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Basic Chemicals, Cosmetics & Dyes Export Promotion Council
(Set up by the Ministry of Commerce & Industry Government of India)



Understanding FEMA Regulations for Exports



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03.01.2025



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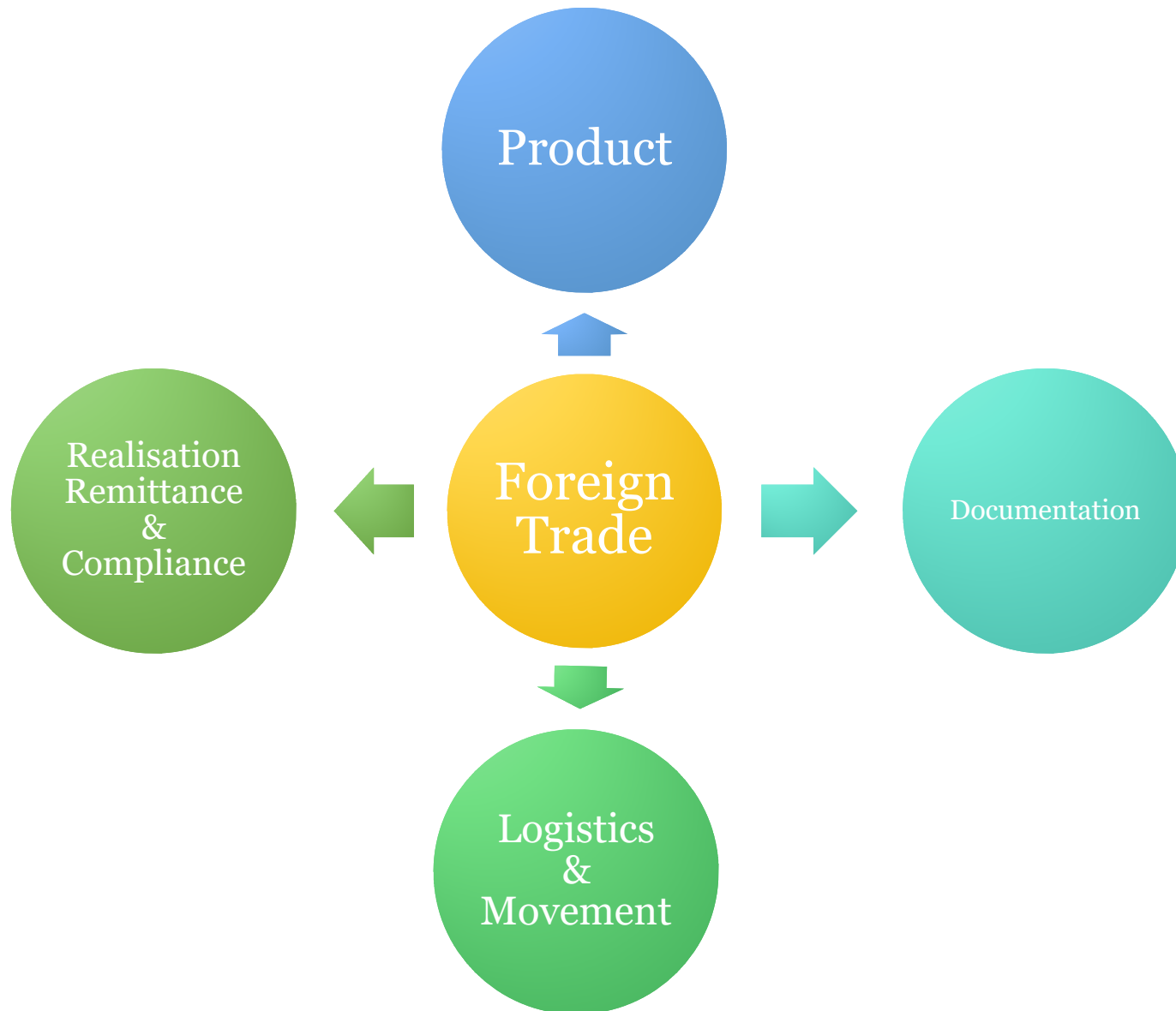
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**UNIVERSAL
CONNECTIONS**

Supporting Export Import Trade

Various Aspects of Foreign Trade:





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Supporting Export Import Trade

Compliance:





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Supporting Export Import Trade

Various Compliances / Agencies:





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Supporting Export Import Trade

The Foreign Exchange Management Act, 1999 (FEMA)



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1. Master Direction – Export of Goods and Services

2. Master Direction – Import of Goods and Services





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Master Direction – Export of Goods and Services

(RBI/FED/2015-16/11 FED Master Direction No. 16/2015-16)

Updated as on August 29, 2024



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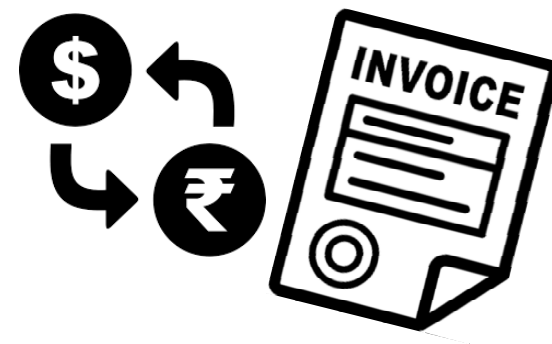


Master Direction on Export - Invoicing of export contracts (A.1.v)

There is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy 2023.

“All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency.”

However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.”





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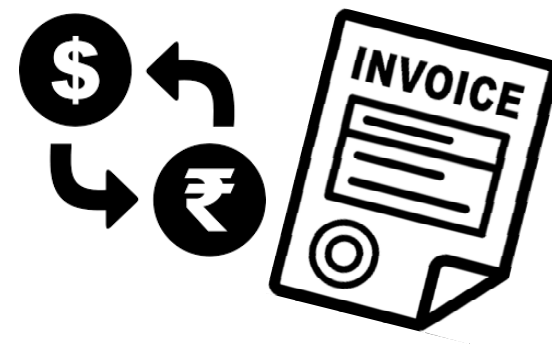
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Master Direction on Export - Invoicing of export contracts (A.1.v)

Additionally, rupee payment through **Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account**. Free foreign exchange remitted by buyer to his non-resident bank (after deducting bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.

(d) Invoicing, payment and settlement of exports and imports is also permissible in INR subject to compliances as under RBI's A.P. (DIR Series) Circular No.10 dated 11th July, 2022. Accordingly, settlement of trade transactions in INR shall take place through the **Special Rupee Vostro Accounts** opened by AD banks in India as permitted under Regulation 7(1) of Foreign Exchange Management (Deposit) Regulations, 2016, in accordance to the procedures





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Master Direction on Export - Exchange Earners' Foreign Currency Account (EEFC Account) (A.6)

- (i) A person resident in India may open with, an AD Category – I bank in India, an account in foreign currency called the **Exchange Earners' Foreign Currency (EEFC) Account**, in terms of 12Regulation 4 (D) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations, 2015 dated January 21, 2016.
- (iii) This account shall be maintained only in the form of **non-interest bearing current account**. No credit facilities, either fund-based or non-fund based, shall be permitted against the security of balances held in EEFC accounts by the AD Category – I banks.
- (iv) All categories of foreign exchange earners are allowed to credit **100% of their foreign exchange earnings to their EEFC Accounts subject to the condition that**
- a) **The sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments**
 - b) The facility of EEFC scheme is intended to enable exchange earners to save on conversion/transaction costs while undertaking forex transactions. This facility is not intended to enable exchange earners to maintain assets in foreign currency, as India is still not fully convertible on Capital Account.



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Master Direction on Export - Submission of Export Documents {B.2}

- (i) The shipping bill shall be submitted in duplicate to the authority concerned (Commissioner of Customs or the SEZ, if the export is made through it).
- (ii) After verifying and authenticating, the authority concerned shall hand over to the exporter, one copy of the shipping bill marked 'Exchange Control (EC) Copy' for being submitted to the **AD bank within 21 days from the date of export** for collection/negotiation of shipping documents. However, in cases where EC copy of shipping bill is not printed in terms of CBEC's Circular No. 55/2016-Customs dated November 23, 2016 and data of shipping bill is integrated with EDPMS, requirement of submission of EC copy of shipping bill with the AD bank would not be there.



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Master Direction on Export - Delay in Submission of Export Documents {C.7}

In cases where exporters' present documents pertaining to exports after the **prescribed period of 21 days** from date of export, AD Category – I banks may handle them without prior approval of the Reserve Bank, **provided they are satisfied with the reasons for the delay.**



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Master Direction on Export -

Third party export proceeds

Realization of export proceeds in respect of export of goods / software from third party should be duly declared by the exporter in the appropriate declaration form.

{B.8}

Random verification

In all the above procedures, AD Category – I bank should ensure, by random check of the relevant duplicate forms by their internal / concurrent auditors, that non-realization or short realization allowed, if any, is within the powers delegated to them or has been duly approved by the Reserve Bank, wherever necessary.

{B.9}



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Master Direction on Export - EDF Approval for Trade Fair / Exhibitions Abroad -

C.3

Firms / Companies and other organizations participating in Trade Fair/ Exhibition abroad can take/export goods for exhibition and sale outside India without the prior approval of the Reserve Bank. Unsold exhibit items may be sold outside the exhibition/trade fair in the same country or in a third country. Such sales at discounted value are also permissible. It would also be permissible to 'gift' unsold goods up to the value of USD 5000 per exporter, per exhibition/trade fair. AD Category – I banks may approve EDF 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 exporter shall report to the AD Category – I banks the method of disposal of all items exported, as well as the repatriation of proceeds to India.
- (iii) Such transactions approved by the AD Category – I banks will be subject to 100 per cent audit by their internal inspectors/auditors.



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Master Direction on Export - EDF Approval for export of goods for re-imports- **C.4**

(i) AD Category – I banks may consider request from exporters for granting EDF approval in cases where goods are being exported for re-import after repairs / maintenance / testing / calibration, etc., subject to the condition that the exporter shall produce relative Bill of Entry within one month of re-import of the exported item from India.

(ii) Where the goods being exported for testing are destroyed during testing, AD Category – I banks may obtain a certificate issued by the testing agency that the goods have been destroyed during testing, in lieu of Bill of Entry for import. .



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Master Direction on Export - Direct dispatch of documents by the exporter - **C.10**

(i) AD Category – I banks should normally dispatch shipping documents to their overseas branches/correspondents expeditiously. However, they may **dispatch shipping documents direct to the consignees or their agents** resident in the country of final destination of goods in cases where:

a) **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 dispatch of documents direct to the consignee or his agent resident in the country of final destination of goods.

b) The AD Category – I banks may also accede to the request of the exporter provided the exporter is a regular customer and the AD Category – I bank is satisfied, on the basis of standing and track record of the exporter and arrangements have been made for realization of export proceeds.

(ii) AD Category – I banks may also permit **'Status Holder Exporters' (as defined in the Foreign Trade Policy), and units in Special Economic Zones (SEZ) to dispatch the export documents to the consignees outside India** subject to the terms and conditions that:

a) The export proceeds are repatriated through the AD banks named in the EDF.

b) The duplicate copy of the EDF is submitted to the AD banks for monitoring purposes, by the exporters within 21 days from the date of shipment of export.



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Master Direction on Export - Reduction in Invoice Value - **C.17**

- (i) If, after a bill has been negotiated or sent for collection, its amount is to be reduced for any reason, AD Category – I banks may approve such reduction, if satisfied about genuineness of the request, provided:
 - a) The reduction does not exceed 25 per cent 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 the Reserve Bank,
 - d) The exporter is advised to surrender proportionate export incentives availed of, if any.
- (ii) 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 outstanding do not exceed 5 per cent of the average annual export realization during the preceding three financial years.
- (iii) For the purpose of reckoning the percentage of export bills outstanding to the average export realizations during the preceding three financial years, outstanding of exports made to countries facing externalization problems may be ignored provided the payments have been made by the buyers in the local currency



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Master Direction on Export - Change of buyer/consignee- **C.18**

Prior approval of the 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 25 per cent of the invoice value and the realization of export proceeds is not delayed beyond the period of 9 months from the date of export.**

Where the reduction in value exceeds 25%, all other relevant conditions stipulated in paragraph C.17 should also be satisfied



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Master Direction on Export - Realization and repatriation of proceeds of export of goods / software / services - **A.2**

It is obligatory on the part of the exporter to realise and repatriate the full value of goods / software / services to India within a stipulated period from the date of export, as under:

(i) It has been decided in consultation with the Government of India that the period of realization and repatriation of **export proceeds shall be nine months from the date of export** for all exporters including Units in Special Economic Zones (SEZs), Status Holder Exporters, Export Oriented Units (EOUs), Units in Electronic Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) & Bio-Technology Parks (BTPs) until further notice.

(ii) In view of the outbreak of pandemic COVID-19, it has been decided, in consultation with the Government of India, to increase the period of realization and repatriation to India of the amount representing the full export value of goods or software or services exported, from nine months to fifteen months from the date of export, for the exports made up to or on July 31, 2020.

(iii) For goods exported to a warehouse established outside India, the proceeds shall be realised within fifteen months from the date of shipment of goods.



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Master Direction on Export - “Extension of time” - **C.20**

- (i) The Reserve Bank of India has permitted the AD Category – I banks to extend the period of realization of export proceeds beyond stipulated period of realization from the date of export, **up to a period of six months, at a time**, irrespective of the invoice value of the export subject to the following conditions:
- a) The export transactions covered by the invoices are not under investigation by Directorate of Enforcement / Central Bureau of Investigation or other investigating agencies,
 - b) The AD Category – I bank is satisfied that the exporter has not been able to realize export proceeds for reasons beyond his control,
 - c) The exporter submits a declaration that the export proceeds will be realized during the extended period,
 - d) While considering extension beyond one year from the date of export, the total outstanding of the exporter does not exceed USD one million or 10 per cent of the average export realizations during the preceding three financial years, whichever is higher.
 - e) In cases where the exporter has filed suits abroad against the buyer, extension may be granted irrespective of the amount involved / outstanding.
- (ii) Cases which are not covered by the above instructions would require prior approval from the concerned Regional Office of the Reserve Bank.
- (iii) Reporting should be done in EDPMS.



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Master Direction on Export - “Write-off” of unrealized export bills - **C.23**

An exporter who has not been able to realize the outstanding export dues despite best efforts, may either self-write off or approach the AD Category – I banks, who had handled the relevant shipping documents, with appropriate supporting documentary evidence. The limits prescribed for write-offs of unrealized export bills are as under:

Particulars	Limit	Limit(%) in relation to
Self-write-off by an exporter (Other than the Status Holder Exporter)	5%	Total export proceeds realized during the calendar year preceding the year in which the write-off is being done
Self-write-off by Status Holder Exporter	10%	
Write-off by AD Category-1 Bank	10%	

The above limits of self-write-off and write-off by the AD Category-1 Bank shall be reckoned cumulatively and shall be available subject to the conditions.



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Master Direction on Export - Agency commission on exports - **D.1**

(i) AD Category – I banks 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 conditions as under:

a) Amount of commission has been declared on EDF/SOFTEX form and accepted by the 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 EDF/SOFTEX form, remittance may be allowed after satisfying the reasons adduced by the exporter for not declaring commission on Export Declaration Form, provided a valid agreement/written understanding between the exporters and/or beneficiary for payment of commission exists.

b) The relative shipment has already been made.

(ii) AD Category – I banks may allow payment of commission by Indian exporters, in respect of their exports covered under counter trade arrangement through Escrow Accounts designated in US Dollar, subject to the following conditions:

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



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Master Direction – Import of Goods and Services

(RBI/FED/2016-17/12 FED Master Direction No. 17/2016-17)

Updated as on August 29, 2024



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Master Direction on Import - Remittances for Import Payments (B2) & Import Licences (B3)

Remittances for Import Payments:

AD Category I Banks may allow remittance for making payments for imports into India, after ensuring that all the requisite details are made available by the importer and the remittance is for bona fide trade transactions as per applicable laws in force

Import Licences:

Except for goods included in the **negative list** which require licence under the Foreign Trade Policy in force, AD Category - I banks may freely open letters of credit and allow remittances for import. While opening letters of credit, the 'For Exchange Control purposes' copy of the licence should be called for and adherence to special conditions, if any, attached to such licenses should be ensured. After effecting remittances under the licence, AD Category - I banks may preserve the copies of utilized licence /s till they are verified by the internal auditors or inspectors.



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Master Direction on Import - Time Limit for Settlement of Import Payments (B5)

(i) 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. Further, for the disruptions due to outbreak of COVID-19 pandemic, with effect from May 22, 2020, the time period for completion of remittances against normal imports (except in cases where amounts are withheld towards guarantee of performance etc.) was extended from six months to twelve months from the date of shipment for such imports made on or before July 31, 2020



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Master Direction on Import - Evidence of Import (C7)

(i) In case of all imports, irrespective of the value of foreign exchange remitted / paid for import into India, it is obligatory on the part of the AD Category– I bank through which the relative remittance was made, to ensure that the importer submits:-

(a) The importer shall submit **BoE number, port code and date for marking evidence** of import under IDPMS as detailed in para C.8

(b) Customs Assessment Certificate or Postal Appraisal Form, as declared by the importer to the Customs Authorities, where import has been made by post, or Courier Bill of Entry as declared by the courier companies to the Customs Authorities in cases where goods have been imported through couriers, as evidence that the goods for which the payment was made have actually been imported into India, or

(c) For goods imported and stored in Free Trade Warehousing Zone (FTWZ) or SEZ Unit warehouses or Customs bonded warehouses, etc., the Exchange Control Copy of the Ex-Bond Bill of Entry or Bill of Entry issued by Customs Authorities by any other similar nomenclature the importer shall submit applicable BoE number, port code and date for marking evidence of import under IDPMS as detailed in para C.8.



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Master Direction on Import - Merchanting Trade (C14)

AD banks may handle the **Merchanting Trade Transactions (MTT)** subject to the following guidelines:

- i. For a trade to be classified as merchanting trade, goods acquired shall not enter the **Domestic Tariff Area**.
- ii. Considering that in some cases, the goods acquired may require certain specific processing/ value-addition, the state of goods so acquired may be allowed transformation subject to the AD bank being satisfied with the documentary evidence and bonafides of the transaction.
- iii. **The MTT shall be undertaken for the goods that are permitted for exports / imports under the prevailing Foreign Trade Policy (FTP) of India as on the date of shipment**. All rules, regulations and directions applicable to exports (except Export Declaration Form) and imports (except Bill of Entry) shall be complied with for the export leg and import leg respectively.
- iv. AD bank shall satisfy itself with the bonafides of the transactions. Further, KYC and AML guidelines shall be scrupulously adhered to by the AD bank while handling such transactions.



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Master Direction on Import - Merchanting Trade (C14)

v. The entire merchanting trade is to be routed through the same AD bank. The AD bank shall verify the documents like invoice, packing list, transport documents and insurance documents (if originals are not available, Non-negotiable copies duly authenticated by the bank handling documents may be taken) and satisfy itself about the genuineness of the trade. The AD bank may, if satisfied, rely on online verification of Bill of Lading/ Airway Bill on the website of International Maritime Bureau or Airline web check facilities. However, the AD bank shall ensure that the requisite details are made available /retrievable at the time of Inspection/Audit/investigation of the transactions.

vi. **The entire MTT shall be completed within an overall period of nine months and there shall not be any outlay of foreign exchange beyond four months.** The commencement date of merchanting trade shall be the date of shipment / export leg receipt or import leg payment, whichever is first. The completion date shall be the date of shipment / export leg receipt or import leg payment, whichever is the last.

vii. Short-term credit either by way of suppliers' credit or buyers' credit may be extended for MTT to the extent not backed by advance remittance for the export leg, including the discounting of export leg LC by the AD bank, as in the case of import transactions. However, Letter of Undertaking (LoU)/ Letter of Comfort (LoC) shall not be issued for supplier's/ buyer's credit.



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Merchanting Trade:

Merchanting trade involving shipment of goods from one foreign country to another foreign country without touching Indian ports, **or shipment of goods within one specific foreign country,** involving an Indian intermediary is allowed subject to compliance with RBI guidelines, except for goods in the CITES or under SCOMET.

{FTP 2.39/ Notification No. 62/2023 Dt. 29.02.2024}



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Master Direction on Import - Merchanting Trade (C14)

Reporting for merchanting trade transactions under FETERS shall be done on gross basis, against the undermentioned codes:

Trade	Purpose Code under FETERS	Description
Export	P0108	Goods sold under merchanting /receipt against export leg of merchanting trade
Import	S0108	Goods acquired under merchanting /payment against import leg of merchanting trade

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