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I.B.O.-4

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QUESTION PAPER

Exam Held in

February – 2021

(Solved)

EXPORT-IMPORT PROCEDURES AND DOCUMENTATION **I.B.O.-4**

Time: 3 Hours] *[Maximum Marks: 100*

Note: *Answer both the* ***Part-A*** *and* ***Part-B.***

PART-A

Q. 1. Comment on the following:

(i) **International trade is the engine of economic growth.**

Ans. Ref.: See Chapter-16, Page No. 195, Q. No. 4.

(ii) **Export documents are indispensible in any export-import transaction.**

Ans. Ref.: See Chapter-3, Page No. 37, Q. No. 1 (Terminal Questions).

(iii) **All partners in a letter of documentary credit deal in documents only.**

Ans. A letter of credit is a document issued by a financial institution, or a similar party, assuring payment to a seller of goods or services provided certain documents have been presented to the bank. "Letters of Credit" are documents that prove the seller has performed the duties specified by an underlying contract (e.g., the sale of goods contract) and the goods/services have been supplied as agreed. In return for these documents, the beneficiary receives payment from the financial institution that issued the letter. The letter of credit serves as a guarantee to the seller that it will be paid regardless of whether the buyer ultimately fails to pay. In this way, the risk that the buyer will fail to pay is transferred from the seller to the letter's issuer. The letter can also be used to ensure that all agreed standards are met by the supplier, provided that these requirements are reflected in the documents described in the letter of credit. It is absolutely right to say that letter of credit is the safest mode of payment in export proceeds.

Letter of credit is a letter from a bank guaranteeing that a buyer's payment to a seller will be received on time and for the correct amount. L/Cs are ideally used in international transactions to ensure that payment will be received by the seller.

L/C is a very important tool for export-import transactions is primarily due to the factors involved in international dealings such as distance, different laws in respective countries and absence of face-to-face interactions between the buyer and seller sitting in two far-flung areas on the globe. It is a fact that the exporter or importer, who are located in different countries, may not know each other. As such many a time the problem of buyer's creditworthiness hampers trade between the two.

Perhaps the single-most advantage as a seller or exporter in using L/C as a payment mode is that the buyer cannot refuse to pay due to any complaints about the goods and the buyer has to raise his/ her complaint or claim separately from the Letter of Credit.

(iv) **ECGC enhances the credit worthiness of export transactions and also the exporter.**

Ans. Ref.: See Chapter-9, Page No. 104-105, 'An Exporter is a Co-insurer'.

(v) **The cardinal principle of about insurance claim is that the insured has to fulfil clearly defined responsibility.**

Ans. Ref.: See Chapter-12, Page No. 144, 'Responsibilities of the Insured'.

(vi) **The Central Excise Act, 1944 and the Centre Excise Rules, 2000 incorporate a variety of schemes designed with a single purpose that excisable goods to be exported should not be burdened with excise duties.**

Ans. Ref.: See Chapter-13, Page No. 152, 'Central Excise Formalities'.

PART-B

Answer the following questions :

Q. 2. Discuss the recent trends in India's foreign trade stating, its composition and direction. Have any significant changes taken place during the last ten years? Explain

Ans. Ref.: See Chapter-1, Page No. 1, 'An Overview of Legal Framework' and Page No. 3, 'Objectives of Export-Import Policy'.

Q. 3. Discuss the duties of an exporter under FOB and CIF contracts.

Ans. Ref.: See Chapter-2, Page No. 17, 'Free on Board (FOB)', 'Cost Insurance and Freight (CIF)', Page No. 19, 'FOB Contract' and Page No. 20, 'CIF Contract'.

Q. 4. Explain the various steps along with related documents involved in exports from receipt of export order till realisation of export proceeds.

Ans. Ref.: See Chapter-5, Page No. 54, 'Introduction', 'Nature and Format of Export Order', 'Letter of Credit', Examination and Confirmation of Export Order', Page No. 55, 'Manufacturing or Producing Goods', Page No. 56, 'Central Excise Clearance', 'Pre-shipment Inspection' and 'Appointment of Clearing and Forwarding Agents'.

Q. 5. Discuss the relevance of Export Credit and Guarantee Corporation (ECGC) in export promotion. How does it help the exporters? Explain giving suitable illustrations in support of your answer.

Ans. Ref.: See Chapter-15, Page No. 178, 'Export Credit and Guarantee Corporation (ECGC)', 'Export Inspection Council and Agencies' and Chapter-16, Page No. 186, 'Importance of Export Assistance'.

Q. 6. What is involved in Central Excise Clearance of export cargo? Discuss in detail the procedure and related documentation.

Ans. Ref.: See Chapter-13, Page No. 153, 'Customs Clearance Formalities'.

Q. 7. Write short notes on the following:

***(a)* Marine Insurance Contract**

Ans. Marine Insurance Contract means an agreement where insurer undertakes to pay to the assured in the manner as agreed between them for the damages occurred during the marine journey. It also includes the incident in which the losses are occurred in inland waters and also on land risk which may be assumed as sea voyage. Marine insurance is a contract between an insurance company and insurer whereby the insurer agrees to indemnify the insured in a manner, thereby agreed, against the marine losses.

All the elements of a general insurance contract exist in a marine insurance contract as well.

Proposal: The prospect insurance applicant prepares a slip at the time of approaching the insurance company. Proposal forms, so common in other insurance kinds, are unknown in marine insurance and only the 'original slip' is considered for the proposal. The slip can be accompanied with other important documents as per the insurer's requirements.

Acceptance: It is given to the insurer who accepts the proposal. But the contract can't be legally enforced until a marine insurance policy is not issued. The slip acts as evidence that the insurer has accepted the proposal and has also subsequently agreed to sign the policy as per the terms and conditions specified on the slip.

Consideration: Here, the premium is called consideration which is computed on the basis of the assessment of the proposal form and it is paid at the time of the contract.

Policy Issuance: Once the premium is paid, the insurer issues the policy which is sent to the policyholder.

Insurable Interest: It establishes that an insured has an insurable interest in the subject-matter in such a way, that he may benefit by the safety or the arrival of the insurable item or may be affected by its loss or damage.

Utmost Good Faith: The insurance contract is based on the principle of utmost good faith. It means, every person who enters into an agreement of insurance has a legal obligation to act with honesty towards the insurance company. It means, a person should always be truthful and accurate while giving information to the insurer. Also, the insurance company is expected to act in good faith while dealing with its policyholders.

Doctrine of indemnity: Marine insurance is an indemnity policy under which the insurer agrees to compensate for loss or damage in consideration of the timely payment of premiums.

Doctrine of Subrogation: The aim of this act is that the policyholder should not get more than the actual loss or damage. While settling the claim, the

Sample Preview of The Chapter

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EXPORT-IMPORT PROCEDURES AND DOCUMENTATION

EXPORT-IMPORT DOCUMENTATION AND POLICIES

Export-Import Trade: Regulatory Framework

1

INTRODUCTION

Export is exit of goods or services or technology from a port in a country to another port in an another country.

Import is inward movement of goods, services or technology in a country port from a port in another country.

Export make the flow of currency or funds from one country to another country and it make the inflow of foreign exchange.

Imports is the outgo of currency or funds and it must be balanced by inflow of foreign exchange, so that a nation maintains balance of trade.

To maintain a manageable balance of trade some regulatory framework is necessary. The regulatory frame-work is part of Export-Import Policy popularly called EXIM Policy.

Regulatory framework is aimed at workable Exim policy and various Acts and Rules have been framed which are being discussed below.

CHAPTER AT A GLANCE

AN OVERVIEW OF LEGAL FRAMEWORK

There are four major acts which regulate the export and import. Some of these acts are very old and have been amended from time to time to overcome the changing global environment of trade, competition and product or service standards.

EXIM policy not only regulate the import and exports, it also aims at giving the idea about the strong economic conditions prevailing in the country. Exports and Imports are very good indicators of the viability of the economic strength of the nation. Exports are indicator of the surplus production by a nation and imports indicate the level of growth of the nation. Continued exports are possible only when a nation is able to maintain standards of quality of production and a nation's capacity to meet the specific needs of the importing nation in respect of raw-materials, equipment, capital and availability of skilled workforce and congenial industrial and stable political environment.

The four acts which regulate the import and export are as under:

1. Foreign Trade (Development or Regulation) Act, 1992.
2. Foreign Exchange Management Act, 1999.
3. The Customers Act, 1962.
4. Export (Quality Control and Inspection) Act, 1963.

The objective of these acts is to regulate import and export and to maintain a healthy balance of trade, balance of payment and to meet various international conventions.

These regulations are also a neccessity to protect the interest of exporters and importers due to various different laws in many countries. These laws have to be very pragmatic and have take into consideration various issues and contentions of the participating regulatory agencies which deal with different aspects involved in export and import of goods, its warehousing, storage, loading, unloading, transportation and insurance without a strong regulatory framework the EXIM policy cannot work and it well tell upon the image of the country.

Foreign Trade (Development and Regulation) Act, 1992.

In the year 1992 the Government of India with a view to increase exports and improve balance of trade and the balance of payment passed an Act which was named Foreign Trade (Development and Regulation) Act 1992.

In the year 1993, Foreign Trade (Regulation) Rules 1993 and Foreign Trade (Exemptions from Application of Rules in certain cases) Order 1993 was issued.

The idea behind the issueance of these rules and orders was to end the control on imports and exports which were there through Imports and Exports (Control) Act 1947 and the Import (Control) order 1955 and the Export (Control) Order 1988.

These Acts of 1992 and 1993 were aimed at development and regulation of imports and exports and to deal effectively with issues arising out of operation of these acts.

The Export and Import Policy of India was prepared keeping in view these acts and various amendments made to them.

This act provided permission for Export and Import by granting Importer-Exporter's Code Number. This code number could be cancelled or suspended in the event of an act by an importer or exporter which either harm the reputation of the goods exported or the country or any contravention of the international conventions or any other offence within the perview of this Act.

Foreign Exchange Management Act, 1999

A country earns foreign exchange by way of exports and this foreign exchange provide strength to the fiscal economy of the country hence, every effort is made to keep a check on inflow and outflow of foreign exchange.

To keep a regular watch on the flow of foreign exchange on September 3,1939 during the World War under its powers vested in it by the Defence of India Rules (DIR) exchange control was introduced in india. In the Year 1947, Foreign Exchange Regulation Act 1947 (FEAR) was enacted and it came into operation on March 25, 1947. This act was amended many times to meet the demands of changing economy and a new Foreign Exchange Regulation Act, 1973–FERA was enacted which provided for partial convertability, of rupee through policy of industrial licencing.

FEMA (Foreign Exchange Management Act, 1993 was enacted to provide for full convertability of rupee. The act mainly deals with holding and transactions of foreign exchange, reapipation and repatriation of foreign exchange through authorised channels of foreign exchange.

The FEMA provides for free and liberal exports and services, penalties for various infringements of the law, the procedure to be followed for adjudication arbitration and appeals against the orders of directorate of enforcement.

The Customs Act, 1962

Export from India has been happening since 5th BC and various acts mostly unwritten have been buying duties at the port of exit and entry. The first Custom Act is known Sea Customs Act, 1878. Second Custom law was Land Customs Act, 1924 and then come the Aircraft Act, 1934. These laws were specific to each mode of transport used for import or exports.

The Customs Act, 1962, was enacted with a view to regulate the genuine export and import trade transactions in time with national economic and trade policies the Export and Import policy in force.

The Customs Act, 1962 deals mainly with the leviable custom duties on every item of import and export. The Custom Tariffs are clearly indicated in First and Second Schedule of the Customs Tariff Act, 1975 for both export and import.

The Customs Tariff Act, 1975 provides for itemwise details of leviable customs or import duty or export duty, its deposit and refund and penalties for avoidance of duties, the process of appeals and representation regarding modification of rates of tariffs.

The Customs Act provides for standard document and declarations to be raised in case of each consignment passing through the custom port.

Export (Quality Control and Inspection) Act, 1963

For a nation it is very important that the goods it is either exporting or importing should conform to certain standards and these standards of quality of goods should be well established and should be verifiable.

The Export (Quality Control and Inspection) Act, 1963 was enacted to ensure that the goods either being imported or exported must be of good quality and the act established the Export Inspection Council (EIC) on January 1, 1964 for verifying and certifying the quality of goods being exported and issue export worthiness certificate for each individual consignmnent as per the terms of Contract, requirement of the importer and national interets.

The act aims at improving the quality of goods and production standard, their packing and presentation so as to compete in the global market for continued growth of the levels of export.

EIC acts as an advisory body to the government on matter of quality control and inspection and has established various Export Inspection Agencies, which operates from all ports, including airports and dry inland ports. EIA issues a certificate which the quality of goods as per the terms of contract. EIA charges a small fee for certification which is born by the exporter.

Quality control of goods being exported is also necessery for payment realisation and avoidance of future conflicts.

OBJECTIVES OF EXPORT-IMPORT POLICY

The objectives of Export-Import Policy have kept pace with the times and with liberalisation of the fiscal policies of the country a new Export and Import policy was framed in 1992 which was to be effective till 1997. Since then new changes have been made in the policy with a view to achieve the following objectives:

(a) To enhance the level of exports.
(b) To improve the balance of payment.
(c) To improve the balance of trade.
(d) To enhance the reserve of foreign exchange.
(e) To allow import of technology and equipments which may help in establishing new industrial enterprise, produce new products and adopt new process for higher production levels.
(f) To ensure the availability of goods for the domestic Consumption and to allow exports so that the producers get a fair price.
(g) To allow import of certain goods as listed in the Open General Licence.
(h) To allow for hassel free exports and imports.
(i) Reducing the interface between the exporters and Director General of Foreign Trade by reducing the number export documents.
(j) Establishing Advance Licencing System for imports of goods needed for manufacturing various goods for the purpose of export.
(k) Removal of the provisions of proceeds realisation.
(l) Establishing of Export oriented units and Export Processing Zones specifically for goods meant to be produced for exports only.

REGISTRATION FORMALITIES AND EXPORT LICENSING

An Exporter and Importer must have a Licence issued by Government of India either to import or export, in this direction he has to get a:

1. Importer-Exporter Code Number (IEC)
2. Registration Cum Membership Certificate.

IMPORTER-EXPORTER CODE-NUMBER–IEC

Without obtaining IEC number neither a export not a import can be made in India. Director General Foreign Trade, through its Regional offices situated throughout the country issue the Importer-Exporter Code number, when an application in a presicribed performa or on the letter head of the applicant along with a bank draft or bank receipt in duplicate is submitted. The applicant must provide the following details in his application without which IEC will not be issued. The following documents are to be enclosed with the application for grant of Importer-Exporter Code Number:

(i) Profile of exporter/importer.

(ii) Bank receipt in duplicate or Demand Draft for Rs. 1000-one thousand only as fee.

(iii) Certificate from the banker of the applicant.

(iv) Two copies of the passport size photograph of the applicant duly attested by his banker.

(v) If there is some Non-Resident Indian interest in the applicant firm and NRI investment is with full repatriation benefits, full particulars of the NRI investment and a photocopy of the approval of Reserve Bank of India is be enclosed.

Registration cum-membership Certificate

Government of India with a view to regulate and promote Exports and can alise the imports have established Export Promotion Councils and various Commodities Boards. Various organisations are listed below:

APEDA–Agriculture Produce Export Development Authority

FIEO–Federation of Import Export organisation.

MPEDA–Mineral Produce Export Devpolment Authority

COMEXPIL–Chemicals and Pharmaceuticals Export Council

Central Silk Board

Tea Board

Rubber Board

Jute Board

By joining these boards and export promotion councils, members get various benefits and for all exporters and importers its membership is mandatory.

These Councils, Boards and Authorities register its members and issue a Registration Cum Membership Certificate (RCMC) the number of which has to be mentioned in all documents of export-import.

Apart from these councils there are special Export Processing Zones:

- Software Technology Park
- Star Export Houses
- Deemed Exports

These organisations work for the promotion of exports, facilitate imports, handle government procurements and international competitive bidding programmes.

EXPORT LICENSING

Though any one having Importer-Exporter Code Number can import or export any goods, but to regulate the export-import trade a Negative List exists which prohibits the import or export of goods included in this list and special licence is required. The Negative List of Export has been divided into following three parts.

Part I–Prohibited Items

These prohibited items can neither be imported exported and these items include–wild life, wild flora exotic birds, beef, human skeletons, tallow, fat and oils of any animal, except fish oil, wood and wood