

Import of Goods and Services into India

Master Circular No. 4 / 2003-04

July 1, 2003
Updated Up to December 31

2003

To

All Authorised Dealers in Foreign Exchange

Madam / Dear Sirs,

Master Circular – Import of Goods and Services into India

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 and Notification No G.S.R. 442 dated October 22,

2002. A copy of the Notification (as amended upto October 22, 2002) is annexed.

2. Reserve Bank had issued various circulars containing directions for authorised dealers for import of goods and services into India.

3. In order to enable the Authorised Dealers (ADs) to have all the existing instructions on the subject of "**Import of Goods and Services into India**" as on July 1, 2003, at one place, this Master Circular has been prepared.

Yours faithfully,

(Grace Koshie)
Chief General Manager

Master Circular for Import of Goods and Services into India

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PART I

Introduction

1. Import trade is regulated by the Directorate General of Foreign Trade(DGFT) under Ministry of Commerce & Industry, Department of Commerce, Government of India. Authorised dealers, while undertaking import transactions, should ensure that the imports into India are in conformity with the Export Import Policy in force and Foreign Exchange Management (Current Account Transactions) Rules, 2000 framed by Government of India vide Notification No. G.S.R.381 (E) dated May 3, 2000 and the directions issued by Reserve Bank under Foreign Exchange Management Act from time to time.
2. Authorised dealers should follow normal banking procedures and adhere to the provisions of Uniform Customs and Practices for Documentary Credits (UCPDC), etc. while opening letters of credit for import into India on behalf of their constituents. In respect of import of drawings and designs, compliance with the provisions of Research & Development Cess Act, 1986 may be ensured. Authorised dealers may also advise importers to ensure compliance with the provisions of Income Tax Act, wherever applicable

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.

3. 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.

Purpose of Remittance	Ministry/Department of Govt. of India whose approval is required
1. Cultural Tours	Ministry of 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. Deleted	-
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\$ 100,000	Ministry of Human Resources Development (Department of Youth Affairs and Sports)
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)

- **Item 6 deleted vide Gazette Notification No G.S.R.442 dated October 22,2002.**

**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).
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\$ 5,000 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. ALIGN="JUSTIFY">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.

*18. Remittance of hiring charges of transponders.

@ Limit of US\$

5000 since raised to US\$10000 vide AP(DirSeries) circular No 51 dated Nov 18, 2002.

*** Inserted vide Gazette Notification No G.S.R. 442 dated October 22, 2002.**

PART III

NAME="sec_a">Section A

IMPORT OF GOODS

A.1 General

Rules and Regulations from the Exchange Control angle to be followed by the authorised dealers while undertaking import payment transactions on behalf of their clients are set out in the

following paragraphs. Where specific regulations do not exist, authorised dealers may be governed by normal trade practices. Authorised dealers may particularly note to adhere to "Know Your Customer" (KYC) guidelines issued by Reserve Bank (Department of Banking Operations & Development) in all their dealings.

A.2 Form A 1

Applications by persons, firms and companies for making payments, exceeding USD 500 or its equivalent, towards imports into India must be made on appropriate form A 1.

A.3 Import Licences

Authorised dealers may freely open

letters of credit and allow remittances for import of goods unless they are included in the negative list requiring licence under the EXIM Policy in force. In such cases, licences marked 'For Exchange Control purposes' should be called for and special conditions, if any, attached to such licences adhered to. Exchange Control copy of the import licence submitted by importer for opening of Letter of Credit or making remittance, when fully utilised, should be retained by authorised dealers and may be preserved till its scrutiny by the internal auditors or inspectors is completed.

A.4 Obligation of Purchaser of Foreign Exchange

i. In terms of Section 10(6) of the Foreign Exchange Management Act, 1999 (FEMA), any person acquiring foreign exchange is permitted to use it either for the purpose mentioned in the declaration made by him to an authorised dealer under Section 10(5) of the Act or to use it for any other purpose for which acquisition of exchange is permissible under the said Act, or Rules or Regulations framed thereunder.

ii. Where foreign exchange acquired has been utilised for import of goods into India the authorised dealer should ensure that importer furnishes an evidence of import to his satisfaction, as laid down in paragraph

A.10.

iii. In addition to the permitted methods of payment for imports laid down in Notification No. FEMA 14/2000-RB dated 3rd May 2000, payment for import can also be made by way of credit to non-resident account of the overseas exporter maintained with a bank in India. In such cases also authorised dealer should ensure compliance with the instructions contained in sub-paragraphs (i) and (ii) above.

A.5 Time Limit for Settlement of Import Payments

ALIGN="JUSTIFY">In terms of the extant regulations, remittances against imports should be completed not later than six months from the date of shipment except in cases where amounts are withheld towards guarantee of performance etc. Deferred payment arrangements including payments

beyond a period of six months from date of shipment are treated as External Commercial Borrowings (ECBs) for which the procedure given below may be followed:-

(i.) Authorised Dealers may approve proposals received in Form [ECB](#) (format enclosed) for short term credit for financing, by way of either Suppliers' Credit or Buyers' Credit, of **import of goods into India**, provided :

a The credit is being extended for a **period of less than three years**,

b The amount of credit does not exceed USD 20 million, per import transaction

c The 'all-in-cost' per annum, payable for the credit does **not exceed LIBOR +50 basis points for credit upto one year and LIBOR + 125 basis points for credits for periods beyond one year but less than three years**, for the currency of credit.

d Authorised dealers may issue approval by way of a letter on the lines of Annexure – I and ensure submission of ECB-5 statement as hitherto.

e International Banking Division of the authorised dealer may furnish the details of approvals granted by all its branches, during the month, in the [Form ECB-ST](#) (format enclosed) to the Chief General Manager, Exchange Control Department,

Reserve Bank of India, Central Office, External commercial Borrowing (ECB) Division, Mumbai - 400 001, so as to **reach not later than 5th of the following month**. Each credit may be given a unique Identification number by the authorised dealers. The loan Identification number allotted to the loan/credit should invariably be quoted in all the references made to RBI.

f. All applications, in form ECB, for availing of short term credit for amount **exceeding USD 20 million** for any import transaction may be forwarded to the Chief General Manager, Exchange Control Department, Reserve Bank of India, Central Office, External commercial Borrowing (ECB) Division, Mumbai-400 001.

(ii.) Authorised dealers may permit settlement of import dues delayed due to disputes, financial difficulties etc. Interest in respect of such delayed payments may be permitted in terms of the directions in para A.7 below.

NOTE: Remittances against import of books may be allowed without restriction as to time limit, provided, interest payment, if any, is as per the instructions in para A.7

A.6 Advance Remittance

Authorised dealers may allow advance remittance for import of goods without any ceiling subject to the following conditions :

- a. If the amount of advance remittance exceeds USD 100,000 or its equivalent, an unconditional, irrevocable standby Letter of Credit or a guarantee from an international bank of repute situated outside India or a guarantee of an authorised dealer in India, if such a guarantee is issued against the counter-guarantee of an international bank of repute situated outside India, is obtained.
- b. Physical import of goods into India is made within six months (three years in case of capital goods) from the date of remittance and the importer gives an undertaking to furnish documentary evidence of import within fifteen days from the close of the relevant period.
- c. In the event of non-import of goods, authorised dealer should ensure that the amount of advance remittance is repatriated to India or is utilised for any other purposes for which release of exchange is permissible under the Act, Rules or Regulations made thereunder.

A.7 Interest on Import Bills

Authorised dealers may allow payment of interest on usance bills or overdue interest **for a period of less than three years** from the date of shipment at the rates prescribed in para A.5 above.

A.8 Remittances against Replacement Imports

Where goods are short-supplied, damaged, short-landed or lost in transit and the Exchange Control copy of the import licence has already been utilised to cover the opening of a letter of credit against the original goods which have been lost, the original endorsement to the extent of the value of the lost goods may be cancelled by authorised dealers and fresh remittance for replacement imports permitted without reference to Reserve Bank, provided the insurance claim relating to the lost goods has been settled in favour of the importer. It may be ensured that the consignment being replaced is shipped within the validity period of the licence.

A.9 Guarantee for Replacement Import

In case replacement goods for defective import are being sent by the overseas supplier before the defective goods imported earlier are reshipped out of India, authorised dealers may issue guarantees at the request of importer client for despatch/return of the defective goods, according to their commercial judgement.

A.10.1 Evidence of Import

- i. In case of all imports, where value of foreign exchange remitted/paid for import into India exceeds USD 25,000 or its equivalent, it is obligatory on the part of the authorised dealers through whom the relative remittance was made, to ensure that the importer submits :-
 - a. the Exchange Control copy of the Bill of Entry for home consumption, or
 - b. in case of 100% Export Oriented Units the Exchange Control copy of the Bill of Entry for warehousing, or
 - c. Customs Assessment Certificate or Postal Appraisal Form, as declared by the importer to the Customs Authorities, where import has been made by post, as an evidence that the goods for which the payment was made have actually been imported into India.
- ii. Where imports are made in non-physical form, i.e., software or data through internet/datacom channels and drawings and designs through e-mail/fax, a certificate from a Chartered Accountant that the software/data/ drawing/ design has been received by the importer, may be obtained.

Note: Authorised dealers should advise importers to keep Customs Authorities informed of the imports made by them under this clause.

- iii. In respect of imports on D/A basis, authorised dealers should insist on production of evidence of import at the time of effecting remittance of import bill. However, if importers fail to produce documentary evidence due to genuine reasons such as non-arrival of consignment, delay in delivery/customs clearance of consignment, etc., authorised dealers may, if satisfied with the genuineness of request, allow reasonable time, not exceeding three months from the date of remittance, to the importer to submit the evidence of import.
- iv. Authorised dealers should acknowledge receipt of evidence of import e.g. Exchange Control copy of the Bill of Entry, Postal Appraisal Form or Customs Assessment Certificate, etc., from importers by issuing acknowledgement slips containing all relevant particulars relating to the import transactions.
- v. Internal inspectors or auditors (including external auditors appointed by authorised dealers) should carry out 100 per cent verification of the documents evidencing import, e.g. Exchange Control copies of Bills of Entry or Postal Appraisal Forms or Customs Assessment Certificates, etc.,
- vi. Documents evidencing import into India should be preserved by authorised dealers for a period of one year from the date of its verification. However, in respect of cases which are under investigation by investigating agencies, the documents may be destroyed **only** after obtaining clearance from the investigating agency concerned.

A.10.2 Authorised dealers may accept either Exchange Control copy of Bill of Entry for home consumption or a certificate from the Chief Executive Officer (CEO) or auditor of the company that the goods for which remittance was made have actually been imported into India provided :-

- i. the amount of foreign exchange remitted is less than USD 1,00,000 or its equivalent,
- ii. the importer is a company listed on a stock exchange in India and whose net worth is not less than Rs.100 crores as on the date of its last audited balance sheet,

or

ALIGN="JUSTIFY">the importer is a public sector company or an undertaking of the Government of India or its departments.

The above facility may also be extended to autonomous bodies, including scientific bodies/academic institutions, such as Indian Institute of Science / Indian Institute of Technology etc. whose accounts are audited by the Comptroller and Auditor General of India(CAG). Authorised dealers may insist on a declaration from the auditor/CEO of such institutions that their accounts are audited by CAG.

A.11 Follow up for Import Evidence

- i. In case an importer does not furnish any documentary evidence of import, as required under paragraphs A.10.1 & 2 above, within 3 months from the date of remittance involving foreign exchange exceeding USD 25,000, the authorised dealer should rigorously follow-up for the next 3 months, including issue of registered letters to the importer.
- ii. Authorised dealers should forward to Reserve Bank a statement on half- yearly basis as at the end of June

& December of every year, in form [BEF](#) (format enclosed) furnishing details of import transactions, exceeding USD 25,000 in respect of which importers have defaulted in submission of appropriate document evidencing

import within 6 months from the date of remittance. The said half-yearly statement should be submitted to the Regional Office of Reserve Bank under whose jurisdiction the authorised dealer is functioning, within 15 days from the close of the half-year to which the statement

relates.

A.12 Receipt of import Bills/Documents

- i. Import bills and documents should be received from the banker of the supplier by the banker of the importer in India. Authorised dealers should not, therefore, make remittances where import bills have been received directly by the importers from the overseas supplier, except in the following cases:
 - a. Where the value of import bill does not exceed USD 10,000.
 - b. Import bills received by wholly-owned Indian subsidiaries of foreign companies from their principals.
 - c. Import bills received by Super Star Trading Houses, Star Trading Houses, Trading Houses, Export Houses, 100% Export Oriented Units/ Units in Free Trade Zones, Public Sector Undertakings and Limited Companies.
 - d. Where the value of import bill does not exceed USD 25,000 in respect of import of -
 - i. books and magazines
 - ii. life saving drugs/equipments by Hospitals, etc. and
 - iii. imports by reputed research and other development institutions like Tata Institute of Fundamental Research, C-DOT, Indian Institute of Technology, Indian Institute of Science and Universities.
 - e. Import bills received by all limited companies viz. public limited, deemed public limited and private limited companies.

- ii. In all other cases, at the request of importer clients, authorised dealers may receive bills direct from the overseas supplier up to USD 25,000 (U.S. Dollars Twenty five thousand only), provided the authorised dealer is fully satisfied about the financial standing/status and track record of the importer customer. Before extending the facility,

authorised dealer should obtain report on each individual overseas supplier from the overseas banker or reputed credit agency.

A.13 Import of Gold/Platinum/Silver by Nominated Banks/Agencies

- i. Import of gold on consignment basis

Gold may be imported by the nominated agencies/banks on consignment basis where the

ownership will remain with the supplier and the importer (consignee) will be acting as an agent of the supplier (consignor). Remittances towards the cost of import shall be made as and when sales take place and in terms of the provisions of agreement entered into between the overseas supplier and nominated agency/bank.

- ii. Import of gold on unfixed price basis

The nominated agency/bank may import gold on outright purchase basis subject to the condition that although ownership of the gold shall be passed on to the importer at the time of import itself, the price of gold shall be fixed later, as and when the importer sells the gold to the users.

NOTE : Instructions contained in this paragraph would also apply to import of platinum and silver.

A.14 Import factoring

Authorised dealers may enter into arrangements with international factoring companies of repute, preferably members of Factors Chain International, without approval of Reserve Bank. However, authorised dealers will have to ensure compliance with the extant exchange control directions relating to imports, EXIM policy in force and any other guidelines/directives issued by Reserve Bank in this regard.

Section-B

Merchanting Trade

Authorised dealers may take necessary precautions in handling merchanting trade transactions or intermediary trade transactions to ensure that (a) goods involved in the transactions are permitted to be imported into India, (b) such transactions do not involve foreign exchange outlay for a period exceeding three months, and (c) all rules, regulations and directions applicable to export out of India (except Export Declaration Form) are complied with in respect of the export leg and all rules, regulations and directions applicable to import (except Bill of Entry) are complied with in respect of the import leg of merchanting trade transactions. Authorised dealers are also required to ensure timely receipt of payment for the export leg of such transactions.

Authorized Dealers may note that short-term credit either by way of suppliers' credit or buyers' credit is not available for merchanting trade or intermediary trade transactions. While undertaking bonafide merchanting trade

transactions on behalf of their trader clients, authorized dealers should ensure that the terms of payment for the import leg and the export leg of the transactions are such that

- i. the liability for the import leg of the transaction is extinguished by the payment received for the export leg of the transaction, without any delay and
- ii. the entire merchant trade transaction is completed within a period of 6 months.

Section – C

Import of Currency

Import of currency, including cheques, is governed by clause (g) of sub-section (3) of Section 6 of the Foreign Exchange Management Act, 1999, and the Foreign Exchange Management (Export and Import of Currency) Regulations 2000, made by Reserve Bank vide Notification No.FEMA 6/RB- 2000 dated May 3, 2000 and No.FEMA 38/RB-2001 dated February 27, 2001.