporters offering deferred payment terms to overseas buyers and those participating in global tenders for undertaking turnkey/civil construction contracts abroad are required to obtain approval of Authorised Dealer/Exim Bank/Working Group at post-award stage before undertaking execution of such contracts. Regulations relating to 'Project Exports' and 'Service Exports' are laid down in the Memorandum on Project Exports (PEM).

(ii) Pure supply contracts (contracts for export of goods) where at least 90 per cent of the export value is realised within the prescribed period, *i.e.*, six months from the date of export and the balance amount within a maximum period of two years from the date of export are not treated as deferred payment exports, provided the exporter does not require/avail of any funded or non-funded facility/ies for such exports from authorised dealers.

#### **A. 11 Export on Elongated Credit Terms**

Exporters intending to export goods on elongated credit terms may submit their proposals giving full particulars through their banks to the concerned Regional Office of Reserve Bank for consideration.

#### **A 12 Forfeiting**

Export-Import Bank of India (Exim Bank) and authorised dealers have been permitted to undertake forfaiting, for financing of export receivables. It would be in order for authorised dealers to allow remittance of commitment fee/service charges, etc., payable by the exporter as approved by the Exim Bank/the concerned authorised dealer. Such remittance may be permitted in advance in one lump sum or at monthly intervals as approved by the concerned agency.

## **Section B – GR / PP / SOFTEX PROCEDURE**

### **B 1 Disposal of Copies of Export Declaration Forms**

(i) Copies of export declaration forms should be disposed of as under :

(a) GR forms should be completed by the exporter in duplicate and both the copies submitted to the Customs at the port of shipment along with the shipping bill. Customs will give their running serial number on both the copies after admitting the corresponding shipping bill. The Customs serial number will have ten numerals denoting the code number of the port of shipment, the calendar year and a six digit running serial number. Customs will certify the value declared by the exporter on both the copies of the GR form at the space earmarked and will also record the assessed value. They will then return the duplicate copy of the form to the exporter and retain the original for transmission to Reserve Bank. Exporters should submit the duplicate copy of the GR form again to Customs along with the cargo to be shipped. After examination of the goods and certifying the quantity passed for shipment on the duplicate copy, Customs will return it to the exporter for submission to the authorised dealer for negotiation or collection of export bills.

(b) Within twenty-one days from the date of export, exporter should lodge the duplicate copy together with relative shipping documents and an extra copy of the invoice with the authorised dealer named in the GR form. After the documents have been negotiated/sent for collection, the authorised dealer should report the transaction to Reserve Bank in statement ENC under cover of appropriate R-Supplementary Return. The duplicate copy of the form together with a copy of invoice will be retained by the authorised dealer till full export proceeds have been realised and thereafter submitted to Reserve Bank duly certified under cover of appropriate R-Supplementary Return.

**Note:** (i) In the case of exports made under deferred credit arrangement or to joint ventures abroad against equity participation or under rupee credit agreement, the number and date of Reserve Bank approval and/or number and date of the relative RBI circular should be recorded at the appropriate place on the GR form.

(ii) Where Duplicate copy of GR form is misplaced or lost, authorised dealer may accept another copy of duplicate GR form duly certified by Customs.

(c) On account of introduction of Electronic Data Interchange (EDI) System at certain Customs offices where shipping bills are processed electronically, the existing declaration in GR form is replaced by a declaration in form SDF (Statutory Declaration Form) . The SDF form should be

submitted in duplicate (to be annexed to the relative shipping bill) to the concerned Commissioner of Customs. After verifying and authenticating the declaration in form SDF, the Commissioner of Customs will hand over to the exporter, one copy of the shipping bill marked 'Exchange Control Copy' in which form SDF has been appended for being submitted to the authorised dealer within 21 days from the date of export. The authorised dealer should accept the Exchange Control (EC) copy of the shipping bill and form SDF appended thereto, submitted by the exporter for collection/negotiation of shipping documents. The manner of disposal of EC copy of shipping Bill (and form SDF appended thereto) is same as that for GR forms.

(d) In cases where ECGC initially settles the claims of exporters in respect of exports insured with them and subsequently receives the export proceeds from the buyer/buyer's country through the efforts made by them, the share of exporters in the amount so received is disbursed through the bank which had handled the shipping documents. In such cases, ECGC will issue a certificate to the bank which had handled the relevant shipping documents after full proceeds have been received. The certificate will indicate the number of declaration form, name of the exporter, name of the authorised dealer, date of negotiation, bill number, invoice value and the amount actually received by ECGC. It will be in order for authorised dealers to certify the duplicate GR form/EC copy of shipping bill on the basis of the certificate issued by ECGC and submit them to Reserve Bank. The certificate issued by ECGC may also be attached to the duplicate GR/SDF/PP form while forwarding them to Reserve Bank.

(e) Where a part of export proceeds are credited to EEFC account, the export declaration (duplicate) form may be certified as under :

“Proceeds amounting to.....  
representing.....% of the export realisation  
credited to EEFC account maintained by the exporter with.....”

(ii) The manner of disposal of PP forms is same as that for GR forms. Postal authorities will allow export of goods by post only if the original copy of the form has been countersigned by an authorised dealer. Therefore, PP forms should be first presented by the exporter to an authorised dealer for countersignature. Authorised dealer will countersign the forms in accordance with directions in paragraph B.2 and return the original copy to the exporter, who should submit the form to the post office with the parcel. The duplicate copy of the PP form will be retained by the authorised dealer to whom the exporter should submit relevant documents together with an extra copy of invoice for negotiation/collection, within the prescribed period of twenty-one days.

## **B. 2 Counter signature on PP Forms**

PP forms will be presented by the exporter to an authorised dealer for counter signature. Authorised dealers should countersign the PP forms after ensuring that the parcel is being addressed to their branch or correspondent bank in the country of import. The concerned overseas branch or correspondent should be instructed to deliver the parcel to consignee against payment

or acceptance of relative bill. Authorised dealers may, however, countersign PP forms covering parcels addressed direct to the consignees, provided :—

- (a) an irrevocable letter of credit for the full value of the export has been opened in favour of exporter and has been advised through authorised dealer concerned;

or

the full value of the shipment has been received in advance by the exporter through an authorised dealer;

or

- (a) the authorised dealer is satisfied, on the basis of the standing and track record of the exporter and the arrangements made for realisation of the export proceeds, that he could do so.

In such cases, particulars of advance payment/letter of credit/authorised dealer's certification of standing, etc., of the exporter should be furnished on the form under proper authentication. Any alteration in the name and address of consignee on the PP form should also be authenticated by the authorised dealer under his stamp and signature.

#### **B.3.A. Terms of payment - Invoicing - (Software)**

(i) In respect of long duration contracts involving series of transmissions, the exporters should bill their overseas clients periodically, *i.e.*, at least once a month or on reaching the 'milestone' as provided in the contract entered into with the overseas client and the last invoice/bill should be raised not later than 15 days from the date of completion of the contract. It would be in order for the exporters to submit a combined SOFTEX form for all the invoices raised on a particular overseas client, including advance remittances received in a month.

(ii) In respect of contracts involving only 'one shot operation', the invoice/bill should be raised within 15 days from the date of transmission.

(iii) The exporter should submit declaration in Form SOFTEX in triplicate in respect of export of computer software and audio / video / television software to the concerned designated official of Government of India at STPI / EPZ / FTZ / SEZ for valuation / certification not later than 30 days from the date of invoice / the date of last invoice raised in a month, as indicated above. The designated officials may also certify the SOFTEX Forms in respect of EOUs which are registered with them.

(iv) The invoices raised on overseas clients as at (i) to (iii) above will be subject to valuation of export declared on SOFTEX form by the concerned designated official of Government of India and consequent amendment made in the invoice value, if necessary.

#### **B.3.B. Disposal of SOFTEX forms**

As for disposal of SOFTEX forms the procedure indicated in Regulation 6 of Export Regulations is to be observed. The authorised dealers on receipt of the duplicate copy of the SOFTEX form from the exporter will after full realisation of value declared on the form or as

certified by the designated officials (whichever is higher) submit it to Reserve Bank duly certified, under cover of an appropriate “R” return along with a copy/ies of invoice/s.

#### **B.4 Shut out shipments and Short Shipments**

(i) When part of a shipment covered by a GR form already filed with Customs is short-shipped, exporter must give notice of short-shipment to Customs in form and manner prescribed. In case of delay in obtaining certified short-shipment notice from Customs, exporter should give an undertaking to the authorised dealer to the effect that he has filed the short-shipment notice with the Customs and that he will furnish it as soon as it is obtained. Authorised dealer should send the short-shipment notice along with the GR duplicate to Reserve Bank.

(ii) Where a shipment has been entirely shut out and there is delay in making arrangements to re-ship, exporter will give notice in duplicate to Customs in the manner and in form prescribed for the purpose, attaching thereto the unused duplicate copy of GR form and the shipping bill. Customs will verify that the shipment was actually shut out, certify copy of the notice as correct and forward it to Reserve Bank together with unused duplicate copy of the GR form. In this case, the original GR form received earlier from Customs will be cancelled. If the shipment is made subsequently, a fresh set of GR form should be completed.

#### **B. 5 Consolidation of Air Cargo**

Where air cargo is shipped under consolidation, the airline company’s Master Airway Bill will be issued to the Consolidating Cargo Agent who will in turn issue his own House Airway Bills (HAWBs) to individual shippers. Authorised dealers may negotiate HAWBs only if the relative letter of credit specifically provides for negotiation of these documents in lieu of Airway Bills issued by the airline company. Authorised dealers may also accept Forwarder’s Cargo Receipts (FCR) issued by IATA approved agents, in lieu of bills of lading, for negotiation / collection of shipping documents, in respect of export transactions backed by letters of credit, only if the relative letter of credit specifically provides for negotiation of this document, in lieu of bill of lading. Further, relative sale contract with the overseas buyer should also provide that FCR may be accepted in lieu of bill of lading as a shipping document.

#### **B.6 Exports by Barges/Country Craft/Road Transport**

Following procedure should be adopted by exporters for filing original copies of GR/SDF forms where exports are made to neighbouring countries by road, rail or river transport :

- (a) In case of exports by barges/country craft/road transport, the form should be presented by exporter or his agent at the Customs station at the border through which the vessel or vehicle has to pass before crossing over to the foreign territory. For this purpose, exporter may arrange either to give the form to the person in charge of the vessel or vehicle or forward it to his agent at the border for submission to Customs.
- (b) As regards exports by rail, Customs staff have been posted at certain designated railway stations for attending to Customs formalities. They will collect the GR/SDF forms in re-

spect of goods loaded at these stations so that the goods may move straight on to the foreign country without further formalities at the border. The list of designated railway stations is obtainable from the Railways. In respect of goods loaded at stations other than the designated stations, exporters must arrange to present GR/SDF forms to the Customs Officer at the Border Land Customs Station where Customs formalities are completed.

- (c) In terms of an agreement on Border Trade between India and Myanmar, exchange of certain specified locally produced commodities, by people living along the India-Myanmar border on both sides under barter trade arrangement as also trade in freely convertible currency, has been permitted. Authorised dealers should follow strictly the revised guidelines issued in terms of A.P.(DIR Series) Circular No.17 dated 16.10.2000.

### **Section C – Authorised Dealer’s Obligation**

#### **C. 1 Delay in submission of shipping documents by exporters**

In cases where exporters present documents pertaining to exports after the prescribed period of twenty-one days from date of export, authorised dealers may handle them without prior approval of Reserve Bank, provided they are satisfied with the reasons for the delay.

#### **C. 2 Check-list for Scrutiny of Forms**

Authorised dealer/exporter should verify the following :

- (i) Authorised dealer should ensure that the number on the duplicate copy of a GR form presented to them is the same as that of the original which is usually recorded on the Bill of Lading/Shipping Bill and the duplicate has been duly verified and authenticated by appropriate Customs authorities. In the case of SDF form, the Shipping Bill No. should be the same as that appearing on the Bill of Lading.
- (ii) Bill of Lading/Airway Bill issued on ‘freight prepaid’ basis may be accepted where the sale contract is on f.o.b., f.a.s. etc. basis provided the amount of freight has been included in the invoice and the bill. Conversely, in the case of c.i.f., c.& f. etc. contracts whose freight is sought to be paid at destination, it should be ensured that the deduction made is only to the extent of freight declared on GR/SDF form or the actual amount of freight indicated on the Bill of Lading/Airway Bill, whichever is less. Likewise, where the marine insurance is taken by the exporters on buyer’s account, authorised dealer should verify that the actual amount paid is received from the buyer through invoice and the bill.
- (iii) The documents submitted do not reveal any material *inter se* discrepancies in regard to description of goods exported, export value or country of destination.

**Note :**



- A. The export realisable value may be more than what was originally declared to/accepted by Customs on the GR/SDF form in certain circumstances such as where in c.i.f. or c. & f. contracts, part or whole of any freight increase taking place after the contract was concluded is agreed to be borne by buyers or where as a result of subsequent devaluation of the currency of the contract, buyers have agreed to an increase in price.
- B. In cases where the documents are being negotiated by a person other than the exporter who has signed GR/PP/SDF/SOFTEX Form in respect of the concerned consignment of export, authorised dealers may negotiate the documents after ensuring compliance with Regulation 12 of “Export Regulations”.
- C. In certain lines of export trade, final settlement of price may be dependent on the results of quality analysis of samples drawn at the time of shipment; but the results of such analysis will become available only after the shipment has been made. Sometimes, contracts may provide for payment of penalty for late shipment of goods in conformity with trade practice consuming the commodity. In these cases, while exporters declare to Customs the full export value based on the contract price, invoices submitted along with shipping documents for negotiation/collection may reflect a different value arrived at after taking into account the results of analysis of samples or late shipment penalty, as the case may be.

As such variations stem from the terms of contract, authorised dealers may accept them on production of documentary evidence after verifying the arithmetical accuracy of the calculations and on conforming the terms of underlying contracts.

### **C. 3 Trade Discount**

Bills in respect of exports by sea or air which fall short of the value declared on GR/SDF forms on account of trade discount may be accepted for negotiation or collection only if the discount has been declared by exporter on relative GR/SDF form at the time of shipment and accepted by Customs.

### **C. 4 Advance Payments against Exports**

Exporters may receive advance payments (with or without interest) from their overseas buyers. It should, however, be ensured that the shipments made against the advance payments are monitored by the authorised dealer through whom the advance payment is received. The appropriations made against every shipment must be endorsed on the original copy of the inward remittance certificate issued for advance remittance.

**Note :** Purchase of foreign exchange from the market for refunding advance payment credited to EEFC account may be allowed only after utilising the entire balances held in the exporter’s EEFC accounts maintained at different branches/banks.

### **C. 5 Part Drawings**

In certain lines of export trade, it is the practice to leave a small part of the invoice value undrawn for payment after adjustment due to differences in weight, quality, etc. to be ascertained after arrival and inspection, weighment or analysis of the goods. In such cases, authorised dealers may negotiate bills, provided

- (a) the amount of undrawn balance is considered normal in the particular line of export trade, subject to a maximum of 10 per cent of the full export value; and
- (b) an undertaking is obtained from exporter on the duplicate of GR/SDF/PP forms that he will surrender/account for the balance proceeds of the shipment within the period prescribed for realisation.

**Note :** In cases where exporter has not been able to arrange for repatriation of the undrawn balance in spite of best efforts authorised dealers, on being satisfied with the *bona fides* of the case, may submit duplicate copies of GR/PP/SDF forms to Reserve Bank duly certified for the amount actually realised. Authorised dealers should, however, ensure that the exporter has realised at least the value for which the bill was initially drawn (excluding undrawn balances) or 90% of the value declared on GR/PP/SDF form, whichever is more and a period of one year has elapsed from the date of shipment.

### **C. 6 Consignment Exports**

(i) When goods have been exported on consignment basis, authorised dealer, while forwarding shipping documents to his overseas branch/correspondent, should instruct the latter to deliver them only against trust receipt/undertaking to deliver sale proceeds by a specified date within the period prescribed for realisation of proceeds of the export. This procedure should be followed even if, according to the practice in certain trades, a bill for part of the estimated value is drawn in advance against the exports.

(ii) The agents/consignees may deduct from sale proceeds of the goods expenses normally incurred towards receipt, storage and sale of the goods, such as landing charges, warehouse rent, handling charges, etc. and remit the net proceeds to the exporter

(iv) The account sales received from the Agent/Consignee should be verified by the authorised dealer before it is sent to Reserve Bank along with the relative duplicate GR/SDF/PP forms. Deductions in Account Sales should be supported by bills/receipts in original except in case of petty items like postage/cable charges, stamp duty etc.

### **Notes :**

- A. In case of goods exported on consignment basis, freight and marine insurance must be arranged in India.
- B. Reserve Bank, on an application made to it may, permit individual exporters to hire warehouses abroad subject to such terms and conditions as it may stipulate.
- C. Reserve Bank will permit, on application, exporters with satisfactory track record a longer period up to twelve months for realisation of export proceeds for exports on consignment basis made to CIS countries and East European countries financed in any permitted currency.

## **C-7 Despatch of Shipping Documents**

(i) While Authorised dealers should normally despatch shipping documents to their overseas branches/correspondents expeditiously, they may despatch shipping documents direct to the consignees or their agents resident in the country of final destination of goods in cases where advance payment or an irrevocable letter of credit has been received for the full value of the export shipment and the underlying sale contract/letter of credit provides for despatch of documents direct to the consignee or his agent resident in the country of final destination of goods.

(ii) In cases not covered by (i) above also, authorised dealers may accede to the request of the exporter, for despatch of documents for whatever reason, direct to the consignee/agent provided the exporter is a regular customer and the authorised dealer is satisfied, on the basis of standing and track record of the exporter and the arrangements made for realisation of export proceeds, that the request can be acceded to.

(iii) Documents in respect of goods or software which are accompanied with a declaration by the exporter that they are not more than rupees twenty five thousand in value and not declared on GR/SDF/PP/SOFTEX form, in terms of paragraph A.2 may be directly sent by the exporter to the consignee.

(iv) Documents in respect of goods exported against 100% advance remittance, in terms of paragraph C.4 may be directly sent by the exporter to the consignee.

(v) Authorised Dealers may permit 'Status Holder Exporters' (as defined in the EXIM Policy) to despatch the export documents to the consignees outside India subject to the terms and conditions that

(a) the export proceeds are repatriated through the authorised dealer named in the GR Form

and

(b) the duplicate copy of the GR form is submitted to the Authorised Dealer for monitoring purposes, by the exporters within 21 days from the date of export.

## **C.8 Handing Over Negotiable Copy of Bill of Lading to Master of Vessel/Trade Representative**

Authorised dealers may deliver one negotiable copy of the Bill of Lading to the Master of the carrying vessel or trade representative, in respect of exports to certain landlocked countries if the shipment is covered by an irrevocable letter of credit and the documents conform strictly to the terms of the Letter of Credit which, *inter alia*, provides for such delivery.

## **C. 9 Export Bills Register**

- (i) Authorised dealers should maintain Export Bills Register, in physical or electronic form. Details of GR/SDF/PP form number, due date of payment, the fortnightly period of R Supplementary Return with which ENC statement covering the transaction was sent to Reserve Bank and the period of R Supplementary Return with which the duplicate copy of GR/SDF/PP form is submitted to Reserve Bank should be available.
- (ii) Authorised dealers should ensure that all types of export transactions are entered in the Export Bills Register and are given bill numbers on calendar year basis (*i.e.* January to December). The bill numbers should be recorded in ENC statement and other relevant returns submitted to Reserve Bank.

#### **C.10 Follow-up of Overdue Bills**

(i) Authorised dealers should closely watch realisation of bills and in cases where bills remain outstanding, beyond the due date for payment or six months from the date of export, the matter should be promptly taken up with the concerned exporter. If the exporter fails to arrange for delivery of the proceeds, within six months or seek extension of time beyond six months the matter should be reported to Reserve Bank stating, where possible, the reason for the delay in realising the proceeds. The duplicate copies of GR / SDF / PP Forms should, however, continue to be held by authorised dealer until full proceeds are realised except in case of undrawn balances covered by Note under paragraph C 5. Authorised dealers should follow up export outstandings with exporters systematically and vigorously so that action against defaulting exporters does not get delayed. Any laxity in the follow up of realisation of export proceeds by authorised dealers will be viewed seriously by Reserve Bank leading to the invocation of the penal provision under FEMA 1999.

(ii) Units situated in Special Economic Zones (SEZs) are permitted to realise and repatriate to India the full export value of goods or software within a period of twelve months from the date of export.

(iii) Exporters who have been certified as 'Status Holder' in terms of EXIM Policy are permitted to realise and repatriate the full value of export proceeds within a period of 12 months from the date of shipment.

(iv) Authorised dealers should furnish to Reserve Bank, on half-yearly basis, a consolidated statement in Form XOS giving details of all export bills outstanding beyond six months from the date of export as at the end of June and December every year. The statement should be submitted in triplicate within fifteen days from the close of the relative half-year. As regards follow-up of outstanding export proceeds in the case of units located in Special Economic Zones (SEZs), authorised dealers should send a statement in Form XOS containing the details of all export bills outstanding beyond six months from the date of shipment, even though such units in SEZ have been permitted to realise and repatriate the full export value of goods or software to India within twelve months from the date of export. In case of units located in SEZ authorised dealers should indicate "SEZ" in the remarks column of XOS statement.

#### **C. 11 Reduction in invoice value on account of prepayment of usance bills**

Occasionally, exporters may approach authorised dealers for reduction in invoice value on account of cash discount to overseas buyers for prepayment of the usance bills. In such cases authorised dealers may allow cash discount to the extent of amount of proportionate interest on the unexpired period of usance, calculated at the rate of interest stipulated in the export contract or at the prime rate/LIBOR of the currency of invoice where rate of interest is not stipulated in the contract.

### **C. 12 Reduction in Value**

If, after a bill has been negotiated or sent for collection, the amount thereof is desired to be reduced for any reason, authorised dealer may approve such reduction, if satisfied about genuineness of the request, provided :

- a. the reduction does not exceed 10% of invoice value,
- b. it does not relate to export of commodities subject to floor price stipulations,
- c. the exporter is not on the exporters' caution list of Reserve Bank, and
- d. the exporter is advised to surrender proportionate export incentives availed of, if any.

In the case of exporters who have been in the export business for more than three years, reduction in invoice value may be allowed, without any percentage ceiling, subject to the above conditions as also subject to their track record being satisfactory, *i.e.*, the export outstandings do not exceed 5% of the average annual export realisation during preceding three calendar years. For the purpose of reckoning the percentage of outstanding export bills to average export realisations during the preceding three calendar years, outstandings in respect of exports made to countries facing externalisation problems may be ignored provided the payments have been made by the buyers in the local currency.

### **C. 13 Export Claims**

Authorised dealers may remit export claims on application, provided the relative export proceeds have already been realised and repatriated to India and the exporter is not on the caution list of Reserve Bank. In all such cases of remittances, the exporter should be advised to surrender proportionate export incentive, if any, received by him.

### **C.14 Change of buyer/consignee**

Prior approval of Reserve Bank is not required if, after goods have been shipped, they are to be transferred to a buyer other than the original buyer in the event of default by the latter, provided the reduction in value, if any, involved does not exceed 10% and the realisation of export proceeds is not delayed beyond the period of six months from the date of export. Where the reduction in value exceeds 10%, all other relevant conditions stipulated in paragraph C.12 should also be satisfied.

### **C.15 Extension of time limit**

- (i) In cases where an exporter has not been able to realise proceeds of a shipment made within the period prescribed (*i.e.*, within six months from the date of export), for reasons beyond his control, but expects to be able to realise proceeds if extension of the period is allowed to him, necessary application (in duplicate) should be made to the concerned Regional Office of Reserve Bank in form ETX through his authorised dealer with appropriate documentary evidence other than cases referred to in item (ii) below.
- (ii) Reserve Bank of India have permitted authorised dealers to extend without any reference to Reserve Bank of India beyond 6 months from the date of export where the invoice value does not exceed US \$ 1,00,000 subject to following conditions;
  - (a) The Authorised Dealer is satisfied that the exporter has not been able to realise export proceeds for reasons beyond his control
  - (b) The exporter submits a declaration that he will realise the export proceeds during the extended period.
  - (c) The extension may be granted upto a period of 3 months at a time and while considering the extension beyond one year from the date of export the total export outstandings of the exporter should not be more than 10% of the average of export realisations during the preceding 3 financial years.
- (iii) As a temporary measure for a period of one year w.e.f. September 1, 2001, exporters were allowed a period of 360 days from the date of shipment, for realisation and repatriation of full value of goods/software for exports to certain specified countries.
- (iv) Manufacturers/exporters of 6 listed products and having export contracts of Rs.100 crores and above in value term in one year have been allowed w.e.f. 1<sup>st</sup> October 2001, for a period of 365 days from the date of shipment for realisation and repatriation of full value of ` the exports of the products specified.

### **C. 16 Shipments Lost in Transit**

When shipments from India for which payment has not already been received either by negotiation of bills under letters of credit or otherwise are lost in transit, authorised dealer must ensure that insurance claim is made as soon as the loss is known. The duplicate copy of GR/SDF/PP form should be forwarded to Reserve Bank with following particulars :

- a. Amount for which shipment was insured.
- b. Name and address of insurance company.
- c. Place where claim is payable.

In cases where claim is payable abroad, authorised dealer must arrange to collect the full amount of claim due on the lost shipment, through the medium of his overseas branch/correspondent and forward the duplicate copy of GR/SDF/PP form to Reserve Bank only after the amount has been collected. A certificate for the amount of claim received should be furnished on the reverse of the duplicate copy.

**Note :** Sometimes claims on shipments lost in transit are also partially settled directly by shipping companies/airlines under carrier's liability. Authorised dealers should ensure that amounts of such claims if settled abroad are also repatriated to India by exporters.

### **C. 17 Payment of Claims by ECGC**

Where export has been covered by a policy issued by ECGC, settlement of a claim by the Corporation does not absolve the exporter of the statutory obligation undertaken on the GR/SDF/PP form to realise proceeds of the export within prescribed period. In such cases, exporter should, in consultation with ECGC, take all necessary steps for realising the proceeds. Authorised dealers should also continue to hold the duplicate copies of GR/SDF/PP forms in their custody and initiate follow-up measures in the normal manner.

### **C. 18 Write off of Unrealised Export Bills**

(i) An exporter who has not been able to realise the outstanding export dues despite best efforts, may approach the authorised dealer, who had handled the relevant shipping documents, with appropriate supporting documentary evidence with a request for write off of the unrealised portion. Authorised dealers may accede to such requests subject to the undernoted conditions :

- a. The relevant amount has remained outstanding for one year or more;
- b. The aggregate amount of write off allowed by the authorised dealer during a calendar year does not exceed 10% of the total export proceeds realised by the concerned exporter through the concerned authorised dealer during the previous calendar year;
- c. Satisfactory documentary evidence is furnished in support of the exporter having made all efforts to realise the dues;
- d. The case falls under any of the undernoted categories :
  - (i) The overseas buyer has been declared insolvent and a certificate from the official liquidator indicating that there is no possibility of recovery of export proceeds produced;
  - (ii) The overseas buyer is not traceable over a reasonably long period of time;
  - (iii) The goods exported have been auctioned or destroyed by the Port/Customs/Health authorities in the importing country;
  - (iv) The unrealised amount represents the balance due in a case settled through the intervention of the Indian Embassy, Foreign Chamber of Commerce or similar Organisation;
  - (v) The unrealised amount represents the undrawn balance of an export bill (not exceeding 10% of the invoice value) remained outstanding and turned out to be unrealisable despite all efforts made by the exporter;
  - (vi) The cost of resorting to legal action would be disproportionate to the unrealised amount of the export bill or where the exporter even after winning

- the Court case against the overseas buyer could not execute the Court decree due to reasons beyond his control;
- (vii) Bills were drawn for the difference between the letter of credit value and actual export value or between the provisional and the actual freight charges but the amount has remained unrealised consequent on dishonour of the bills by the overseas buyer and there are no prospects of realisation.
- e. The case is not the subject matter of any pending civil or criminal suit;
- f. The exporter has not come to the adverse notice of the Enforcement Directorate or the Central Bureau of Investigation or any such other law enforcement agency;
- g. The exporter has surrendered proportionate export incentives, if any, availed of in respect of the relative shipments.
- (ii) Where there is no further amount to be realised against the GR/SDF/PP form covered by the write off, authorised dealer should submit the duplicate thereof to Reserve Bank along with 'R' return, duly certified, as under :
- “Write off of.....  
(Amount in words and figures)  
permitted in terms of paragraph C.18 of Directions to Authorised Dealers.

Date .....

Stamp & Signature of  
Authorised Dealer

(iii) Status holders exporters (viz. Export Houses, Trading Houses, Star Trading Houses, Superstar Trading Houses) and manufacturer exporters exporting more than 50% of their production, and recognised as such by DGFT, may be permitted to “write off” outstanding export bills upto an annual limit of 5% of their average annual realisations (not turnover) during the preceding three calendar years. The limit of 5% will be cumulatively available in a year and subject to the following conditions.

1. The exporter should submit to the concerned authorised dealer a Chartered Accountant's certificate indicating –

- the export realisation in the preceding three calendar years and also the amount of “write off” already availed of during the year, if any.
- the relevant GR/SDF Nos. to be written off, Bill No., invoice value, commodity exported, country of export,
- the export benefits, if any, availed of by the exporter have been surrendered.

2. It is clarified that the following do not qualify for the “write off” facility :-



- (a) Exports made to countries with externalisation problem i.e. where the overseas buyer has deposited the value of export in local currency but the amount has not been allowed to be repatriated by the central banking authorities of the country.
- (b) GR/SDF forms which are under investigation by agencies like, Enforcement Directorate, Directorate of Revenue Intelligence, Central Bureau of Investigation, etc. as also the outstanding bills which are subject matter of civil / criminal suit.

3. After the “write off” has been permitted authorised dealer may submit the duplicate GR/SDF forms in question to the Reserve Bank along with R-Return, duly certified as under :-

“write off of .....  
(Amount in words and figures)

permitted in terms of AP(DIR Series) Circular No.30 dated April 4, 2001.

Date

Stamp & Signature of  
**Authorised Dealer”**

4. Authorised dealers may note to take into account the amount written off under this facility while arriving at the eligible amount under paragraph C.18 of AP (DIR Series) Circular No.12 of September 9, 2000.

5. Authorised dealers may forward a statement in form EBW to the Regional Office of Reserve Bank under whose jurisdiction they are functioning, indicating details of write offs etc.

### **C. 19 Return of Documents to Exporters**

The duplicate copies of GR/SDF/PP forms and shipping documents, once submitted to authorised dealers for negotiation, collection, etc., should not ordinarily be returned to exporters, except for rectification of errors and resubmission.

### **C.20 Exporters’ Caution List**

Authorised dealers will also be advised whenever exporters are cautioned in terms of provisions contained in Regulation 17 of “Export Regulations”. Authorised dealers should not accept for negotiation/collection shipping documents covering exports declared on GR/SDF/PP forms completed by such exporters nor countersign PP forms completed by them unless the GR/SDF/PP forms bear approval of Reserve Bank.

## **Section D – REMITTANCES CONNECTED WITH EXPORT**

### **D.1 Agency Commission on Exports**

(i) Authorised dealers may allow payment of commission, either by remittance or by deduction from invoice value, on application submitted by the exporter. The remittance on agency commission may be allowed subject to the following conditions:

(a) Amount of commission has been declared on GR/SDF/PP/SOFTEX form and accepted by Customs authorities or Ministry of Information Technology, Government of India / EPZ authorities as the case may be. In cases where the commission has not been declared on GR/SDF/PP/SOFTEX form, remittance thereof may be allowed after satisfying about the reasons adduced by the exporter for not declaring commission on Export Declaration Form, provided a valid agreement/written understanding between the exporter and/or beneficiary for payment of commission subsists.

(b) The relative shipment has already been made.

(ii) Authorised dealers may allow payment of commission by Indian exporters, in respect of their exports covered under counter trade arrangement through Escrow Accounts designated in U.S.dollar, subject to the following conditions :

(a) The payment of commission satisfies the conditions as at (a) and (b) stipulated in paragraph above.

(b) The commission is not payable to Escrow Account holders themselves.

(c) The commission should not be allowed by deduction from the invoice value.

NOTE : Payment of commission is prohibited on exports made by Indian Partners towards equity participation in an overseas joint venture / wholly owned subsidiary as also exports under Rupee Credit Route.

## **D.2 Refund of Export Proceeds**

Refund of export proceeds may be allowed by authorised dealers through whom the proceeds were originally received, provided such goods are re-imported into India on account of poor quality etc. and evidence of re-import has been submitted. In all such cases, exporters should be advised to surrender the proportionate incentives availed of, if any, against the relevant export.

**RESERVE BANK OF INDIA  
(EXCHANGE CONTROL DEPARTMENT)  
CENTRAL OFFICE  
MUMBAI 400 001**

**Notification No.FEMA 23 /2000-RB dated 3rd May 2000**

**( As amended upto 30th June 2002 )**

In exercise of the powers conferred by clause (a) of sub-section (1) and subsection (3) of section 7, sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India makes the following regulations relating to export of goods and services from India, namely:

### **1. Short title and commencement :-**

(i) These Regulations may be called the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000.

(ii) They shall come into force on 1st day of June, 2000.

## **2. Definitions :-**

In these Regulations, unless the context requires otherwise, -

(i) 'Act' means the Foreign Exchange Management Act, 1999 (42 of 1999) ;

(ii) 'authorised dealer' means a person authorised as an authorised dealer under sub-section (1) of section 10 of the Act, and includes a person carrying on business as a factor and authorised as such under the said section 10 ;

(iii) 'Exim Bank' means the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (28 of 1981);

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

(v) 'export value' in relation to export by way of lease or hire-purchase or under any other similar arrangement, includes the charges, by whatever name called, payable in respect of such lease or hire-purchase or any other similar arrangement;

(vi) 'form' means form annexed to these Regulations;

(vii) 'schedule' means schedule appended to these Regulations;

(viii) 'software' means any computer programme, database, drawing, design, audio/video signals, any information by whatever name called in or on any medium other than in or on any physical medium ;

(ix) 'specified authority' means the person or the authority to whom the declaration as specified in Regulation 3 is to be furnished;

(x) 'Working Group' means the Group constituted by the Reserve Bank for the purpose of considering proposals of export of goods and services on deferred payment terms or in execution of a turnkey project or a civil construction contract;

(xi) the words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.

## **3. Declaration as regards export of goods and services :-**

- (1) Every exporter of goods or software in physical form or through any other form, either directly or indirectly, to any place outside India, other than Nepal and Bhutan, shall furnish to the specified authority, a declaration in one of the forms set out in the Schedule and supported by such evidence as may be specified, containing true and correct material particulars including the amount representing -
  - (i) the full export value of the goods or software; or
  - (ii) if the full export value 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 or the software in overseas market, and affirms in the said declaration that the full export value of goods (whether ascertainable at the time of export or not) or the software has been or will within the specified period be, paid in the specified manner.
- (2) Declarations shall be executed in sets of such number as specified.
- (3) For the removal of doubt, it is clarified that, in respect of export of services to which none of the Forms specified in these Regulations apply, the exporter may export such services without furnishing any declaration, but shall be liable to realise the amount of foreign exchange which becomes due or accrues on account of such export, and to repatriate the same to India in accordance with the provisions of the Act, and these Regulations, as also other rules and regulations made under the Act.

#### **4. Exemptions :-**

Notwithstanding anything contained in Regulation 3, export of goods or services may be made without furnishing the declaration in the following cases, namely:

- a) trade samples of goods and publicity material supplied free of payment;
- b) personal effects of travellers, whether accompanied or unaccompanied;
- c) ship's stores, trans-shipment cargo and goods supplied under the orders of Central Government or of such officers as may be appointed by the Central Government in this behalf or of the military, naval or air force authorities in India for military, naval or air force requirements;
- d) goods or software accompanied by a declaration by the exporter that they are not more than twenty five thousand rupees in value;
- e) by way of gift of goods accompanied by a declaration by the exporter that they are not more than one lakh rupees in value;
- f) aircrafts or aircraft engines and spare parts for overhauling and/or repairs abroad

subject to their reimport into India after overhauling /repairs, within a period of six months from the date of their export;

- g) goods imported free of cost on re-export basis;
- h) goods not exceeding U.S.\$ 1000 or its equivalent in value per transaction exported to Myanmar under the Barter Trade Agreement between the Central Government and the Government of Myanmar;
- i) the following goods which are permitted by the Development Commissioner of the Export Processing Zones, *Electronic Hardware Technology Parks*, *Electronic Software Technology Parks* or Free Trade Zones to be re-exported, namely:
  - 1) imported goods found defective, for the purpose of their replacement by the foreign suppliers/collaborators;
  - 2) goods imported from foreign suppliers/collaborators on loan basis;
  - 3) goods imported from foreign suppliers/collaborators free of cost, found surplus after production operations.
- (ia) *goods listed at items (1), (2) and (3) of clause (I) to be re-exported by units in Special Economic Zones, under intimation to the Development Commissioner of Special Economic Zones/concerned Assistant Commissioner or Deputy Commissioner of Customs;*
- j) replacement goods exported free of charge in accordance with the provisions of Exim Policy in force, for the time being.
- k) *goods sent outside India for testing subject to re-import into India;*
- l) *defective goods sent outside India for repair and re-import provided the goods are accompanied by a certificate from an authorised dealer in India that the export is for repair and re-import and that the export does not involve any transaction in foreign exchange;*
- m) exports permitted by the Reserve Bank, on application made to it, subject to the terms and conditions, if any, as stipulated in the permission.

**5. Indication of importer-exporter code number :-**

The importer-exporter code number allotted by the Director General of Foreign Trade under Section 7 of the Foreign Trade (Development & Regulation) Act, 1992 (22 of 1992) shall be indicated on all copies of the declaration forms submitted by the exporter to the specified authority and in all correspondence of the exporter with the authorised dealer or the Reserve Bank, as the case may be.

**6. Authority to whom declaration is to be furnished and the manner of dealing with the declaration :-**

**A. Declaration in Form GR/SDF**

- (1) (i) The declaration in form GR/SDF shall be submitted in duplicate to the Commissioner of Customs.
- (ii) After duly verifying and authenticating the declaration form, the Commissioner of Customs shall forward the original declaration form/data to the nearest office of the Reserve Bank and hand over the duplicate form to the exporter for being submitted to the authorised dealer.

**B. Declaration in Form PP**

- (2) (i) The declaration in form PP shall be submitted in duplicate to the authorised dealer named in the form.
- (ii) The authorised dealer shall, after countersigning the declaration form, hand over the original form to the exporter who shall submit it 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.

**C. Declaration in Form SOTEX**

- (3) (i) The declaration in form SOTEX in respect of export of computer software and audio/video/television software shall be submitted in triplicate to the designated official of Ministry of Information Technology, Government of India at the Software Technology Parks of India (STPIs) or at the Free Trade Zones (FTZs) or Export Processing Zones (EPZs) or Special Economic Zones (SEZs) in India.
- (ii) After certifying all three copies of the SOTEX form, the said designated official shall forward the original directly to the nearest office of the Reserve Bank and return the duplicate to the exporter. The triplicate shall be retained by the designated official for record.

**D. Submission of duplicate declaration forms to the Reserve Bank**

On realisation of the export proceeds, the authorised dealer shall, after due certification, submit the duplicate of the GR/SDF, PP or as the case may be, SOTEX form to the nearest office of the Reserve Bank.

**7. Evidence in support of declaration :-**

The Commissioner of Customs or the postal authority or the official of Ministry of Information Technology to whom the declaration form is submitted, may, in order to satisfy themselves of due compliance with Section 7 of the Act and these regulations, require such evidence in support of the declaration as may establish that -

- a) the exporter is a person resident in India and has a place of business in India;

- b) the destination stated on the declaration is the final place of the destination of the goods exported;
- c) the value stated in the declaration represents -
  - 1) the full export value of the goods or software; or
  - 2) where the full export value of the goods or software 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 the overseas market.

**Explanation :**

For the purpose of this regulation, 'final place of destination' means a place in a country in which the goods are ultimately imported and cleared through Customs of that country.

**8. Manner of payment of export value of goods :-**

Unless otherwise authorised by the Reserve Bank, the amount representing the full export value of the goods exported shall be paid through an authorised dealer in the manner specified in the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000.

**Explanation :**

For the purpose of this regulation, re-import into India, within the period specified for realisation of the export value, of the exported goods in respect of which a declaration was made under Regulation 3, shall be deemed to be realisation of full export value of such goods.

**9. Period within which export value of goods/software to be realised :-**

The amount representing the full export value of goods or software exported shall be realised and repatriated to India within six months from the date of export :

Provided that where the goods are exported to a warehouse established outside India with the permission of the Reserve Bank, the amount representing the full export value of goods exported shall be paid to the authorised dealer as soon as it is realised and in any case within fifteen months from the date of shipment of goods;

Provided further that the Reserve Bank, or subject to the directions issued by that Bank in this behalf, the authorised dealer may, for a sufficient and reasonable cause shown, extend the said period of six months or fifteen months, as the case may be.

**Explanation :**

For the purpose of this regulation, the "date of export" in relation to the export of software in other than physical form, shall be deemed to be the date of invoice covering such export.

(2) (a) *Where the export of goods or software has been made by a unit situated in a Special Economic Zone or by a Status Holder Exporter, as defined in the Exim Policy in force, then notwithstanding anything contained in sub-regulation (1), the amount representing the full export value of goods or software shall be realised and repatriated to India within twelve months from the date of export;*

***Provided that** the Reserve Bank may for a sufficient and reasonable cause shown, extend the said period of twelve months*

*(b) The Reserve Bank may for reasonable and sufficient cause direct that the unit shall cease to be governed by sub-regulation (2):*

*Provided that no such direction shall be given unless the unit has been given a reasonable opportunity to make a representation in the matter;*

*(c) On such direction, the unit shall be governed by the provisions of sub-regulation (1), until directed otherwise by the Reserve Bank.*

#### **10. Export on Elongated Credit Terms :-**

No person shall enter into any contract to export goods on the terms which provide for a period longer than six months for payment of the value of the goods to be exported :

Provided that the Reserve Bank may, for reasonable and sufficient cause shown, grant approval to enter into a contract on such terms.

#### **11. Submission of export documents :-**

The documents pertaining to export shall, within 21 days from the date of export as, as the case may be, from the date of certification of SOFTEX form, be submitted to the authorised dealer mentioned in the relevant declaration form:

Provided that, subject to the directions issued by the Reserve Bank from time to time, the authorised dealer may accept the documents pertaining to export submitted after the expiry of the specified period of 21 days, for reasons beyond the control of the exporter.

#### **12. Transfer of documents :-**

Without prejudice to Regulation 3, an authorised dealer may accept, for negotiation or collection, shipping documents including invoice and bill of exchange covering exports, from his constituent (not being a person who has signed the declaration in terms of Regulation 3) :

Provided that before accepting such documents for negotiation or collection, the authorised dealer shall -

a) Where the value declared in the declaration does not differ from the value shown in



the documents being negotiated or sent for collection, or

- b) Where the value declared in the declaration is less than the value shown in the documents being negotiated or sent for collection,

require the constituent concerned also to sign such declaration and thereupon such constituent shall be bound to comply with such requisition and such constituent signing the declaration shall be considered to be the exporter for the purposes of these Regulations to the extent of the full value shown in the documents being negotiated or sent for collection and shall be governed by these Regulations accordingly.

### **13. Payment for the Export :-**

In respect of export of any goods or software for which a declaration is required to be furnished under Regulation 3, no person shall except with the permission of the Reserve Bank or, subject to the directions of the Reserve Bank, permission of an authorised dealer, do or refrain from doing anything or take or refrain from taking any action which has the effect of securing -

- (i) That the payment for the goods or software is made otherwise than in the specified manner; or
- (ii) That the payment is delayed beyond the period specified under these Regulations; or
- (iii) that the proceeds of sale of the goods or software exported do not represent the full export value of the goods or software subject to such deductions, if any, as may be allowed by the Reserve Bank or, subject to the directions of the Reserve Bank, by an authorised dealer;

Provided that no proceedings in respect of contravention of these provisions shall be instituted unless the specified period has expired and payment for the goods or software representing the full export value, or the value after deductions allowed under clause (iii), has not been made in the specified manner within the specified period.

### **14. Certain Exports requiring prior approval :-**

#### **A. Export of goods on lease, hire, etc.**

No person shall, except with the prior permission of the Reserve Bank, take or send out by land, sea or air any goods from India to any place outside India on lease or hire or under any arrangement or in any other manner other than sale or disposal of such goods.

#### **B. Exports under trade agreement/rupee credit etc.**

- (i) Export of goods under special arrangement between the Central Government and Government of a foreign state, or under rupee credits extended by the Central Government to Govt. of a foreign state shall be governed by the terms and conditions

set out in the relative public notices issued by the Trade Control Authority in India and the instructions issued from time to time by the Reserve Bank.

- (ii) An export under the line of credit extended to a bank or a financial institution operating in a foreign state by the Exim Bank for financing exports from India, shall be governed by the terms and conditions advised by the Reserve Bank to the authorised dealers from time to time.

**C. Counter Trade**

Any arrangement involving adjustment of value of goods imported into India against value of goods exported from India, shall require prior approval of the Reserve Bank.

**15. Delay in Receipt of Payment :-**

Where in relation to goods or software export of which is required to be declared on the specified form, the specified period has expired and the payment therefor has not been made as aforesaid, the Reserve Bank may give to any person who has sold the goods or software or who is entitled to sell the goods or software or procure the sale thereof, such directions as appear to it to be expedient, for the purpose of securing, (a) the payment therefor if the goods or software has been sold and (b) the sale of goods and payment thereof, if goods or software has not been sold or re-import thereof into India as the circumstances permit, within such period as the Reserve Bank may specify in this behalf ;

Provided that omission of the Reserve Bank to give directions shall not have the effect of absolving the person committing the contravention from the consequences thereof.

**16. Advance payment against exports :-**

- (1) Where an exporter receives advance payment (with or without interest), from a buyer outside India, the exporter shall be under an obligation to ensure that -
  - i) the shipment of goods is made within one year from the date of receipt of advance payment;
  - ii) the rate of interest, if any, payable on the advance payment does not exceed London Inter-Bank Offered Rate (LIBOR) + 100 basis points, and
  - iii) the documents covering the shipment are routed through the authorised dealer through whom the advance payment is received;

Provided that in the event of the exporter's inability to make the shipment, partly or fully, within one year from the date of receipt of advance payment, no remittance towards refund of unutilised portion of advance payment or towards payment of interest, shall be made after the expiry of the said period of one year, without the prior approval of the Reserve Bank.

- (2) Notwithstanding anything contained in clause (i) of sub-regulation (1), where the

export agreement provides for shipment of goods extending beyond the period of one year from the date of receipt of advance payment, the exporter shall require the prior approval of the Reserve Bank.

**17. Issue of directions by Reserve Bank in certain cases :-**

- (1) Without prejudice to the provisions of Regulation 3 in relation to the export of goods or software which is required to be declared, the Reserve Bank may, for the purpose of ensuring that the full export value of the goods or, as the case may be, the value which the exporter having regard to the prevailing market conditions expects to receive on the sale of goods or software in the overseas market, is received in proper time and without delay, by general or special order, direct from time to time that in respect of export of goods or software to any destination or any class of export transactions or any class of goods or software or class of exporters, the exporter shall, prior to the export, comply with the conditions as may be specified in the order, namely ;
  - a) that the payment of the goods or software is covered by an irrevocable letter of credit or by such other arrangement or document as may be indicated in the order ;
  - b) that any declaration to be furnished to the specified authority shall be submitted to the Reserve Bank for its prior approval, which may, having regard to the circumstances, be given or withheld or may be given subject to such conditions as the Reserve Bank may deem fit to impose ;
  - c) that a copy of the declaration to be furnished to the specified authority shall be submitted to such authority or organisation as may be indicated in the order for certifying that the value of goods or software specified in the declaration represents the proper value thereof.
- (2) No direction under sub-regulation (1) shall be given, and no approval under clause (b) of that sub-regulation shall be withheld by the Reserve Bank, unless the exporter has been given a reasonable opportunity to make a representation in the matter.

**18. Project exports**

Where an export of goods or services is proposed to be made on deferred payment terms or in execution of a turnkey project or a civil construction contract, the exporter shall, before entering into any such export arrangement, submit the proposal for prior approval of the approving authority, which shall consider the proposal in accordance with the guidelines issued by the Reserve Bank from time to time.

**Explanation:**

For the purpose of this Regulation, 'approving authority' means the Working Group or the Exim Bank or the authorised dealer

**(P.R. GOPALA RAO)**  
Executive Director

**Schedule**  
**( Refer to Regulation 3)**

- Form **GR**: To be completed in duplicate for export otherwise than by Post including export of software in physical form i.e. magnetic tapes/discs and paper media.
- Form **SDF**: To be completed in duplicate and appended to the shipping bill, for exports declared to Customs Offices notified by the Central Government which have introduced Electronic Data Interchange (EDI) system for processing shipping bills notified by the Central Government.
- Form **PP**: To be completed in duplicate for export by Post.
- Form **SOFTEX**: To be completed in triplicate for declaration of export of software otherwise than in physical form, i.e. magnetic tapes/discs, and paper media.