



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

PAPER TO PORT

**A CHARTERED ACCOUNTANT'S
HANDBOOK ON EXPORT DOCUMENTATION**



Development of International Trade, Services & WTO Directorate

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FOREWORD FROM PRESIDENT, ICAI



In an era where business and trade transcend across geographical borders, the role of Chartered Accountants has evolved far beyond traditional accounting—positioning them as pivotal players in the global economy. They have become trusted partners in international trade—advising businesses on regulatory compliances, managing cross-border transactions, and facilitating global expansion. At the heart of this evolving role lies a critical function: export documentation. Far from being mere paperwork, it forms the backbone of legal trades across borders, ensuring timely payments, risk mitigation and regulatory compliance.

Recognizing this shift, the Government of India has rightly recognised Accountancy and Finance Services as one of the **Champion Sectors**—a domain that not only fuels exports but also fosters employment and drives economic growth. The figures speak volumes. As per reports, India’s exports reached a record of **US\$ 824.9 billion in FY 2024–25, propelled by a surge in services exports to USD 387.5 billion**. This represents a 6.01% growth over the previous year, with key sectors like telecommunications and financial services contributing significantly. These figures underscore India’s growing strength in the global marketplace—and highlight the increasing demand for professionals with expertise in international trade.

To support and equip professionals in this vital space, the **Development of International Trade, Services & WTO Directorate of ICAI** has developed this publication, ***“Paper to Port: A Chartered Accountant’s Handbook on Export Documentation.”*** This handbook is designed to be a practical, hands-on resource—offering clear guidance on export procedures, regulatory frameworks, documentation needs, and best practices that every trade and finance professional should be familiar with.



I would like to express my sincere appreciation to **CA. Abhay Chhajed**, Convenor; **CA. (Dr.) Sanjeev Kumar Singhal**, Deputy Convenor; and all the members of the Directorate whose hard work and insight have shaped this timely and much-needed handbook. Their efforts are a testament to ICAI's continued commitment to empowering the profession and facilitating India's deeper integration into the global economy.

I am confident that this handbook will become a go-to reference for Chartered Accountants and others engaged in export-related activities. It reinforces the vital contribution our profession makes to the nation's growth and aligns with India's broader vision of emerging as a key player in global value chains.

CA. Charanjot Singh Nanda
President, ICAI



PREFACE



CA. Abhay Chhajed
Convener



CA. (Dr.) Sanjeev Kumar Singhal
Deputy Convener

In today's dynamic global landscape, international trade is a key driver of economic growth and national development. As India continues to strengthen its position in global markets, the role of **Chartered Accountants (CAs)** in enabling seamless and compliant export operations has become increasingly vital. Among the many facets of cross-border trade, **export documentation** remains a cornerstone—demanding accuracy, regulatory understanding, and timely execution.

Well-prepared documentation not only ensures adherence to legal and regulatory frameworks but also minimizes operational risks, accelerates processing, and builds trust with international stakeholders. With the growing prominence of **Special Economic Zones (SEZs)** and **Export Oriented Units (EOUs)**, there is a clear and pressing need for finance professionals to be equipped with in-depth knowledge of export documentation processes, statutory obligations, and international best practices.

The **Institute of Chartered Accountants of India (ICAI)** has always strived to empower its members to stay ahead in emerging and specialized areas of practice. In line with this vision, ICAI through **Development of International Trade, Services & WTO Directorate** has actively collaborated with key institutions such as **Invest India**, the **Services Export Promotion Council (SEPC)**, the **International Financial Services Centres Authority (IFSCA)**, and the **Export Promotion Council for EOUs and SEZs (EPCES)** under the Ministry of Commerce and Industry. These partnerships aim to strengthen India's



professional services sector and expand the role of CAs in supporting the country's trade ecosystem.

To further this objective, we are pleased to present “**Paper to Port: A Chartered Accountant's Handbook on Export Documentation.**” This publication is intended as a practical, user-friendly resource that demystifies the various types of export documents, explains their relevance, and outlines the procedures and compliance requirements associated with them. Drawing on the expertise of seasoned professionals, the handbook serves as a ready reckoner for CAs and other stakeholders engaged in global trade.

We hope this publication will assist our members in expanding their capabilities in international commerce, contributing to national economic objectives, and upholding the values of excellence and integrity that define our profession.

We express our sincere gratitude to **CA. Charanjot Singh Nanda, President, ICAI** and **CA. Prasanna Kumar D, Vice President, ICAI** for their visionary leadership and continued support. A special word of appreciation is due to **CA. Surinder Kumar Kalra** for his valuable contributions to the content, and to **Dr. Satinder Bhatia**, Director (Additional Charge), Dean, Head (CDOE), and Professor, IIFT, for his insightful review and guidance in shaping this handbook.

We also commend the efforts of the Secretariat team, led by **CA. Monika Jain, Secretary, Development of International Trade, Services & WTO Directorate**, for their commitment and diligence in bringing this publication to life.

With this initiative, we reaffirm ICAI's commitment to empowering our members, supporting India's export ambitions, and contributing meaningfully to the nation's role in the global economy.

CA. Abhay Chhajed
Convenor

CA. (Dr.) Sanjeev Kumar Singhal
Deputy Convenor



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1

Export Risk Management

There is no such thing as risk-free business, especially when your partners and customers are located in another country where the risks are higher. Managing an export business begins with a clear recognition and understanding of all the risks that a business faces and the level of those risks. Risk management is knowing what and how much risk the company faces and how much of it can be mitigated. These risks include Business, Political, Financial, Legal and other risks.

Political and Country Risk: May arise due to a fresh election, sanctions or civil unrest.

For trading purposes, countries form groups or blocs such as those stated below and enter into special arrangements governing their inter se trade.

S. No.	Group	No of Countries in the group	Remarks
i.	NAFTA - North American Free Trade Agreement-USMCA	3	USA, Mexico and Canada
ii.	EU-European Union	27	It operates as a single market
iii.	GCC-Gulf Cooperation Council	6	Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and UAE
iv.	UAE-United Arab Emirates	3	Dubai, Sharjah and Abu Dhabi
v.	ASEAN-Association of Southeastern Asian Nations	11	Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Thailand, Timor Leste, Singapore and Vietnam.



S. No.	Group	No of Countries in the group	Remarks
vi.	South Asia	8	Maldives, Afghanistan, Pakistan, India, Bangladesh, Nepal, Bhutan and Sri Lanka.
vii.	AU-African Union	55	In the African continent.
viii.	LAC-Latin American Countries	33	Countries of South America and the Caribbean islands
ix.	OCEANIA	14	Australia, New Zealand, Papua New Guinea, Fiji, Southern Islands, Vanuatu, Samoa, Kiribati, Micronesia, Tonga, Marshall Islands, Palau, Nauru and Tuvalu
x.	UK	4	England, Wales, Scotland and Northern Ireland
xi.	CIS-Commonwealth of Independent States	9	Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Uzbekistan and Turkmenistan (associate)
xii.	NATO-North Atlantic Treaty Organization	30	USA, Canada and 30 European countries

- a. **Credit and Financial Risk:** These include risks of delayed payment or non-payment of invoices resulting from exchange fluctuations, sanctions and/or bankruptcy.



- b. Risk Mitigations: It is the duty of our members to see that appropriate Risk Mitigations steps have been taken, viz.,**
- i) Due Diligence:** Thorough research needs to be done for the export market, eg., political, economic and legal frameworks.
 - ii) Import-Export Insurance Policy:** Like any other insurance policy, it is a contract between the insurer and the insured. Marine Insurance is covered under the Marine Insurance Act, 1963. It is an Act to codify the law relating to marine insurance. It defines the responsibilities of the insurers and the processes of evaluating losses or damages that occur during the marine voyages.
 - iii) Currency Hedging:** In order to minimize the exchange fluctuation risk, members should make use of financial instruments like swaps, options, forward or futures contracts.
 - iv) Payment Terms:** Negotiate payment terms in order to minimize the financial risk of non-payment, eg., Advance payment, Documents against Acceptance (DA), Documents against Payment (DP), Letter of Credit (LC), Confirmed LC, interest on delayed payments, Bank Guarantee, Deferred Payment Guarantee (DPG), etc.
 - v) Credit Insurance:** Obtain insurance to minimize the risk of non-payment. This is essential when dealing with risky markets.
 - vi) Compliance:** Strict compliance with international trade regulations, customs, domestic and international laws, quality norms, etc. There have been instances where leather garments export consignments originating from India have been rejected by the EU markets as the products were deemed to be manufactured in factories employing Child Labour, consignments of Alphonso Mangoes have lately been rejected by USA because of documentation issues, ban of



Spices because of extra preservative contents; and pediatric pharmaceutical products having strong side effects have been banned and companies black listed.

- vii) **Transport Risks - damage, theft, counterfeit:** These risks can be contained by purchasing appropriate Marine Insurance.
- viii) **Documentation Risk - counterfeit risk** can be prevented by the use of Electronic Bill of Lading (e-B/L) that is secured with blockchain technology. The Bill of Lading Act has been passed by Parliament in India on 21st July, 2025; thereby legalizing e-B/Ls. These e-B/Ls are already part of India's Electronic Port Community System (e-PCS) – a singular electronic platform connecting all major ports – a move initiated by the Ministry of Ports, Shipping and Waterways in 2018.
- ix) **Relationship Building** with the international partners is very essential for smooth flow of business.
- x) **Diversification:** Don't put all your eggs in one basket, is an old proverb. Try to diversify your markets.
- xi) **Use of IT:** The transit losses can be checked on real time basis by use of latest i4 solutions like Data Analytics, IoT, Block Chain and AI. There have been instances where edible products like mango pulp and meat consignments have been found to be infected with fungus on arrival at the port of destination. It was later found that the orchard from where the mangoes were purchased had sprayed spurious insecticides while flowering. Further, it was found that the shipper did not maintain the required minimum temperatures for the refrigerator consignments. The exporter not only lost his invoice money in the consignment, but had to pay loss of business compensation under the arbitration award and also suffered loss of reputation and future business. These losses can now easily be controlled with the help of i4.0 solutions as corrective actions can be taken on a real time basis. Such IT systems generated documents can be helpful while lodging insurance claims and litigations.



2

Marine Insurance

Marine Insurance: is often thought of as a coverage for shipping goods by sea. However, it offers more than that. It covers losses during transfer of goods from their place of origin to the place of destination, including goods transported by rail, road and air. Cargo Insurance is a sub-set of Marine Insurance, which also covers on-shore and off-shore exposed goods- like container terminals, ports, oil platform, and pipelines; hull, marine causality and marine liability and breakage of bridge.

Types of losses covered are:

- a. Theft/pilferage, total loss of package while loading and unloading, malicious damage i.e., intentional damage by other than the policy holder and his employee, collusion of vessels, fire, lightning and explosion; collusion-overturing or derailment of land conveyance.
- b. It protects from the losses during transit. Generally, regular traders prefer to buy an “open marine policy”, which covers multiple international transits. However, it is routine for the traders to buy insurance for single transit. In either case, one may prefer to go for the more expensive all-risk coverage under Institute Cargo Clause (ICC) - A and Inland Transit Clause (ITC) - A.

Types of Losses that are Not covered are intentional damage by the policy holder and his employee, mishandling of goods in transit, poor packing quality, damage because of inherent vice, ie., goods are self-destructive in nature, unfit container, war risk, over-dimensional cargo, bulk-cargo, ie., liquid or dry cargo shipped without packing, cargo which is temperature sensitive, weapons, radioactive or nuclear fission, ordinary wear and tear, losses due to delay.



Types of Marine Insurance Policies:

- i) **Single:** it provides coverage that provides coverage during a specific single voyage.
- ii) **Annual Open:** it provides coverage for projected annual sales turnover covered under marine transport.
- iii) **Hull:** it provides extensive coverage for the damages to hull, machinery and equipment of the vessel.

Marine Insurance Clauses

- a. Inland Transit Clause: ITC is for inland transits within India, ITC-A covers all damages except rainwater damage. ITC-B covers accidental damages only.
- b. International Cargo Clause: ICC is for international cargo only. There are three types of clauses under ICC. A quick comparison of the losses covered under each category is as follows:

PROXIMATE CAUSE	A CLAUSES	B CLAUSES	C CLAUSES
STRANDING, GROUNDING, SINKING OR CAPSIZING	YES	YES *	YES*
OVERTURNING OR DERAILMENT OF LAND CONVEYANCE	YES	YES*	YES*
COLLISION OF SHIP OR CRAFT WITH ANOTHER SHIP OR CRAFT	YES	YES*	YES*
CONTACT OF SHIP, CRAFT OR CONVEYANCE WITH ANYTHING OTHER THAN SHIP OR CRAFT (excludes water but not ice)	YES	YES*	YES*
DISCHARGE OF CARGO AT PORT OF DISTRESS	YES	YES*	YES*
FIRE OR EXPLOSION	YES	YES*	YES*



PROXIMATE CAUSE	A CLAUSES	B CLAUSES	C CLAUSES
EARTHQUAKE, VOLCANIC ERUPTION OR LIGHTENING	YES	YES*	NO
MALICIOUS DAMAGE	YES	NO**	NO**
THEFT/ PILFERAGE	YES	NO	NO
GENERAL AVERAGE SACRIFICE	YES	YES	YES
JETTISON	YES	YES	YES
WASHING OVERBOARD (deck cargo)	YES	YES	NO
WAR RISKS (except piracy)	NO	NO	NO
TAKINGS AT SEA (except war risks)	YES	NO	NO
SEAWATER ENTERING SHIP, CRAFT, HOLD, CONVEYANCE, CONTAINER LIFT VAN OR PLACE OF STORAGE	YES	YES	NO
RIVER OR LAKE WATER ENTERING SAME	YES	YES	NO
LOSS OVERBOARD DURING LOADING/ UNLOADING (total loss only)	N/A	YES	NO
ANY RISKS OF PHYSICAL LOSS OR DAMAGE NOT SPECIFIED	YES	NO	NO

Source: ACIS Cargo Underwriting Agency Ltd

Marine Insurance Companies in India:

S. No.	Insurer	Claim settlement Ratio, %age (source, Policy Bazar)
i.	Chollamandalam Marine Insurance	90.00
ii.	IFFCO Tokyo Marine Insurance	98.79
iii.	Liberty Videocon Marine Insurance	72.52
iv.	Magma HDI Marine Insurance	78.38
v.	National Marine Insurance	72.01
vi.	New India Assurance Marine Insurance	86.17



S. No.	Insurer	Claim settlement Ratio, %age (source, Policy Bazar)
vii.	Oriental Marine Insurance	93.08
viii.	Royal Sundram	74.48
ix.	SBI General marine Insurance	75.51
x.	Tata AIG Marine Insurance	73.40
xi.	Universal Sompo Marine Insurance	84.03



3

ECGC (Export Credit Guarantee Corporation of India) Country Risk Rating

ECGC is a government owned entity, Its main function is to provide export credit insurance for businesses emanating from India. It protects the exporters against financial risk of non-payment due to commercial risk like bankruptcy of the buyer and political risks like civil wars etc.

ECGC Country Risk Methodology takes into consideration existing Economic, Political situations in the importing country, as also the correlated developments that would have an impact on the future with a horizon of 12 months.

Mission: The purpose of country ratings is to assess the political, economic and financial risks of doing business in that country. These help in understanding different perspectives of India's exports.

Risk Exposure: The likelihood of non-payment due to political instability, exchange rate volatility, and other financial and political crises in the importing country.

Calculation and Charging of Risk Insurance Premium by ECGC:

The factors that influence the Country Ratings are: **Political:** government policies, political stability, regulatory environment, sanctions; **Economic:** economic performance, debit levels- domestic and international, currency risks; **Financial:** foreign exchange reserves and access, stability of the banking system, credit worthiness of the domestic institutions; **Trade and Business Environment:** export performance, international relations, legal framework.



Credit Terms and Mode of Payment Decisions: Advance Payment, Credit Terms, DA/ DP, LC, Confirmation of LC, may also influence in the calculation of the premium.

S. No.	Classification	Risk Category
i.	A1	Insignificant
ii.	A2	Low Risk
iii.	B 1	Moderately Low Risk
iv.	B 2	Moderate Risk
v.	C 1	Moderately High Risk
vi.	C 2	High Risk

ECGC premiums are directly linked with the levels of the risk. These ratings help the Indian exporters in making decisions regarding risk management, entry into the market and calculation of premium.

Example: The revised ECGC classification for 12 CIS countries is as under:

S. No.	Open Cover Category (A)	Restricted Cover Category I ? (Revolving Limit Basis) (B)
i.	Azerbaijan, B 1, 3/7	viii. Armenia, B 2, 4/7
ii.	Belarus, B 1, 3/7	ix. Kyrgyzstan, C 1, 5/7
iii.	Georgia, B 2, 4/7	x. Tajikistan, C 1, 5/7/
iv.	Kazakhstan, A 2, 2/7	xi. Turkmenistan, C 1, 5/7
v.	Moldova, C 1, 5/7	xii. Uzbekistan, B 2, 4/7
vi.	Russia, A2, 2/7	
vii.	Ukraine, B 2, 4/7	

For A-category above, cover under short term is available for political risks for all transactions, irrespective of limit on individual buyer or bank. Comprehensive cover is available depending on ECGC's assessment of the credit worthiness of the buyer/ bank.



For the B-category above, ECGC cover is available on Revolving Limit Basis, normally valid for a year on the following basis:

- a. Irrevocable Letter of Credit opened and confirmed by Bank listed in Bankers Almanac or by local banks whose reports are satisfactory, the Cover will be 90%.
- b. Normal Cover of 90% on DA/ DP Basis subject to satisfactory report on the buyer.
- c. None of the CIS Countries is placed under the Restricted Cover, Category-II, where specific approval is given on case-to-case basis.



4

Registration with DGFT

Directorate General of Foreign Trade (DGFT)

It is an organization attached to the Ministry of Commerce and Industry. It has been assigned the role of a “facilitator”. There is a total shift in its role from prohibition and control of imports and exports to promotion and facilitator of imports and exports, keeping in view the interests of the country. It is head quartered at Vanijya Bhawan, A-Wing, 16 Akbar Road, New Delhi -110011. It has got 24 Regional Offices located across the country. All the offices provide facilitation with regard to development of international trade, ie., Rules of Origin, Anti-dumping, WTO agreements, etc.

IEC Profile Management: Obtaining the Import-Export Code Number is the first and most essential step to start any export business. It is the key mandatory identification number. For Services providers, obtaining the IEC is not necessary, unless they are availing any of the benefits under the Foreign Trade Policy. Consequent upon introduction of GST, IEC being issued is the same as PAN of the firm. However, DGFT will separately issue the IEC based on the application submitted.

Application for IEC is to be submitted online at dgft.gov.in by filling Form No. ANF 2A. Application fee of Rs 500.00 is to be paid online along with the scanned copies of the following: cancelled cheque bearing entity’s pre-printed name and address proof of the entity as detailed in the application form. IEC is system generated and the applicant is informed through email and SMS. Applicant can also view / print e-IEC after complete submission of the application form.

Validity of IEC: An IEC allotted is permanently valid, unless suspended or cancelled by DGFT. It covers all the units, factories, divisions and locations of the applicant.

Surrender of IEC: If an IEC holder does not wish to operate under the allotted IEC, he may surrender it to his Regional Authority



Modification of IEC can be done by submitting an application duly signed by the designated officer online, uploading the documents for the change being sought and paying a fee of Rs 200.00. Modification may be for Change of name, address, constitution, ownership, change in constitution, e.g, from proprietary to partnership, etc.

Export Promotion and EPCs:

Normally the market forces determine the flow of trade, but the export promotion activities are an important tool to influence that flow. Accordingly, the Foreign Trade Policy has introduced several measures for facilitating trade and improving ease of doing business by reducing the mandatory documents. At the same time, Government incentivizes exports through various schemes. In order to provide further guidance and assistance on the ground level, Government of India has set up various institutions and one of them is Export Promotion Councils.

Export promotion activities started in India as early as 1950's with EPCs like Synthetic & Rayon Textile Export Promotion Council (SRTEPC) being setup in 1954 and Plastic Export Promotion Council in 1955. Presently, there are 14 sector-specific Export Promotion Councils, each focusing on a particular industry or product category. These councils are registered as non-profit organizations under the Companies Act and Societies Registration Act. These are under administrative control of Ministry of Commerce. There are in total 26 EPCs and 10 Commodity Boards (list available at point no 4 below on Board Structure).

Each Council is responsible for the promotion of a particular type of group of products/ projects/ services. Details are mentioned in appendix 2T of Aayat Niryat Forms (AANF). The main objective of the EPCs is to project India's image as a reliable supplier of quality goods and services. They encourage and monitor observance of international standards. They keep the exporters abreast with the latest international developments and opportunities by organizing frequent inward and outward delegations and seminars and knowledge newsletters. The exporters can take help for



documentation, procedures and incentives, dispute resolution, issue of Certificate/Proof of Origin and skill development. Members have to pay annual subscription to maintain their memberships.

Functioning Norms: In order to make EPCs truly democratic and participative, the following norms have been laid down:

- a. **e-Voting** is mandatory for the elections of Vice Chairman, Vice President and members of the Executive Committee with a wide range of participation. Election of the Chairman / President is via the Vice Chairman / President.
- b. **Tenure of the electoral heads** shall not be for more than five years.
- c. **Directions issued by the Government:** EPC has to abide by all the government directions in this functioning.

E-Registration and Membership Certificate:

RCMC is a mandatory document for anyone applying for an Authorization for Import/ Export Restricted Items in ITC(HS), or any other benefit or concession under the Foreign Trade Policy. It is a certificate that validates an exporter dealing with products registered with an agency which is authorized by the Government of India. EPC/ Commodity Board/ Development Authority issues the certificate which is valid for 5 financial years.

An exporter desirous of having an RCMC has to declare his main stream of business in his application. This application has to be submitted to the Regional Authority in Form No. ANF 2C. For applying a RCMC, one must have an active IEC. One needs to update his/her IEC-profile and linked Digital Signature token or Aadhar e-signature for submitting his/her application. The documents required along with the application are: a self-certified copy of IEC, whether the applicant is a Merchant Exporter or a Manufacturer Exporter along with the evidence for the latter and Bank Certificate to support the applicant's Financial Soundness.



If the Product Line does not fall under any EPC, then one has to apply to Federation of Indian Export Organizations (FIEO). Similarly, in case of multi-product exports, not registered with any single EPC, application for RCMC may be made to FIEO. FIEO is the apex body all the export promotion organizations in India.

In the case of multi-product exporters with their Head / Registered Offices in North-Eastern States, application for RCMC can be submitted at the Shellac and Forest Products Export Promotion Council, except for the products directly under APEDA or Spices and Tea Boards. For exporters of Handicrafts and Handlooms from Jammu and Kashmir, the Director Handicrafts, Government of J&K is authorized to issue the RCMC.

On being admitted, the applicant shall be issued the RCMC as per the Appendix 2R Format.

Services under e-RCMC: Apply for e-RCMC->Renewal of RCMC->Amendment for RCMC->View RCMC Details.

Broad Organization Structure

I. EPCs under Ministry of Commerce:

- a. Engineering Export Promotion Council.
- b. Project Export Promotion Council of India
- c. Basic Chemicals, Pharmaceuticals and Cosmetics Export Promotion Council.
- d. Chemicals and Allied Products Export Promotion Council.
- e. Council of Leather.
- f. Sports Goods Export Promotion Council.
- g. Gems and Jewelry Export Promotion Council.
- h. Shellac Export Promotion Council.



- i. Cashew Export Promotion Council.
- j. Plastics Export Promotion Council.
- k. Export Promotion Council for EOUs, SEZ Units.
- l. Pharmaceutical Export Promotion Council
- m. Services Export Promotion Council
- n. Mobile and Electronic Devices Export Promotion Council
- o. Electronics and Computer Software Export Promotion Council
- p. Indian Oil Seeds & Produce Export Promotion Council

II. EPCs under Ministry of Textiles:

- a. Apparel Export Promotion Council.
- b. Carpet Export Promotion Council
- c. Cotton Textile Export Promotion Council.
- d. Export Promotion Council for Handicrafts.
- e. Handloom Export Promotion Council.
- f. The Indian Silk Export Promotion Council.
- g. Synthetic and Rayon Textile Export Promotion Council.
- h. Wool and Woolens Export Promotion Council.
- i. Power-loom Development and Export Promotion Council.
- j. Jute Products Development and Export Promotion Council.

III. Commodity Boards:

- a. Rubber Board under Ministry of Commerce & Industry.
- b. Coffee Board under Ministry of Commerce & Industry.



- c. Tea Board under Ministry of Commerce & Industry.
- d. Tobacco Board under Ministry of Commerce & Industry.
- e. Spices Board under Ministry of Commerce & Industry.
- f. Coconut Development Board under Ministry of Agriculture and Farmers Welfare
- g. Central Silk Board under Ministry of Textiles.
- h. Coir Board under Ministry of MSME
- i. All India Handicrafts Boards under Ministry of Textiles.
- j. All India Handlooms Boards under Ministry of Textiles.

IV. Autonomous Bodies - Export Development Authorities

- a. Marine Products Export Development Authority .
- b. Agricultural and Processed Food Products Export Development Authority



5

Regulatory and Commercial Aspects of Exports

We shall now learn certain glossary terms which are important parts of the export transitions.

- **Indian Regulatory Requirements:**
 - o Exports of Goods and Services in India is governed by clause (a) of the sub-section (1), and sub-section (3) of the Section 7 of the Foreign Exchange Management Act 1999 (42 of 1999), read with notification No. G.S.R. 381 (E), dated May 3, 2000, viz., Foreign Exchange Management (Current Account Transactions) Rules, 2000, read with FEMA Notification No.23 (R) / 2015 RB, dated January 12, 2016. These Regulations are updated from time to time.
 - o Based on these, the DGFT, under the Ministry of Commerce notifies the Export Policy from time to time. For selection of products to be dealt with, it is essential to understand their classification first.
 - o Section 2(e) of the Indian Foreign Trade (Development and Regulation Act) 1992 defines export as, “an act of taking out of India any goods by land, sea, or air with proper transaction of money.”
- **What Products and Services to Export**
 - o **Focus on India’s Strengths:** India has a comparative advantage in certain sectors. Focusing on these sectors will enable the exporters to garner higher margins and establish their brand equity with lesser marketing efforts.
 - o **Explore Foreign Demand Sources:** Next step is to analyze the target market, geography, age-group.



- Let us first understand the Indian and Importing Country's **Regulatory Requirements**

- **Product Classification-Indian Tariff Classification (Harmonized System)**
 - o The first thing any exporter should know is the ITC (HS) Classification of his/her product. Based on this classification, the regulatory requirements for exports and requirement in the buyer's country need to be confirmed. On the basis of ITC(HS) Classification, the Export Policy broadly classifies the goods as:
 - o **Free For Exports:** All goods can be exported freely if they are not mentioned specifically in the Export Policy Schedule II of ITC(HS) 2022.
 - o **Restricted For Exports:** to export goods under this category, an export authorization is required and the items must be exported as per the procedure and conditions specified. Such items are limited in number.
 - o **Prohibited For Exports:** These items cannot be exported at all. These are limited in number, like body parts of wild animals, nuclear material, etc.

- **Reserve Bank of India Guidelines**
 - o Taking into consideration Government of India Regulations, the Reserve Bank of India also issues Directions to Authorised Dealers (ADs). These Directions lay down the modalities as to how the foreign exchange business shall be conducted by the Authorised Dealers with their customers and constituents so that the provisions of these Regulations are meticulously followed.
 - o **RBI Directions under** Notification FEMA23(R) /2015-RB, dated January 12,2016 have to be read with Foreign Exchange management (Current Account Transactions) Rules, 2000.



- o **Section 2(e)** of the Indian Foreign Trade (Development and Regulation Act) 1992 defines export as, “an act of taking out of India any goods by land, sea, or air with proper transaction of money.”
- o **On April 23, 2025, the RBI** has issued the updated Draft Master Direction-Export of Goods and Services, Direction No. RBI/FED/201516/11, FED Master Direction No.16/ 2015-16. Some of the main regulatory features are given below.

Manner of Receipt of Payment

- The amount representing the full value of the goods exported shall be received through an AD Bank in the manner specified in the Foreign Exchange Management (Manner of Receipts of Payment) Regulations 2023 vide Notification No. FEMA 14 (R) 2023 RB, dated December 21, 2023.
- **Nepal and Bhutan** in Indian Rupees, provided that in case of exports from India where the importer is in Nepal has been permitted by the Nepal Rashtra Bank to make payment in foreign currency, such receipts to the amount of the exports may be in foreign currency.
- **Member countries of Asian Clearing Union (ACU) other than Bhutan and Nepal** through ACU mechanism or any other mechanism as permitted by RBI.
- **Countries other than members of ACU** In Indian Rupees or any currency as may be specified.

Processing of Export Related Receipts through Online Payment Gateways

- o These shall be conducted in terms of Notification No. CO. DPSS. POLC No S -786 /02-14-008/2023-24 dated October 31,2023,



which refers to the regulation of Payment Aggregator -Cross Border (PA- cross border).

- o Keeping in view the developments that have taken place in cross-border payments, it has been decided to bring all entities facilitating cross-border payment transactions for import and export of goods and services under direct regulation of the RBI. Such entities shall be treated as Payment Aggregators-Cross Border (PA-CB); details are mentioned in the annexure to this notification. AD Banks are also included in the ambit of this notification.

- **Income Tax Provisions**

- o **Transfer Price and Transfer Pricing**

- Chapter X of the Income Tax Act 1962 deals with the Special Provisions relating to avoidance of Tax. The expression “Transfer Price” is used in Section 92CE and in *Explanation* to Section 92CB. The expression “Transfer Pricing” is used in Section 92CA as part of the “Transfer Pricing Officer”. These two terms are not defined in the Act or in the Income Tax Rules, 1962.
- Taxation of the Multi-National Enterprises (MNEs) is determined on the basis of domestic taxation where the income accrues or arises. This jurisdiction of taxation is subjected to tax treaty which the country of source may be having with country of residence of the enterprise of the MNE involved. Tax Treaties are generally negotiated on the basis of models given by OECD and UNO. Similarly, to guide the tax administration and the tax payers, both the OECD and the UN have come out with their Transfer Pricing Guidelines. According to these guidelines,
- “**Transfer Prices**” are the prices at which an enterprise transfers physical goods and intangible property or provides services to associated enterprises,”



- “**Transfer Pricing**” is the process of fixing transfer price.
- Two enterprises are “**Associated Enterprises**”, if one of the enterprises participates directly or indirectly in the management, control or capital of the other or if both the enterprises are under common control.

The term Transfer Price has evolved to mean the price which is charged between two or more entities of an MNE, or the Associated Enterprises (AEs) operating in separate countries. It is the actual price charged in a transaction between AEs located at different tax jurisdictions. The tax rates usually vary from country to country. Therefore, there is an incentive to set transfer pricing in such a way that lesser profits are booked in a country with higher tax rates, and *vice versa*. Earlier, this was known as Tax Planning and now the tax authorities call it tax avoidance, and believe it to be unjust. Therefore, in order to protect each country’s share in the profits and tax, the authorities have established principles under which it can be assumed that AEs deal with each other as if they were independent – **this principle is called “Arm’s Length”**

- o **Transfer Pricing Regulations** were introduced in India by the **Finance Act of 2001**. Section 92 was substituted by eight sections, 92, 92A, 92B, 92C, 92CA, 92D, 92E and 92F. The contents of these sections were explained in the Memorandum of the Finance Act and in greater details in Circular No 14 of November 20, 2001. As India is not a member of the OECD, it is not necessary to follow the OECD model tax code. However, OECD guidelines have been heavily relied upon by the Income Tax Tribunals, High Courts and Supreme Court. In a recent case, *Engineering Analysis Centre of Excellence Pvt Limited V/s CIT, Civil Appeal Nos., (TS-106-SC-2021)*, the SC reiterated the importance of the Commentary to the OECD Tax Convention.



- o **Section 92** deals with any income or expense arising from an “international transition”.
- o **Section 92F** provides an inclusive definition of the term “transaction”.
- o **Section 92B**, the term **international transaction** refers to a transaction between two or more AEs, either or both of whom are non-residents, which is in the nature of:
 - Purchase, sale, transfer, use or lease of tangible or intangible property; or
 - Provision of services;
 - Lending, borrowing or guarantee money; or
 - Business restructuring or organization or reorganization irrespective of the fact that it has bearing on the profits, income, losses or assets; or
 - Any other transactions having a bearing on the profits, incomes, losses or assets of such enterprises.
 - It also includes a mutual agreement or arrangement between two or more AEs for allocation, apportionment or any contribution to any cost or expenses.
 - Further, a transaction entered into by an enterprise with a person other than an associated enterprise shall be deemed to be a transaction between two AEs, if there exists a prior agreement in relation to the relevant transaction.
- o **Section 92A (1)** defines an “associate enterprise” (AE) which participates directly or indirectly or through one or more intermediaries in:
 - Management of the other enterprise.



- Control the other enterprise.
 - Capital of the other enterprise.
- o **Section 92A (2)** provides a list of situations during which AE relationship is deemed to be established- enterprise ownership, voting power, lender, guarantor, appointment of board- more than half of the directors, dependence on intangibles, dependence on supply in manufacturing process, dependence on sale of manufacturing process, individual control, control by HUF, holding in a firm AoP, or body of individuals, and mutual trust relationship.
- o **Arm's Length Principle** : Article 9 of the OECD Model Convention provides the following:
- An enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
 - The same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,
 - and in either case, conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises; but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.
 - In the revised commentary to the old Article 7 of the OECD Model Convention from 2028, the principles



of application of the Arm's Length Principle to the "attribution of profits" to the Permanent Establishment (PE) are also included.

- o **Methods of Transfer Pricing (TP)** U/ s 92C (1), the Arm's Length Price in relation to an international transaction shall be determined by any of the following methods:
 - Comparable uncontrolled price method (CUP).
 - Resale price method (RPM).
 - Cost plus method (CPM).
 - Profit split method (PSM).
 - Any other method provided in Rule 10AB.
 - The Indian TPM Regulations follow the principle of most appropriate method and do not recommend any hierarchy of methods to be used.

- o **Documentation** Section 91D (1) of the Act, r.w.r. 10D of the Rules specify the following documents to be maintained- proper books of account, nature of business, activities performed and Functions, Assets and Risk (FAR) analysis for performing such activities, economic analysis of similar type of companies operating in the market:
 - Description of the ownership.
 - Profile of the multinational group.
 - Brief description of the business.
 - Nature and Terms & Conditions of all the international transactions.



- Description of the functions performed.
 - Economic and market analysis.
 - Record of uncontrolled transactions.
 - Analysis to evaluate comparability of uncontrolled transaction with the relevant international transaction.
 - Methods considered to determine arm's length transaction.
 - Assumptions, policies and price negotiations.
 - Adjustments made to TP.
 - Invoices, debit notes for Arm's length.
 - Contracts and agreements with AEs.
 - **Section 92D** stipulates to maintain these TP records on a contemporaneous basis.
- o **Under Rule 10DA (Master File)** a separate statutory form i.e., Form 3CEAA is prescribed. This form has two parts:
- Part A – to be filed by every person, being a constituent entity of the international group.
 - Part B- to be filed as prescribed under the AP 13 report.
- o **Report of an Accountant:** If any entity enters into transactions with AEs, it must file an Accountant's report in **Form 3CEB**. As per section 92F, it must be filed one month prior to date of the filing of the Income Tax Return U/s 139(1)
- **Goods and Services Tax**
- o **As per Section 2(5)** of the IGST Act 2017, export of **Goods** means taking goods out of India to a place outside India.



- o **Section 2(6)** defines Export of **Services** as the supply of services, when
 - The supplier of services is located in India;
 - The recipient of services is located outside India;
 - The place of supply of service is outside India;
 - Payment for such services has been received by the supplier in convertible foreign exchange; and

Section 8 Explanation 1, the supplier of service and the recipient of the service are not merely establishments of a distinct person.

- o Thus, the place of supply of service becomes significant to constitute export of services.
- o Export of Goods and Services are deemed as inter-State Supplies and are treated as Zero-rated supplies. Zero-rated means that the entire value chain of the supply is exempt from tax. This is done by employing the following means:
 - Taxes paid on the supplies which are zero-rated are refunded.
 - Tax Credit of input goods or services is allowed or refunded in case it is already paid.
- o The registered person/ exporter making zero-rated supplies eligible to claim refund has the following options:
 - Either to export under bond/ Letter of Undertaking without payment of tax and claim refund of unutilized ITC, or
 - Pay IGST by utilizing ITC or in cash at the time of export and claim refund of IGST paid.



That is, exports shall be relieved of GST levied upon them either at the input stage or at the final product stage.

- **Merchant Exports**

- o A Merchant Exporter is a Trader-exporter and not a Manufacturer-exporter. Merchant-Exporters are liable to GST, as they are located in India and make the supplies outside India. They have to compulsorily obtain GST Registration.
- o When a Merchant-Exporter exports goods without payment of tax, but procures goods at 0.10% tax, he can claim a refund of the unutilized ITC at the end of the tax period in case of zero-rated goods or goods having inverted duty structure.
- o Where a supplier is supplying to a Merchant-Exporter at a regular rate and exports are done with the payment of IGST, the standard tax regime shall be followed by the supplier, i.e., ITC shall be used for payment of the output tax and the balance liability is to be paid in cash. The Merchant-Exporter can claim a refund of both unutilized ITC, IGST paid against zero rated supplies.
- o Where a supplier of a Merchant-Exporter procures goods from another supplier, the second supplier can claim refund of ITC under the Inverted Tax Structure, and where the Input Tax Rate is more than the Output Tax Rate.
- o Under GST, Duty Drawback can be claimed for the Customs Duty paid on imported inputs or Central Excise Paid on certain petroleum products used as fuel for captive power plants.
- o **0.10% of GST on Exports** Under this scheme, a domestic supplier is allowed to charge 0.10.% while supplying goods to a registered Merchant Exporter, but only if specific conditions are met. Key conditions include a clause that the merchant exporter



must export the goods within 90 days from the date of the supplier's invoice.

- **High Seas Sales under GST (HSS)-Merchanting Trade**

- o HSS is a legal trade practice where the original importer of goods sells those goods to another buyer when these are still in transit from the exporter and are on the high seas i.e., sales take place before these goods pass through the Indian Customs. In simple words, it means that sales happen after the goods have been dispatched from the Port of Loading and before they reach the Port of Discharge.

- o **Legal Position**

- Under Article 286 of the Constitution of India, no State Government has the authority promulgated under any law relating to import of goods and services, except the Union. Therefore, relevant expressions are incorporated in IGST.
- **Customs Frontier Area**, U/s 2(7) of the IGST Act, 2017 r.w.s. 2(4) of the Customs Act 1962(52 of 1962), **“Customs Area”** means the area of a Customs Station or Warehouse and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities.
- **U/s 7(2) of the IGST Act**, “Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-state trade or commerce.” Hence, goods sold as part of the HSS before crossing the Customs of India are considered as interstate supply. This means that IGST applies to these transactions.



o **Example-1**

- An importer in Kolkata places an import order on a Chinese manufacturer for electronic goods, and while in transit and before crossing the Indian Customs Frontiers, he sells those goods to a buyer in New Delhi. This transaction is called High-Seas sales.
- U/s 2(10) of the IGST Act, Import of Goods means bringing goods into India from a place outside India.
- GST Council, vide Para 4 of the Circular No.33/2017, dated August 01, 2017 has clarified that, in order to avoid double taxation, GST shall be levied only at the time of importation, i.e, when the import declaration is filed before the Customs Authorities for Customs Clearances for the first time.

o **Example-2**

- A similar situation could have arisen, if the second buyer were in Dubai. The Indian importer makes a High Seas Sales in the international market, instead of in the domestic market. Here, the implications are different.
- The CGST Amendment Act, 2018 has amended Schedule III, para 7, regarding the treatment of HSS. This amendment states that the supply of goods from a place in a non-taxable territory to another place in a non-taxable territory, without such goods entering into India, is not considered a supply under GST Law. Therefore, no GST is charged on this transaction as the goods do not enter the taxable territory of India.
- **Logistics & Regulatory Considerations:** Execution of a HSS requires meticulous planning and adherence to logistical and regulatory requirements.



- **From Regulatory perspective**, the laws governing HSS vary from one country to another., making it imperative for the parties involved to be well-versed with the legal requirements of the countries of origin, transit and destination.
 - **From a documentary perspective**, due care and diligence must be taken as all documentation must be redrafted to reflect the latest sale transition and parties involved. The documents required are the Commercial Invoice, Import Invoice, Certificate of Origin, Insurance and HSS Agreement. Critical trade documents such as Commercial Invoice, Packing List, Bill of Lading (BL), Inspection Certificate, etc. shall need to be changed to the name of the new buyer, and in the case of BL, it may require issuance of a Switch Bill of Lading to reflect the new buyer or ensure that the endorsements on the BL are validated.
 - **From the Logistics standpoint**, the carrier must be promptly informed about the change in party details, port of destination and details of the HSS agreement.
- o **Implications**
- It is very important to understand the Section 2(e) of the Indian Foreign Trade (Development and Regulation Act) 1992 defines export as, “an act of taking out of India any goods by land, sea, or air with proper transaction of money.”
 - Government of India, Ministry of Commerce and Industry, Notification No. 62/23, dated February 29, 2024 has amended Para 2.39 of the Foreign Trade Policy 2023 which defines such a transaction as **Merchanting Trade**,



and is classified under Other Provisions Relating to Imports (and not under exports) in the Foreign Trade Policy as, “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 the goods in CITES (Convention on International Trade in Endangered Species) or under SCOMET (Special Chemicals, Organisms, Materials, Equipment and Technologies)”

o Caution

- Even though the earnings from the foreign buyer shall be in convertible foreign exchange and routed through the proper banking channels, our members should be cautious as MTT income is not to be classified as Export Income, but as Merchanting Trade Income.
- It is to be permitted only for those goods which are permitted both under exports and imports.
- AD Bank must satisfy the bona fides of the transaction. Complete transaction is routed through one AD Bank.
- Any aspect of Anti Money Laundering (AML) may be carefully watched.
- MTT should be completed with a period of 9 months.
- Payment for the import leg is permitted from EEFC account opened with the help of any advance payment received from the export leg.



- **Foreign Regulatory Requirements**

- International Trade and Classification Harmonized System: The most common globally used code of product classification is the Harmonized System (HS). This HS Classification is supported by World Customs Organization (WCO), World Trade Organization (WTO) and used by firms globally. The main advantage of using this system is its broad uniformity that helps the traders across the globe that they are dealing and understanding the same product.
- The HS Classification is arranged in 2-digits (Chapter), 4-digits (Heading), 6-digits (sub-headings), and 8- and 10-digits (actual product at tariff line). These classifications are harmonized up to 6-digit levels.
- Below we give **some examples** of product classifications:

- **HS Classification for Watermelons in India and USA:**

S. No.	Category	Code	Description
i.	Chapter, 2-digit	08	Edible fruit nuts, peel of citrus fruits or melons
ii.	Heading, 4-digit	0807	Melons, including water melons, fresh papayas
iii.	Sub-heading, 6-digit	080711	Fresh water melons
iv.	Basic product, 8-10-digit(India)	01071100	Fresh water melons
v.	Basic product, 8-10-digit (USA)	0117114010	Seedless watermelons, Fresh, entered during April 1-November 30.
vi.	Basic product, 8-10-digit (USA)	0117113010	Seedless watermelons, Fresh, entered during December 1-to any time during the year



S. No.	Category	Code	Description
vii.	Basic product, 8-10-digit (USA)	0117114090	Seedless watermelons, Fresh, entered during April 1-November 30

- **Identification of products within HS Chapter:**

HS Code by material content	HS Code by usage or function	HS Code by stage of processing
Rubber, HS-40	Pharmaceuticals, HS-40	Cotton, HS-52
Wood, HS-44	Fertilizer, HS-41	Man made staple fiber, HS-55
		Articles of apparel and clothing accessories, knitted or crocheted, HS-61
Source:	Compiled trade map updated	Descriptions

- **Certificate of Origin (CoO):**

- Chapter 2 of the Revised Kyoto Convention, a CoO means a specific form identifying the origin of the goods, in which the authority empowered to issue it certifies expressly that the goods to which the certificate relates, originate in that specific country. This certificate may also include a declaration by the manufacturer, producer, supplier, exporter or other competent authority. "Declaration of Origin" means an appropriate statement as to origin of the goods made, in connection with their exportation, by the manufacturer, producer, supplier, exporter, or other competent person on the commercial invoice or any other document relating to the goods.



- Thus, it is proof certifying that the goods in the shipment are wholly obtained, produced, manufactured or processed in that particular country mentioned therein.
 - It is normally issued by the concerned Government Authority, Chamber of Commerce, Export Promotion Council or Trade Association.
 - In India, DGFT has created a common digital platform for issue of Preferential and No-preferential Certificate of Origin, e-CoO, by designated agencies. CoO certificates are issued online without any physical intervention. (<http://coo.dgft.gov.in>). Each CoO is issued with a Unique Document Identification Number (UDIN) and a QR Code for verification and authentication by the user agencies.
 - CoOs are a very important part of the FTAs/ BTAs and have become very relevant during the current Tariff War.
- **Tariffs**
 - o Tariffs are the Import Duties levied by the Government of the importing country. These make the imported products costly and thus discourage the local consumers from buying and consuming these products. The **purpose of imposing** tariffs may be:
 - **Protection of the Domestic Industry and Balance of Trade:** Imposition of tariffs makes the imported products costly; this makes the consumer shift to the locally produced products. This not only protects the domestic industry from foreign competition, but also positively affects the Balance of Trade of the country and saves precious foreign exchange. This also positively affects growth in domestic GDP in the mid-and the long term.



- **Revenue Collection:** Tariffs are also a source of revenue to the Governments.

o **Types of Tariffs**

- **Ad valorem tariffs:** These are calculated as a percentage of the value of imported goods.
- **Specific Tariffs:** These are levied as a fixed amount per unit of the imported goods regardless of their value.
- **Compound Tariffs:** These tariffs combine both Ad valorem and Specific tariffs.

• **INCOTERMS**

- o INCOTERMS are the International Commercial Terms, which the buyer and seller agree for their transactions. These are the set of rules published by the International Chamber of Commerce (ICC) and related to the International Commercial Law. They provide internationally accepted definitions and rules of interpretation for the most common commercial terms used in the contracts of sale of goods.

Incoterms for Land/Air/Sea Mode of Transport

- **EXW: Ex-Works or Ex-Warehouse** means that the seller delivers when they place the goods at the disposal of the buyer at the seller's premises i.e., works, factory, warehouse, etc. The seller need not load the goods nor get them cleared from the customs, where such clearance is required.
- **FCA- Free Carrier** means that the seller delivers the goods to the carrier nominated by the buyer at the seller's premises or any other place; the risk in the property passes to the buyer at that point.



- **CPT- Carriage Paid To** means that the seller delivers the goods to the carrier as nominated by the seller at an agreed place and that the seller must contract for and pay the cost of carriage necessary to bring the goods to the named place of destination.
- **CIP - Carriage and Insurance Paid To** means that the seller delivers the goods to the carrier nominated by the seller and the seller must contract for and pay the cost of carriage and transit insurance.
- **DAP- Delivered at Place** means that the seller delivers when the goods are placed at the disposal of the buyer on the arriving means of transport ready for unloading at the named place of destination in the buyer's country. The seller bears all risks involved in bringing the goods to the named place. The buyer takes care of unloading of goods at the named place and customs clearance at destination port but that may be specifically stated to avoid confusion.
- **DPU: Delivered at Place Unloaded:** means that the seller delivers when goods once unloaded, are placed at the disposal of the buyer at a named place of destination. The seller bears all risks involved in bringing the goods to the named place and unloading them at the named place. The buyer takes care of customs clearance at the destination port; but that may be specifically stated to avoid confusion.
- **DDP-Delivered Duty Paid** means that the seller delivers when the goods are placed at the disposal of the buyer, cleared for import on the arriving means of transport ready for unloading at the named place of destination which may be the destination port itself or another



place. The seller bears all duties and costs including customs clearance costs and unloading from the main carriage in case the named place is different from the destination port; but the final unloading costs at the buyer's premises are borne by the buyer.

Incoterms exclusively for Sea and Inland Waterways

- o **FAS - Free Alongside Ship** means that the seller delivers when the goods are placed alongside a vessel e.g., a quart or a barge nominated by the buyer at the port of shipment. The risk passes on to the buyer the moment the goods reach alongside the ship. The buyer bears all costs thereafter.
- o **FOB - Free on Board** means that the seller delivers the goods on board the vessel nominated by the buyer at the port of shipment. The risk in the goods passes on to the buyer the moment the goods are on board the vessel. The buyer bears all costs thereafter.
- o **CFR - Cost and Freight** means that the seller delivers the goods on board the vessel. The seller must bear the costs and freight to bring the goods to the port of destination. But risk in the goods passes on to the buyer the moment the goods are on board the vessel.
- o **CIF – Cost, Insurance and Freight** means that the seller delivers the goods on board the vessel. The seller pays Cost until goods are boarded onto the ship along with Insurance to Port of Destination and international Freight cost to the destination port. The risk in the goods, though, passes on to the buyer, the moment the goods are put on board the ship. The buyer should note that the seller is duty bound to purchase only the minimum insurance protection (Clauses C). If any further insurance protection is required, the buyer must specify that and thus pay for the extra cost.



- **UCP 600-Uniform Customs & Practice for Documentary Credits**
 - o **UCP-600** is a set of rules issued by the International Chamber of Commerce which govern the use of Letter of Credit. The First UCP was created in 1933 and since has been revised periodically. UCP 600 is the latest version of 2007. A supplement eUCP was published in 2019 to govern electronic transactions.
 - o These rules are drafted by industry experts and are mandated by the ICC Banking Commission, rather than through any legislation, but still remain the most acceptable and used rules in trade finance contracts. As a rule, Letters of Credit require strict compliance by both the parties. The rules apply to 175 countries and cover almost USD 1 trillion worth of transactions every year.
 - o **UCP consists of 39 Articles and are structured as follows:**
 - Articles 1-5: General Provisions and Definitions.
 - Articles 6-13: Liabilities and Responsibilities.
 - Article 14: Examination of Documents.
 - Articles 15-17: Examination of Documents.
 - Articles 18-28: Documents.
 - Articles 29-33: Miscellaneous Provisions.
 - Articles 34-37: Disclaimers.
 - Articles 38-39: Transferable Credit & Assignment.
 - o **Summary of the UCP Provisions:**
 - Definitions of key terms which are prevalent in international trade, e.g., honouring of payments, applicants, banking days, presentation.



- How international documents, Letters of Credit can be signed and acknowledged by all parties.
 - Difference between Documents, Goods and Services and which parties deal with these.
 - Which parts of a Letter of Credit are negotiable and which are non-negotiable.
 - How credit works and how payments are made.
 - How banks can communicate the confirmation of goods, eg., tele-transmission.
 - Transportation of goods, modes of transport and who bears the responsibility.
 - How to deal with discrepancies, waivers and giving notices.
 - The provision of original documents or electronic copies.
 - Bills of Lading.
 - Insurance and covering the cost of goods.
 - Loss of shipping documents in transit.
- **eUCP:**
 - o To keep pace with the developments in technology, ICC released an updated supplement of the UCP 600 for the electronic transactions called the eUCP of the UCPDC, effective from July, 01, 2019. These rules will be continuously monitored and updated to reflect future technological developments and trends that emerge in trade finance.



eUCP contains:

- Article e1: Scope.
- Article e2: Relationship of eUCP with UCP.
- Article e3: Definitions.
- Article e4: Electronic records and paper documents of Goods, Services and Performance.
- Article e5: Format and minor structural changes.
- Article e6: Presentation, structural and grammatical changes, amend “beneficiary” to “presenter”.
- Article e7: Examination, expansion to nominated bank acting on its nomination, a confirming bank, or the issuing bank.
- Article e8: Notice of refusal.
- Article e9: Originals and copies.
- Article e10: Date of issuance, change of emphasis in that an electronic record now must be dated.
- Article e11: Transport, addition of “taking- in-charge” and goods accepted for carriage.
- Article e12: Data corruption of an electronic record, title of article amended for preciseness, clarification on the role of banks,
- Article e13: Additional disclaimer of liability for presentation of electronic records under eUCP, reference to a data processing system, banks are liable for their own data processing system.
- Article e14: Force majeure.



- **Uniform Rules for Collections for electronic presentations- eURC version 1.1.**
 - o Along with eUCP, ICC has also published **Uniform Rules for Collections for electronic presentations - eURC version 1.1.** This has been done to align with the model law on electronic transferable record (MLETR). eURC is a supplement of URC 522. It is designed to facilitate electronic presentation of documents in collection.
 - o In a documentary collection transaction, credit institutions provide importers with documents that will enable them to take possession of the goods- but only against acceptance of a bill of exchange or against payment. There are 4 types of documentary collections, viz., documents against acceptance of a bill of exchange, documents against payment, documents against written undertaking, documents against trust receipt.
 - Article e1: Application to collection instrument.
 - Article e2: Scope.
 - Article e3: Relationship with URC.
 - Article e4: Definitions.
 - Article e5: Electronic records and paper documents V. Goods, services and performance-Banks do not deal with goods, services or performance to which an electronic record, paper document may relate.
 - Article e6: Format, an eURC collection instruction must indicate the format of each electronic record.
 - Article e7: Presentation. When electronic records alone are presented under an eURC collection instruction, these must be accessible to a collecting or presenting bank at



the time the collecting or the presenting bank receives the eURC collection instruction. An electronic record that cannot be authenticated is deemed to not have been presented.

- Article e8: Advice of non-payment or non-acceptance.
- Article e9: Determination of a due date.
- Article e10: Release of electronic records.
- Article e11: Data corruption of an electronic record.
- Article e12: Additional disclaimer of liability for presentation of electronic records under eURC.
- Article e13: Force majeure

- **Export-Import Contract**

- o The Contract is a very important document. Each and every clause should be carefully drafted. Like any other contract, it must have an offer, free consent and *consensus ad idem meaning*, “meeting of the minds”, “agreement to the same thing” and the consideration.
- o **Art and Science of Drafting:** The significance of drafting lies in ensuring legal compliances and facilitating business operations. The following points should be kept in mind while drafting:
 - **Clarity and Understanding:** Clear language in the documents reduces the risk of misunderstanding or misinterpretation, so that the parties clearly understand their rights and obligations.
 - **Enforceability:** To be enforceable, it should comply with the legal requirements which helps in case of disputes and similar challenges.



- **Risk Mitigation:** A contract should be forward looking and address the future contingencies upfront. Carefully drafted agreements should try to mitigate the Commercial, Financial and Legal Risks. Provisions like dispute resolution mechanisms, termination clause and indemnification clause can help parties navigate potential disputes or breach of contract.
 - **Compliances:** It ensures compliance with relevant laws, regulations, industry standards and international best practices. By adhering to the legal requirements and best practices, contracts minimize the risk of legal liability and regulatory penalties.
 - **Preservation of Relationships:** Clear communication and transparency during the drafting process foster trust and goodwill among parties. Well-drafted contracts help preserve relationships between the parties by establishing clear expectations and preventing misunderstandings leading to disputes.
 - **Efficiency and Cost Effective:** Properly drafted contracts can save on time, resources and cost.
- **Uniform Rules on Digital Trade Transactions – URDTT**

With the rapid growth of digital trade, there has been an increased need for clear and uniform rules to govern digital trade transactions. The International Chamber of Commerce (ICC) has responded to this need by introducing the Uniform Rules for Digital Trade Transactions (URDTT) in 2022. As to the scope of the URDTT, the rules are entirely compatible with UNCITRAL Model Laws, primarily MLETR (Model Law on Electronic Transferable Records) which remains the foundation for the work on the digitisation of trade and includes providing legal framework on electronic Bills of Lading (e-BLs) and other transferable records.



The URDTT is a comprehensive framework for digital trade transactions that covers the entire trade process, from pre-contractual negotiations to dispute resolution. The URDTT provides a clear and uniform set of rules for digital trade transactions, ensuring that digital trade is conducted in a predictable and consistent manner. The URDTT covers a wide range of issues, including data protection, electronic signatures, and the use of digital trade documents, such as electronic bills of lading.

A major significance is that the basis of the rules is not bank-centric. Everything derives from the buyer/seller agreement and, of equal significance, the rules recognise that financial services providers in the current world are no longer restricted to banks only.

The major provisions are as follows:

Electronic Signatures

Electronic signatures have been gaining widespread acceptance in recent years, and the URDTT recognizes the importance of electronic signatures in digital trade transactions. The URDTT provides a clear and uniform set of rules for the use of electronic signatures, ensuring that electronic signatures are legally binding and have the same legal status as handwritten signatures. This is important because electronic signatures are a critical component of digital trade, and businesses need to have confidence in the legal status of electronic signatures.

The URDTT sets out clear guidelines for the use of electronic signatures, including the requirements for electronic signatures to be reliable and secure, and the conditions under which electronic signatures may be used. For example, the URDTT requires that electronic signatures be linked to the signatory in a manner that allows for the identification of the signatory, and that electronic signatures be capable of being trusted to ensure the authenticity and integrity of the signed document. The URDTT also provides for the use



of digital signatures, which are more secure than traditional electronic signatures, and are widely recognized as being legally binding.

- **Data Protection**

With the increasing use of digital trade, the protection of data has become a critical issue. The URDTT provides a comprehensive framework for the protection of data in digital trade transactions, covering issues such as data privacy, data security, and data protection. The URDTT requires businesses to take appropriate measures to protect the privacy and security of personal data in digital trade transactions, and provides guidelines for the protection of data, including the use of encryption and other security measures.

The URDTT also provides for the transfer of data across borders, recognizing that digital trade often involves the transfer of data between countries. The URDTT sets out clear guidelines for the transfer of data, including the conditions under which data may be transferred, and the requirements for the protection of data in transit. The URDTT requires businesses to take appropriate measures to ensure the protection of data in transit, such as the use of secure protocols for the transfer of data.

- **Digital Trade Documents**

The URDTT also includes provisions for the use of digital trade documents, such as electronic bills of lading. Electronic bills of lading are becoming increasingly important in the digital trade environment, as they provide a secure and efficient means of transmitting trade documents. The URDTT provides a clear and uniform set of rules for the use of electronic bills of lading, ensuring that they are legally binding and have the same legal status as paper bills of lading.

The URDTT sets out clear guidelines for the use of electronic bills of lading, including the requirements for electronic bills of lading to be secure and reliable, and the conditions under which they may be



used. The URDTT also provides for the use of digital signatures, which can be used to sign and verify electronic bills of lading, providing a high level of security and trust in the digital trade process.

- **Dispute Resolution**

The URDTT also includes provisions for the resolution of disputes in digital trade transactions. The URDTT provides for the use of alternative dispute resolution methods, such as arbitration, to resolve disputes that may arise in digital trade transactions. This is important because digital trade transactions are often cross-border transactions, and traditional legal remedies may not be effective in resolving disputes. The URDTT provides a clear and uniform set of rules for the resolution of disputes in digital trade transactions, ensuring that disputes can be resolved quickly and efficiently.

- **Information and Technology Act, 2000**

- o In India, the Information Technology Act has significantly impacted legal drafting and conveyancing. Most significantly, it has given legal recognition to Digital Signatures and Transactions, thereby, facilitating e-commerce and electronic governance. It also aims to prevent cybercrimes and establishes legal framework for electronic communication.
- o **Legal Recognition:** The Act gives the same recognition to the electronic records as the paper documents. This has helped streamline many processes in legal drafting and conveyancing allowing for faster and more efficient transactions.
- o **Digital Signatures:** This is the most significant recognition. It uses a private key. This has facilitated remote and international transactions reducing the need for physical presence or paper-based communication.



- o **Secure Electronic Record:** The Act casts a duty to ensure that the electronic records are maintained in a secure manner to ensure their integrity, confidentiality, availability and prevent cyber-attacks. These should be properly encrypted and stored under anti-Virus and Fire-walls. A real time Disaster Recovery Plan (DRP) can also be maintained.
 - o **E-governance:** By e-filing of the electronic records, the Act ensures e-Governance.
 - o **Intellectual Property:** The Act provides a framework for dealing with issues such as copyright infringements and digital media, protecting against unauthorized duplication of software and safeguards against data base.
 - o **Online Dispute Resolution:** The Act has paved the way for online dispute resolution mechanisms, which are increasingly being used to resolve commercial disputes .
 - o **Privacy and Data Protection:** Although the IT Act, 2000 included provisions for protecting sensitive personal information, the Digital Personal Data Protection (DPDP) Act, 2023 has enhanced the level of protection and has made it mandatory to protect all personal information .
- **Important clauses of Export-Import Contract:**
 - Recital: It includes an introduction of the parties, their businesses, address of communication, contact person, his/her contact details, the circumstances under which the export-import order was negotiated.
 - Goods to be exported, their ITC(HS) code, size and measurements, Certificate of Origin, High Seas Sales/ Merchanting Exports.
 - Quality inspection certificate.



- Packing
 - Forwarding
 - Port of dispatch
 - Port of destination
 - INCOTERMS.
 - Logistics: timelines, shipping lines, container, insurance, temperature, trans-shipment, part-shipment.
 - Payment terms: advance, milestone payment in case of Turnkey and Infrastructure projects are on milestone basis.
 - Force majeure.
 - Dispute Resolution: Multi-step, Conciliation, arbitration, seat, venue, applicable law.
 - Special conditions: training and capacity building of the importer/exporter staff.
- **Quality Inspection Certificate**
 - o The term Export Inspection refers to the process of determining whether the quality of the consignment of goods being exported is in conformity with the Export Order and/or International Standards. The latter becomes important as far as the reputation of the Country is concerned.
 - o Export Quality Inspection is covered under Export (Quality Control and Inspection) Act 1963. The Central Government is empowered that the export consignments must undergo quality inspection prior to their dispatch, viz.,
 - Indicate the kind of quality control.
 - One or more standards for a notified commodity.



- Prohibit the export of goods notified for export inspection under the Export (Quality and Inspection) Act, 1963 in the course of international trade unless these are accompanied by a certificate issued U/s 7 that the goods comply with the quality control, or inspection requirements, or has a mark or seal that it has been approved by the central government and the goods comply with the laid down standards.
- Packing Standards.
 - o In India, understanding packaging regulations and compliance is crucial for any business looking to ship products safely and legally. The Exporters need to ensure that packing materials used ensure the safety of the goods and also adhere strictly to international regulatory standards which may differ from product to product and country to country.
 - o Export Inspection Council (EIC) is the official export-certification authority in India. It was set up under section 3 of the Act.
 - o Commodities that shall be inspected have been notified by the Government. Additionally, limited quality control and pre-shipment inspection standards and practices have been implemented. The Act lists about 1,000 products. (Source: <https://content.dgft.gov.in/Website/EI.pdf>)
- **Voluntary Certification Scheme**
 - To help the export trade, the Export Inspection Council has developed a Voluntary Certification Scheme for products that are not notified under the Act, i.e., products for which a certificate of Compliance from the competent authority of the exporting country is not needed by the importing country.



- The importer can request for quality and packing inspection certificate from a Quality Inspector. There are more than 20 authorized Third-Party Inspection Companies in India of International repute, SGS, TUV Nord, etc. This certificate can be enclosed with other Shipping Documents.

- **Documentation**
 - o FTP 2023 prescribed the following mandatory documents:
 - Bill of Lading/ Air WayBill (AWB).
 - Commercial invoice cum Packing List.
 - Shipping bill,
 - Certificate of Origin.
 - Quality Inspection Certificate.
 - Insurance.
 - Copy of the contract.

All these documents need to be submitted to the negotiating AD Bank within 21 days of the invoice for negotiation along with the terms of payment, ie., DA, DP, LC, Bill of Exchange (BOE) duly accepted.

- o **Salient features of these documents are:**
 - **Proforma Invoice:** It is a sort of a bill when advance payment is required. It includes details about the product, price, delivery, payment terms. It acts as an addendum to the main contract.

 - **Commercial Invoice and Packing List** These days, these two documents are usually merged as one, particularly in case of single product exports.



- **Commercial Invoice** is prepared once the goods are ready for dispatch. It is submitted to the Customs Department for their verification and signatures before the shipment begins.
- **Packing List** is required when the cargo consists of more than one product. It contains the list of items being exported, their quantity, quality, make, brand, etc.
- **Shipping Bill** is a customs document which is required as a clearance for exports. It is issued by the Indian Customs Electronic Gateway. An exporter cannot export the goods without filing the Shipping Bill.
- **Bills of Lading (BL)**
 - o Under a BL, the carrier acknowledges that the goods being exported have been received by him.
 - o **Indian Scenario** Bills of Lading in India are currently governed by **Bills of Lading Act, 1856**, 9 of 1856. The Indian Parliament has now passed the 'Bills of Lading' bill, 2025 replacing the 1856 Act on 21st July, 2025 bringing in higher levels of transparency in rights and obligations of all stakeholders and thereby ease of doing business. The bill will shortly become 'Bills of Lading Act, 2025 after Presidential assent.
 - o **The Preamble** "Whereas by the custom of merchants a bill of lading of goods being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but nevertheless all rights in respect of the contract contained in the bill of lading continue in the original shipper or owner, and it is expedient that such rights should pass with the property; whereas it frequently happens that the goods in respect of which bills of lading purport to be signed have not been laden on board, and it is proper that such bill of lading in the hands of a *bona fide* holder for value should not be questioned by the



master or other person signing the same on the ground of the goods not having been laden as aforesaid”.

o **The Act has only 3 sections, dealing with:**

- Rights under Bills of Lading to vest in the Consignee or the Endorsee.
- Not to affect the right of stoppage in transit or claim for freight.
- Bills of lading in the hands of the Consignee, etc conclusive evidence of the shipment as against master etc.

o **The essence of the Act is:**

- Facilitates the transfer of rights and liabilities related to goods in transit by sea.
- Provides a legal framework for the use of bills of lading in international trade.
- Clarifies the rights and obligations of shippers, carriers and consignees.

o **Commercial Status of Bill of Lading:**

- **Receipt:** It confirms that the carrier has received the goods and accepted them for transportation.
- **Contract:** It outlines the terms of the Contract of Transportation.
- **Document of Title:** When negotiable, it serves as a Negotiable Instrument, can transfer the title in the goods by endorsement and delivery.



- **Negotiable Instruments Act 1882**
 - o Section 13 (1) of the Act gives an inclusive definition of a Negotiable Instrument which means a Promissory Note, Bill of Exchange, or Cheque payable either to order or to bearer.
 - o **Negotiable and Non-negotiable Bill of Lading**
 - Under the Negotiable BLs, the title in the goods can be transferred by endorsement and delivery, while the Non-negotiable BL is a straight BL, acknowledging the Receipt of Goods mentioned therein, specifying the consignee and title in the goods remains with consignee and is non-transferable.
 - Thus, even though a BL is a Document of Title and can be made negotiable that can transfer the ownership to its holder, but it not a Negotiable Instrument under Negotiable Instrument Act 1882.
 - o **Negotiability of a Bill of Lading**
 - A BL can be made negotiable if it is drawn “to order” or “to bearer”.
 - When negotiable, it can be transferred by endorsement like a Bill of Exchange.
 - However, unlike the Bill of Exchange (BOE), the holder of a negotiable BL may not get a better title than the original predecessor holder/ the transferor.
 - o ***nemo dat quad non-habit*** It is a Latin legal maxim, meaning that no person can give better title to a property, than what he himself possess. But the Negotiable Instruments under the Act are an exception to this maxim. For a person who takes a negotiable instrument *bona fide* in good faith and for value



becomes the true owner even if original holder had a defective title, say, he had stolen it or is a finder of a lost one.

- o Information included in a Bill of Lading
 - Details of the Consigner, Shipper.
 - Details of the Consignee.
 - Details of Carrier.
 - Description of the goods being consigned.
 - Quantity and weight of the goods.
 - Port of destination.
 - Mode of Transportation.
 - Terms of payment.
- o Thus, a Bill of Lading can be used as an evidence for legal Compliances of their obligations by the parties; it facilitates payment for the goods in transit and helps in Customs Clearances both at the Port of Despatch and Port of Destination.
- **Electronic Bill of Lading** e-BL is the electronic equivalent of the traditional paper BL. COVID 19 had been instrumental in expediting the generation of eBL. It differs from the traditional paper BL, in the fact that it is created digitally and available to all shipping parties through a safe web page.
 - o **Advantages, viz.,**
 - **Efficiency:** It can be generated, accessed, and transferred instantly, streamlining the logistic process and accelerating decision making.



- **Cost Saving:** It eliminates costs associated with the physical BL, viz., printing, handling, storing and transporting it. Plus, its shelf life is much more than that of the physical BL.
 - **Accuracy:** It helps minimize errors, illegible handwriting, and loss of documents.
 - **Security:** It is secured through digital signatures and encryption.
 - **Sustainability:** It reduces Green House Emissions (GHEs) by cutting down on paper work.
 - **User Adoption and Legal Adoption:** The shift process and the mind set and legal complexities in some jurisdictions are some of the challenges.
- o **Legal Landscape of eBL** The legal landscape of eBL is slightly complex and diverse. As different jurisdictions have different laws and regulations governing their usage and recognition. Therefore, there are some challenges in the use of eBL, viz.,
- Legal validity and enforceability of e-signatures and records.
 - Legal equivalence and transferability of electronic documents of title.
 - Legal inter-operability and comparability of different eBL systems and platforms.
 - Legal liability and risk allocation of eBL users and providers.
- o To address these issues and challenges various national and international initiatives have been undertaken to provide legal framework and guidance.



- o **Currently eBLs work on a “Club System”.** Currently there are only 6 globally recognized independent providers of digital documents who have liability cover from IG P&I clubs. essDocs, BOLERO, eTitle, edoxOnline, Wave and CargoX. There are a couple of Carrier owned platforms like Tradelens, and GSBN who work for such platforms.
- o With coverage from IG P&I (International group of P&I Clubs) which underwrites liability for 90% of the global maritime tonnage, electronic documents and its transfer has been legally protected for over 10 years now.

- **United Nations Commission on International Trade Law (UNCITRAL)**

In the field of e-Commerce UNCITRAL has released 4 texts in the past 2 decades. These are: 1996; Model Law on Electronic signatures, 2002; Electronic Communications convention, 2005 and Model Law on Electronic Transferable Records (MLETR), 2017.

- **Model Law on Electronic Transferable Records (MLETR), 2017**

- o To have a proper harmonization and legal clarity, the United Nations Commission on International Trade Law (UNCITRAL) has introduced a Model Law on Electronic Transferable Records (MLETR). This framework provides a basis of recognition of eBL as functionally equivalent to its traditional paper equivalent. As per the website of UNCITRAL, as on date only a handful of countries have signed this Model Law, they are Bahrain, Belize, France, Kiribati, Papua New Guinea, Paraguay, Singapore, Timor Leste, UAE, Abu Dhabi, UK and France. Challenges arise due to lack of inter-departmental coordination, inappropriate technology or political resistance.
- o **Legal Enforceability** This can be ensured through:



- **Multi-party agreement:** Private platforms that enforce the use of eBLs through multi-party agreement grant the holder the same rights and responsibilities as a legitimate holder of a paper eBL.
 - **Rotterdam Rules:** These are a set of international rules that govern the carriage of goods by sea and other modes of transport. These Rules recognize the use of eBLs and other electronic transport records and provide rules for their issuance, transfer and delivery. These have been signed by 25 countries, but have not yet been ratified- the minimum number is 20.
 - **Bolero Rules:** These rules govern the use of eBL and other electronic records on their platform. These are based on English Law and are recognized in England, China, Australia and Singapore.
 - **International Chamber of Commerce's, ICC -Digital Standard Initiative (DSI)** is dedicated to creating a unified and fully digital global trade environment. DSI's mission is to establish a comprehensive and inclusive digital trade ecosystem and aligning international standards, fostering collaboration, among public and private sector, and adapting digital trade practices. It's flagship project is Key Trade Documents and Data Elements (KTDDE).
- o **Legal Status Across Jurisdictions**
- ❓ **Singapore** is positioned as a global hub for trade & commerce. The Electronic Transactions (Amendment) Act 2021 has recognized eBL as legally equivalent to paper BL.
 - ❓ **UK:** In September 2023 Electronic Trade Documents Act gave legal recognition in English Law to electronic



trade documents, including eBL. The Act meets the requirements of MLETR.

- **USA** while the Federal Law remains silent on the explicit recognition of eBL, some states have taken divergent stands.

Adoption in India

- India has enacted Information and Technology Act 2000. It has been amended as Information and Technology Act 2008. This Act provides legal recognition for transactions as Electronic Commerce. It gives recognition to digital signatures. As a corollary, related Acts like Indian Penal Code, Indian Evidence Act 1872, Banker's Book Evidence Act 1891, and Reserve Bank of India Act 1934 have been amended to take care of digital documents.
- The Electronic Port Community System was designed to streamline business operations in the Maritime Sector by centralizing the trade documentation and information exchange on a single platform. In 2018, the Ministry of Shipping mandated that information and documents related to maritime trade be exchanged electronically using the e-PCs Platform. This initiative had significantly improved India's position in the Ease of Doing Business Index in 2018-19 from 77 to 62.
- Indian Customs are progressive and moving closer to a paperless system and right from the start, there are no demands for physical paper BL.
- As per the internal evaluation done by Digital Container Shipping Association (DCSA), the processing of physical BL involves three times the time and cost as compared



to e-BL. DCSA has issued standards for both the physical and e-BLs. Private platforms that enforce the use of e-BLs through a multi-party agreement grant the same rights and responsibilities as a legitimate holder of a paper BL, thereby establishing a legal framework for these digital documents to be recognized as a document of title.

- Currently eBLs work on a “Club System”, which India has adopted through platform like BOLERO. The India Electronic Port Community System (e-PCS) follows a similar approach requiring user registration before accessing its services. These club procedures rely on pre-established contractual agreements among parties, meaning that only those registered with a specific club can use its e-BL platform services. As a result, those parties which are not registered, their documents cannot be exchanged with those which are registered.
- Another challenge is the disinclination of the Banks to finance the transaction involving e-BLs. Traditionally BLs have been serving as a security for the Banks. They feel more comfortable in holding physical documents which are legally recognized, than those which are not.

o Fact Sheet:

- Start of the first eBL system-1998
- Only 1-2% of the global trade is currently digitalized.
- Current eBL adoption rate- 3-4% , up from 2.10% in 2022.
- In documentation, cost USD 6.50 Billion can be saved if eBL is used, instead of physical BL.
- Significant standardization exists for electronic versions of key trade documents



- Some industries are adopting digital documentary processes.
 - Out of 36 analyzed documents- 21 have standardized electronic versions with high interoperability-6 have multiple standards with limited operability-9 are at the early stages of standards development.
- **Role of BIMCO**
 - Baltic and International Maritime Council (BIMCO) is one of the largest non-governmental shipping associations representing shipowners. Its headquarters are situated in Copenhagen, Denmark.
 - It has recently taken the initiative and set a benchmark for e-BLs in the dry, bulk and liquid shipping sectors. Their standardized e-BLs are expected to comply with UNCITRAL/ CEFACT multi-modal Reference Data Model, DCSA Standards and other members of the Future International Trade (FIT) Alliance. This alignment is expected to bring in significant interoperability across different sectors of the shipping industry, leading to more efficient and cost-effective documentation process.
 - **Bank Finance for Exports**
 - o Bank Finance for exports is available at two stages, viz., Pre-shipment advance and post-shipment advance.
 - o **Pre-shipment Advance** is also known as Packing Credit (PC) is given to fund the purchases of raw material, process this into finished goods and packing of the finished goods before shipment. This credit is sanctioned based on a Confirmed and Irrevocable Export Order or a Letter of Credit confirmed by an international bank of repute. **Its salient features are:**



- Available in Indian rupees and select foreign currencies.
 - Advance against government incentives and duty-drawbacks.
 - Access to the Interest Equalization Scheme for Export Credit in INR for eligible sectors as per regulatory guidelines.
 - Separate PCs are granted against each order or LC.
 - PC has to be repaid through the Export Bills, therefore, a pre-shipment loan is converted into post-shipment.
 - PC may be adjusted
- o **Post-shipment Advance** supports exporters from the date of the shipment to the realization of the export proceeds. **Its salient features are:**
- Purchase and discount of export documents under confirmed orders.
 - Negotiation, payment and acceptance of documents under LC.
 - Advance against export bills sent on Collection.
 - Rediscounting of Export Bills in select foreign currencies.
 - Interest Equalization Scheme for Export Credit in INR for eligible sectors, as per regulatory guidelines.
 - In the case of Demand Bills, the period of advance shall be the Normal Transit Period-NTP.
 - In the case of Usance Bills, credit can be granted for a maximum period of 365 days from the date of the shipment, including the NTP.



Indicative Rates of Interest

o Export Credit in INR

S. No.	Facility	Rate of Interest	Remarks
	Pre-shipment		
i.	Upto 180 days	For accounts linked with MCLR in corporate / agri sector MCLR, as per tenor +BSP/ BSD +0.25% For accounts linked with RBLR in MSME sector, Repo rate + Mark up+BSP/BSD.	
ii.	Beyond 180 days and up to 360 days	Same as above	
iii.	Against incentives receivable from government covered under ECGC guarantee -up to 90 days	Same as above	
		Same as above	
B.	Post-shipment	Same as above	
i.	For demand bills for transit period , as per FEDAI guidelines	Same as above	
ii.	Usance Bills up to 90 days	Same as above	
iii.	Usance Bills beyond 90 days up to 6 months from the date of shipment	Same as above	
iv.	Usance Bills up 365 days for exporters under Gold Card Scheme	Same as above	



S. No.	Facility	Rate of Interest	Remarks
v.	Against incentives receivable from government covered under ECGC guarantee -up to 90 days	Same as above	
vi.	Against undrawn balances-up to 90 days	Same as above	
vii.	Against retention money , for supplies portion only payable within 1 year from the date of the shipment -up to 90 days.	Same as above	
viii.	Deferred Credit for a period beyond 180 days	Same as above	

Export Credit in Foreign Currency

S. No.	Facility	Rate of Interest	Remarks
•	Pre-shipment		
i.	Upto 180 days	250 bps over AAR as per tenor	
ii.	Beyond 180 days and up to 360 days	Rate of initial 180 days + 200 bps	
B.	Post-shipment		
i.	On demand bills for transit period , as per FEDAI guidelines	250 bps over ARR as per tenor	
ii.	Usance bills , up to 6 months from the date of shipment	250 bps over ARR as per tenor	
iii.	Export bills realized after due date , up to crystallization	Rate of usance bills+ 200 bps	



Export Credit Not Otherwise Specified

S. No.	Facility	Rate of Interest	Remarks
i.	Pre-shipment Credit	For accounts linked with MCLR in corporate / agri sector	
		MCLR, as per tenor +BSP/ BSD +5.50%	
		For accounts linked with RBLR in MSME sector, Repo rate + Markup +BSP/ BSD+5.50%	
ii.	Post Shipment	Same as above	

Notes

- a. Marginal Cost of Funds Lending Rate (MCLR) is dynamic. As on June 1,2025 it was as follows:

S. No.	Tenor	Rate w.e.f 01.06.2025- %age	Remarks
i.	Overnight MCLR	8.15	
ii.	1-month MCLR	8.35	
iii.	3-month MCLR	8.60	
iv.	6-month MCLR	8.85	
v.	1-year MCLR	9.05	
vi.	3-year	9.20	



b. Revised Benchmark Lending Rate (RBLR)

S. No.	Month	RBLR-%age	Mark up-%age	Repo-%age
i.	01.06.2025	8.85	2.85	6.00
ii.	01.05.2025	8.85	2.85	6.00
iii.	01.04.2025	8.85	2.85	6.00
iv.	01.03.2025	9.10	2.85	6.25
v.	07.02.2025	9.10	2.28	6.25
v.	01.02.2025	9.35	2.85	6.50
vi.	01.01.2025	9.35	2.85	6.50

Concession: permitted as per delegation, however the ROI will not fall below MCLR, for MCLR linked accounts, or Repo rates, for Repo rate linked accounts.

- a. **Interest Equalization:** Equalization on Rupee Export Credit should be passed on to eligible exporters as per extant guidelines issued by RBI from time to time.
- b. **Usance Period:** total period comprising usance period of export bills, transit period as specified by FEDAI and grace period, whichever is applicable.
- c. **Disclaimer:** product offerings are subject to eligibility criteria and Bank's internal policies and are provided at the Bank's discretion. (Source BOI).

Frequently Used Terms in Export Finance

- a. It may be noted that Banks do not deal in Goods; Banks only deal in Documents relating to those Goods.
- b. **Advance Payment** may range from 1-100%, depending on their negotiations and terms of the contract.



- c. **DP-Documents Against Payment** The set export documents, like BL, Invoice, etc. are handed over by the importer's bank to the importer only on payment of the invoice amount.
- d. **DA: Documents Against Acceptance** The set export documents, like BL, Invoice, etc. are handed over by the importer's bank to the importer on mere acceptance of the BOE, with a promise to pay the invoice at a later date, depending upon the Usance Period.
- e. **Usance Period** is the allowable period between the date of the bill and its payment, normally called the credit period.
- f. **Nostro Account:** It is Latin word, meaning "our account with you". This facilitates in the foreign exchange remittances. e.g., SBI may have a USD Nostro Account with JP Morgan Chase NY.
- g. **Vostro Account** for JP Morgan Chase, this account of SBI is a Vostro Account, "your account with us".
- h. **Loro Account** "their account with us". It is not a direct account between the two banks, rather an account of a third party.
- i. **EEFC Account** Normally the export proceeds are credited into the exporters account in INR, irrespective of the currency of his export invoice. In the Exchange Earners' Foreign Currency Account, the exporter can keep all or a portion of the export proceeds in foreign currency. This he uses for his business, including payment of some import invoices and thus save on the exchange fluctuations and Buy-Sell Exchange Rate of the Bank.
- j. **SOFR-Libor, Secured Overnight Finance Rate** is a Risk-free-Rate (RFR), used in the Foreign Exchange Market, especially denominated in USD. It is used as a benchmark rate for FX transactions and is used in calculating cost of borrowing and derivatives. After the LIBOR scandal in 2008, almost 6 RFRs



came up in different jurisdictions denominated in their local currencies. Eg, Sterling Overnight Index Average-SONIA in UK, ESTR-European Short-Term Rate was replaced by EONIA-European Overnight Index Average. Libor was phased out by new contracts after 2021 by December 2022 and then gradually by June 2023.

- k. **SWIFT -Society for Worldwide Interbank Financial Telecommunication** is a global network that facilitates transfer of funds from one country to another. It connects almost 11,000 financial institutions in almost all the countries of the world. Their messaging is encrypted and secure. Some countries are moving towards Block Chain based platforms which are much faster and transfer of funds takes place on a real-time basis.
- l. **NTP-Normal Transit Period** means the average period normally involved from the date of negotiation / purchase/ discount till the date of receipt of bill proceeds in the Nostro account of the Bank, as per FEDAI Rules.
- m. **Export Credit- DTA to SEZ** as per para 7.1.b of the EXIM Policy goods and services going from Domestic Tariff Area to the Special Economic Zones, shall be treated as exports. Therefore, such supplies shall be eligible for export credits.
- n. **Export Credit-Deemed Exports:** Banks are permitted to extend pre- and post-shipment export credit for goods and services supplied to the projects aided and funded by the World Bank, United Nations and Asian Development Bank, as notified from time to time by the Department of Economic Affairs, Ministry of Finance.



- **Export Promotion Schemes**

The Foreign Trade Policy (FTP) of India has been characterized by the Export Promotion Schemes, FTP, 2015 carried the following Export Promotion Schemes :

Duty Exemption and Remission Schemes

- i) **Advance Authorization** under this scheme duty free imports of inputs are allowed, which shall go into the manufacture of the exported goods to the minimum extent of 15%.
- ii) **Advance Authorization for annual Requirements** Exporters having past records and items having SION-Standard Input-Output- Norms.
- iii) **Duty Free Import Authorization (DFIA)** scheme is permitted where there is minimum 20% of value addition by the imported products and are under SION.
- iv) **Duty Drawback of Customs** Under this scheme products made out of duty paid inputs are first exported and then refunds of duty paid is obtained in 2 ways; all industry rates-as per schedule; and Brand rates-as applicable on the basis of documents.
- v) **EPCG Scheme** Covers Zero duty EPCG Scheme, Post export EPCG duty Credit Scrip Scheme.
- vi) **Duty Exemption for Software Technology Parks (STPs), Electronic Hardware Technology Parks (EHTPs), Bio-Technology Parks (BTPs), Export oriented Units (EOUs).**
- vii) **RoDTEP or the Remission of Duties and Taxes on Exported Products** which aimed to neutralize the taxes and duties suffered by exported goods which are otherwise not credited, emitted or refunded in any manner and remain embedded in the export goods. This scheme provides for rebate of all hidden Central, State, and Local Duties, Taxes and Levies which have not been refunded under any other existing schemes. This scheme is being handled by the Central Board of Indirect Taxes.



viii) **Interest Equalization Scheme providing subsidized finance to exporters.** (wef 01.04.2025 Interest Equalization @ of 3% per annum is provided for pre- and post-shipment rupee export credit for 5 years under 416 tariff line ITC HS codes for all manufacturer and merchant exporters and 5% for MSME manufacturer exporters. This is an increase from the earlier rates of 2% and 3% respectively).

The Foreign Trade Policy (2023) has continued with these schemes as it is based on principles of 'trust' and 'partnership' with exporters.

In the FTP 2015-20, changes were done subsequent to the initial release even without announcement of a new FTP responding dynamically to the emerging situations. Hereafter, the revisions of the FTP shall be done as and when required. Incorporating feedback from Trade and Industry would also be continuous to streamline processes and update FTP, from time to time.

Some new schemes such as the following have been announced in the 2023 policy:

The FTP 2023 aims at process re-engineering and automation to facilitate ease of doing business for exporters. It also focuses on emerging areas like dual use high end technology items under SCOMET, facilitating e-commerce export, collaborating with States and Districts for export promotion.

The new FTP introduces a one-time Amnesty Scheme for exporters to close the old pending authorizations and start afresh.

The FTP 2023 encourages recognition of new towns through "Towns of Export Excellence Scheme" and exporters through "Status Holder Scheme". The FTP 2023 is facilitating exports by streamlining the popular Advance Authorization and EPCG schemes, and enabling merchanting trade from India.

The Key Approach to the policy is based on these 4 pillars: (i) Incentive to Remission, (ii) Export promotion through collaboration - Exporters, States, Districts, Indian Missions, (iii) Ease of doing business, reduction in



transaction cost and e-initiatives and (iv) Emerging Areas – E-Commerce Developing Districts as Export Hubs and streamlining SCOMET policy.

Process Re-Engineering and Automation

Greater faith is being reposed on exporters through automated IT systems with risk management system for various approvals in the new FTP. The policy emphasizes export promotion and development, moving away from an incentive regime to a regime which is facilitating, based on technology interface and principles of collaboration. Considering the effectiveness of some of the ongoing schemes like Advance Authorisation, EPCG etc. under FTP 2015-20, they will be continued along with substantial process re-engineering and technology enablement for facilitating the exporters. FTP 2023 codifies implementation mechanisms in a paperless, online environment, building on earlier 'ease of doing business' initiatives. Reduction in fee structures and IT-based schemes will make it easier for MSMEs and others to access export benefits.

Duty exemption schemes for export production will now be implemented through Regional Offices in a rule-based IT system environment, eliminating the need for manual interface. During the FY23-24, all processes under the Advance and EPCG Schemes, including issue, re-validation, and EO extension, will be covered in a phased manner. Cases identified under risk management framework will be scrutinized manually, while majority of the applicants are expected to be covered under the 'automatic' route initially.

Towns of Export Excellence

Four new towns, namely Faridabad, Mirzapur, Moradabad, and Varanasi, have been designated as Towns of Export Excellence (TEE) in addition to the existing 39 towns. The TEEs will have priority access to export promotion funds under the MAI scheme and will be able to avail Common Service Provider (CSP) benefits for export fulfillment under the EPCG Scheme. This addition is expected to boost the exports of handlooms, handicrafts, and carpets.



Recognition of Exporters

Exporter firms recognized with 'status' based on export performance will now be partners in capacity-building initiatives on a best-endeavor basis. Similar to the 'each one teach one' initiative, 2-star and above status holders would be encouraged to provide trade-related training based on a model curriculum to interested individuals. This will help India build a skilled manpower pool capable of servicing a \$5 Trillion economy before 2030. Status recognition norms have been re-calibrated to enable more exporting firms to achieve 4 and 5-star ratings, leading to better branding opportunities in export markets.

Promoting export from the districts

The FTP aims at building partnerships with State governments and taking forward the Districts as Export Hubs (DEH) initiative to promote exports at the district level and accelerate the development of grassroots trade ecosystem. Efforts to identify export worthy products & services and resolve concerns at the district level will be made through an institutional mechanism – State Export Promotion Committee and District Export Promotion Committee at the State and District level, respectively. District specific export action plans to be prepared for each district outlining the district specific strategy to promote export of identified products and services.

Streamlining SCOMET Policy

India is placing more emphasis on the "export control" regime as its integration with export control regime countries strengthens. There is a wider outreach and understanding of SCOMET (Special Chemicals, Organisms, Materials, Equipment and Technologies) among stakeholders, and the policy regime is being made more robust to implement international treaties and agreements entered into by India. A robust export control system in India would provide access of dual-use High end goods and technologies to Indian exporters while facilitating exports of controlled items/technologies under SCOMET from India.



Facilitating E-Commerce Exports

E-commerce exports are a promising category that requires distinct policy interventions from traditional offline trade. Various estimates suggest e-commerce export potential in the range of \$200 to \$300 billion by 2030. FTP 2023 outlines the intent and roadmap for establishing e-commerce hubs and related elements such as payment reconciliation, book-keeping, returns policy, and export entitlements. As a starting point, the consignment wise cap on E-Commerce exports through courier has been raised from ₹5Lakh to ₹10 Lakh in the FTP 2023. Depending on the feedback of exporters, this cap will be further revised or eventually removed. Integration of Courier and Postal exports with ICEGATE will enable exporters to claim benefits under FTP. The comprehensive e-commerce policy addressing the export/import ecosystem would be elaborated soon, based on the recommendations of the working committee on e-commerce exports and inter-ministerial deliberations. Extensive outreach and training activities will be taken up to build capacity of artisans, weavers, garment manufacturers, gems and jewellery designers to onboard them on E-Commerce platforms and facilitate higher exports.

Facilitation under Export Promotion of Capital Goods (EPCG) Scheme

The EPCG Scheme, which allows import of capital goods at zero Customs duty for export production, is being further rationalized. Some key changes being added are:

- Prime Minister Mega Integrated Textile Region and Apparel Parks (PM MITRA) scheme has been added as an additional scheme eligible to claim benefits under CSP (Common Service Provider) Scheme of Export Promotion capital Goods Scheme (EPCG).
- Dairy sector to be exempted from maintaining Average Export Obligation – to support dairy sector to upgrade the technology.
- Battery Electric Vehicles (BEV) of all types, Vertical Farming equipment, Wastewater Treatment and Recycling, Rainwater harvesting system



and Rainwater Filters, and Green Hydrogen are added to Green Technology products – will now be eligible for reduced Export Obligation requirement under EPCG Scheme

Facilitation under Advance authorization Scheme

Advance authorisation Scheme accessed by DTA units provides duty-free import of raw materials for manufacturing export items and is placed at a similar footing to EOU and SEZ Scheme. However, the DTA unit has the flexibility to work both for domestic as well as export production. Based on interactions with industry and Export Promotion councils, certain facilitation provisions have been added in the present FTP such as:

- Special Advance Authorisation Scheme extended to export of Apparel and Clothing sector under para 4.07 of HBP on self-declaration basis to facilitate prompt execution of export orders – Norms would be fixed within fixed timeframe.
- Benefits of Self-Ratification Scheme for fixation of Input-Output Norms extended to 2 star and above status holders in addition to Authorised Economic Operators at present.

Merchanting trade

To develop India into a merchanting trade hub, the FTP 2023 has introduced provisions for merchanting trade. Merchanting trade of restricted and prohibited items under export policy would now be possible. Merchanting trade involves shipment of goods from one foreign country to another foreign country without touching Indian ports, involving an Indian intermediary. This will be subject to compliance with RBI guidelines, and won't be applicable for goods/items classified in the CITES and SCOMET list. In course of time, this will allow Indian entrepreneurs to convert certain places like GIFT city etc. into major merchanting hubs as seen in places like Dubai, Singapore and Hong Kong.



Amnesty Scheme

Finally, the government is strongly committed to reducing litigation and fostering trust-based relationships to help alleviate the issues faced by exporters. In line with “*Vivaad se Vishwaas*” initiative, which sought to settle tax disputes amicably, the government is introducing a special one-time Amnesty Scheme under the FTP 2023 to address default on Export Obligations. This scheme is intended to provide relief to exporters who have been unable to meet their obligations under EPCG and Advance Authorizations, and who are burdened by high duty and interest costs associated with pending cases. All pending cases of the default in meeting Export Obligation (EO) of authorizations mentioned can be regularized on payment of all customs duties that were exempted in proportion to unfulfilled Export Obligation. The interest payable is capped at 100% of these exempted duties under this scheme. However, no interest is payable on the portion of Additional Customs Duty and Special Additional Customs Duty and this is likely to provide relief to exporters as interest burden will come down substantially. It is hoped that this amnesty will give these exporters a fresh start and an opportunity to come into compliance.

- **Exports to European Union**

European Union consists of 27 countries and works as a single market system with one currency- Euro. It has a separate Parliament other than the individual countries. The Parliamentary Head Quarters are at Brussels.

In 2023 EU had a trade deficit with India of Euro 7.90 million. The main items of exports from India to EU are Iron & Steel, Electrical Machinery & equipment, Telecommunication Equipment, Drugs, Formulations & Pharmaceuticals.

European Green deal aims at 55% GHG Es reduction by 2030 and Net Zero by 2050. To achieve this, it has ground-breaking initiatives not only for the domestic companies, but also for the non-domestic companies exporting their products to EU. For example, the term green hydrogen was coined



by Germany, meaning thereby that it should not be manufactured with the use of energy from say, fossil fuels, but by green energy, say Hydro, Solar, Nuclear which are classified as Sustainable.

EU's Sustainability Programmes, particularly Carbon Border Adjustment Mechanism (CBAM) and Deforestation-free Regulation (EUDR) can significantly affect India's exports to EU, leading to higher costs, reduced competitiveness, and trade barriers. These regulations are applicable to 7 sectors, viz., Cement, Iron & Steel, Aluminum, Fertilizers, Electricity and Hydrogen.

On February 26, 2025 EU has come out with Omnibus-1 and Omnibus-2, simplifying the rule on Corporate Sustainability and Due Diligence Directive (CS3D), EU Taxonomy Carbon Border Adjustment mechanism and European Investment Programmes.

CSRD and EU Taxonomy

- Corporate Sustainability Reporting Directive under the EU Green Deal, requires companies to report on the impact of their activities on environment and society. It also requires an audit/ assurance of the reported information.
- The new directive issued on 26.02.2025, removes 80% of the companies from the scope of CSRD, focusing only on the large companies.
- Postpone the reporting requirements by 2 years till 2028.
- Reduce the burden of reporting under EU Taxonomy and making it voluntary.
- Introduce a financial materiality threshold for the Taxonomy reporting and reduce the number of reporting templates by 70%.
- Simplification of the "Do no Significant Harm" (DNSH) criteria for pollution control.



- Adjust main Taxonomy based key performance indicators for Banks, e.g., Green Asset Ratio (GAR), Banks will be able to exclude from the denominator of the GAR exposures that relate to undertakings which are outside the scope of CSRD, e.g., companies with less than 1,00 employees and turnover less than Euro 50.00 million.

CSDDD-EU Corporate Sustainability Due Diligence Directive

Simplify CS3D requirements e.g., reducing cost, due diligence requirements on direct business partners, reducing the frequency from annual to 5-year.

- Reduce burden of trickle down on SMEs.
- Remove EU Civil Liability.
- Postponing the application for largest companies to July 26, 2028 and advancing the adoption by one year to July 2026.

CBAM- Carbon Border Adjustment Mechanism is a tool to put a **fair price on carbon emitted** during the production of carbon intensive goods that are entering the EU, and to encourage cleaner industrial production in non-EU countries.

It focuses on the fact that imported goods from countries with less stringent climate regulations face a carbon price equivalent to that of the EU-produced goods. This way, it tries to prevent “**Carbon Leakage**”, where in the companies shift their production bases from EU to countries with weaker climate rules. CBAM is designed to be WTO Rules compatible.

CBAM will initially apply to import of certain goods and precursors whose production is carbon intensive and may risk **Carbon Leakage**; these are Cement, Iron & Steel, Aluminum, Fertilizers, Electricity and Hydrogen. When fully phased in, this will capture 50% of the GHEs in ETS covered sectors. By confirming that the price has been paid for the embedded carbon emissions generated in the production of certain imported goods, CBAM will ensure Carbon price of imports is equivalent to the carbon price of domestic production.



Latest Guidelines of March 17, 2025 effective March 28, 2025

Document No. 32025R0486-Commission implementing regulation 2025/486, dated March 17, 2025, has updated the rules for the application of regulation EU 2023/ 956, dated May 10, 2023 establishing CBAM; as regards the conditions and procedures related to the status of authorized CBAM declarants and in particular Article 5(8) and Article 17(10) thereof.

Whereas the original regulation EU 2023/ 956 lays down the rules for submission of application to become an **“authorized CBAM declarant”** and sets out the criteria and procedures for granting such authorization. Importers have to submit their applications to be able to import goods listed in Annexure I. Importers of Electricity under Article 5 (4) are to be regarded as authorized CBAM declarants without the need to submit a formal application

The regulation 2025/486 of March 17, 2025 runs into 6 Chapters having 29 Articles. Its provisions are applicable for March 28, 2025 to allow for the smooth authorization of CBAM declarants in parallel with the development of the IT Systems for CBAM Registry to make that registry fully operational by January 1, 2026.

Applicants, in order to obtain authorization must submit their application to the Member State of the establishment by means of a standard format provided in the CBAM registry in the electronic format. This has to be done prior to the first importation. The information to be provided shall be as per Article 5 of the regulation EU 2023/ 956. Where the applicant is a person established in a third country and in one of the situations as per Article 5(31)(b) of Regulation No EU 952/ 2013, the applicant shall provide its address in the third country, its address of establishment and EORI in the member state where the application is submitted. Each application shall be assigned a unique application number.

The Commission encourages those importers who expect to exceed the *de minimis* annual threshold of 50 tonnes mass for the import of CBAM goods



to apply for authorization as soon as possible. This would allow to keep 99% of the emissions still under CBAM, while exempting 90% of the importers – mainly SMEs and individuals.

For those importers who expect to remain in the CBAM scope, the proposed changes facilitate compliance with CBAM obligations. The process of authorization of declarants, the calculation of emissions, and the management of CBAM financial liability have been simplified. To make CBAM more effective, anti-abuse provisions and joint anti-circumvention strategy together with national authorities have been developed.

Exempt small SMEs.

CBAM shall be fully applicable for 2026; from 2023 to 2025 is the transitional period.

- **Sustainable and Green Exports**

Sustainability is the buzz word these days. It is not only for the duty of the National and State Governments; NGOs and religious organizations, but also for the Commercial Organizations.

United Nations Organization-UNO

- a. In 1945, the year of Norway's liberation from Nazi-German occupation, the Nobel Committee wished to show its support for the establishment of a new world order in the form of United Nations. This was done by awarding the Nobel Peace Prize to Cordell Hull, the father of United Nations.
- b. Four months after the San Francisco Conference, UN officially came into existence after its charter was ratified by China, France, the Soviet Union, the United Kingdom, and the United States of America on October 24, 1945. It is a global intergovernmental organization with the purpose of maintaining international peace and security.



- c. The Head Quarters of UN are situated in New York City, USA, with several offices at Geneva, Nairobi, Vienna and the Hague. The main bodies of the UN are the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council and the International Court of Justice. Presently, there 193 Countries/ States members of the General Assembly. Taiwan and the State of Palestine are not its members.

UN 17 Sustainable Development Goals The 2030 Agenda is a 15-year Global framework centered on a set of 17 Sustainable Development Goals (SDGs), 169 Targets and more than 230 Indicators These were adapted UN Sustainable Development Summit in New York in September 2015. SDGs aim to achieve decent lives for all on the earth by 2030. These are:

- SDG-1: No Poverty.
- SDG-2: Zero Hunger.
- SDG-3: Good Health and Well Being.
- SDG-4: Quality Education.
- SDG-5: Gender Equality.
- SDG-6: Clean Water and Sanitation.
- SDG-7: Affordable and Clean Energy.
- SDG-8: Decent Work and Economic Growth.
- SDG-9: Industry Innovation and Infrastructure.
- SDG-10: Reduced Inequalities.
- SDG-11: Sustainable Cities and Communities.
- SDG-12: Responsible Consumption and Production.
- SDG-13: Climate Change.



- SDG-14: Life Below Water.
- SDG-15: Life on Land.
- SDG-16: Peace, Justice and Strong Institutions.
- SDG-17: Partnerships for the Goals.

India is a signatory to the SDGs. Government of India has enacted certain Acts to achieve these and prevent misuse. These can be achieved in collaboration with both the Public and the Private Sectors.

The principle duty is that of the employer to oversee that the provisions of the act are scrupulously implemented in their organization. These Acts requires submission of annual report by the Internal Complaints Committees. The Acts also prescribes penalties for non-compliance. Any such violations may adversely affect the reputation of the organization and ultimately loss of export business. The case law of a big Indian IT Company operating in the US is an eye opener. **It becomes an important duty for our members to see that the provisions of these laws are strictly followed.**

Institute of Social Auditors of India: It is a Section 8 Company incorporated under the aegis of Institute of Chartered Accountants of India, as per SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) regulations, 2022. SEBI, vide Notification dated July 22,2022 has amended the SEBI (Issue of Capital and Disclosure Requirements) Regulation 2018 (ICDR Regulations), SEBI (Listing Obligations and Disclosure Requirements) Regulation 2015 (LODR Regulations) and SEBI Alternative Investment Funds) Regulation 2012 (AIF Regulations) to provide a broad framework for Social Stock Exchange. The Notification has inserted a new chapter X-A: Social Stock Exchange in ICDR Regulations, Further, a detailed framework on Social Stock Exchange has been prescribed vide SEBI Circular dated September 19,2022. It works on 16 Thematic areas of Social Enterprise.

USA- Section 307 and Imports Produced by use of Forced Labor: Under Section 307 of the Tariff Act of 1930, the US Customs and Border Protection (CBP) bans imports of goods wherein “Forced Labor” has been used.



On the positive side, if Sustainable Products are manufactured and exported by Corporates, it not only improves the marketability of their products, but also adds to the goodwill, bankability of the manufacturer and their future business.

Ambitious Sustainable actions go hand in hand with economic growth. Investment in green technologies, improved energy efficiency and strategic investments in carbon revenues which can enhance efficiency, productivity and innovation. Investments in Clean Energy, Low Emission Transport, and Better Urban Planning would also improve air, water and food qualities leading to better health of the general public. Reinvesting Carbon Revenues can also contribute to a just transition and secure public support for climate policies.

SDGs and the Regulations Impacting our Exports

Gender Equality

SDG-5 focuses on Gender Equality and empowering all women and girls. It aims to eliminate all forms of violence, including sexual harassment and other exploitation, both in the public and private spheres.

Indian Scenario

- a. **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.**
- b. The Act was enacted to provide protection against sexual harassment of women at workplace and for prevention and redressal of complaints of sexual harassment and for matters connected.
- c. Sexual harassment results in violation of the Fundamental Rights of a woman to Equality under Articles 14 and 15 of the Constitution of India, her right to live and live with dignity under Article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual environment.



- d. Protection against sexual harassment and the right to work with dignity are universally recognized human rights by international conventions such as the Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified by the Government of India on June 25,1993.
- e. **The Business Responsibility and Sustainability Reporting (BRSR)** framework, introduced by SEBI mandates the top 1,000 listed companies by market capitalization to disclose their Environment, Social and Governance (ESG) performance in the standardized format. The reporting has become compulsory from the FY ending 2024 and its Assurance from FY ending 2025. With effect from the FY 2025, it has become compulsory to incorporate details as mentioned about POSH Act and Rules.

Energy

Sustainable Development Goal-SDG 7 refers to Energy and calls for affordable, reliable, sustainable modern energy for all by 2030. Its 3 core targets are:

- Ensure universal access to affordable, reliable and modern energy services.
- Increase substantially the share of renewable energy in the global energy mix.
- Double the global rate of improvement in energy efficiency.
- Energy is considered to be the sector emitting the **maximum GHEs**, particularly, that generated from fossil fuels, like Oil & Gas, Coal and burning wood. Sustainable and Green Energy sources are Green-Hydrogen, Solar, Wind and Atomic.



Types of Hydrogen based upon Extraction Process

Grey Hydrogen: It is produced via coal or lignite gasification - black or brown, or via a process called Steam Methane Reformation- SMR, of Natural Gas or methane-grey. All these tend to be mostly carbon intensive processes.

Blue Hydrogen: It is produced via Natural Gas or Coal Gasification combined with Carbon Capture Use – CCU technologies to reduce carbon emissions.

Green Hydrogen: It is produced by using electrolysis of water with electricity generated by renewable energy. The carbon intensity ultimately depends on the carbon neutrality of the source of electricity, i.e., the more the renewable energy there is in the electricity fuel mix, the more will be the “Greener” Hydrogen produced.

India

- **India is fast developing her resources for producing and exporting Green Hydrogen. Ordinary Hydrogen used as fuel is called Grey Hydrogen.** The word Green has been pre-fixed by Germany, meaning thereby that it should be manufactured by use of energy from renewable sources.
- India set her targets of becoming energy independent by 2047 and Net Zero emissions by 2070.
- Currently India spends USD 160 Billion annually on energy imports. If no import substitution actions are taken, this bill is likely to double in the next 15 years. Keeping this in mind, on January 04, 2022 National Green Hydrogen Mission was approved by the Union Cabinet. The main objectives are:
 - To make India the leading producer and supplier of Green Hydrogen in the world.



- Creation of export potential and derivatives.
- Reduction on the dependence on fossil fuel.
- Development of indigenous manufacturing capabilities.
- Attracting investment.
- Creating opportunities for employment.
- Supporting R&D projects.

The initial outlay for this was Rs. 19,744 Crores, consisting of 4 sub-components, ie.,

Rs. 17,490 Crores for Strategic Interventions for Green Hydrogen Transition Programme (SIGHT); Rs.1,466 Crores for Pilot Projects;

Rs. 400 crores for Research & Development and

Rs. 300 Crores for other Mission components. All this shall function under the Ministry of New & Renewable Energy.

Balance Rs 88 crores - contingencies

Child Labour

UN SDG 8 aims to promote inclusive and sustainable economic growth, full and productive employment and decent work for all. As this relates to children, Target 8.7 of this Goal aims to eliminate the worst form of child labor, including the recruitment and use of child soldiers, as well as to end all forms of child labor by 2025.

UNICEF is the co-custodian with ILO for global monitoring of one indicator that measures progress towards Goal 8, as it relates to children, indicator 8.7.1.-proportion and number of children aged 5-17 years engaged in child labor, by sex and age. The ILO estimated that 2021 on a given day 27.60 million people were forced into labor against their will, and almost 90% of them are Children and Women. Products of that forced labor enter global



supply chains, competing against products made with properly employed un-forced labor. A 2024 report submitted by ILO and UNICEF submits that 138 million children are still to be found in child labor worldwide, with 54 million engaged in hazardous work. Although there has been a decline in the engagement of child labor the pace of progress is “far too slow”. The highest number of child labor is engaged in agriculture, followed by household domestic work, construction, manufacturing and mining.

USA: In recent decades, the Congress, through various legislations and oversight has increased its efforts to keep these products out of the US market. Since 2015, many of those efforts have been directed at amending and overseeing the enforcement of Section 307 of the Tariff Act, 1930, 19 USC # 1307. This section prohibits products that are mined, produced or manufactured, wholly or in part, by forced labor, including child labor. In the 118th Congress some members held various hearings and proposed legislation focused on concerns over forced labor being used in China in certain specific sectors and supply chains, such as Sea Food, Critical Minerals, and Automotive Parts.

Definition of Forced Labor: Section 307 is modeled on ILO Forced Labor Convention 1930 (No.29), “All work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.”

Administration of Section 307: any person who has reason to believe that any class of merchandise that is being, or is likely to be imported into USA has been produced by forced labor may communicate to the Commissioner of Customs and Border Protection (CBP). On receipt of such communication, the Commissioner initiates an investigation.

Assurance: There are qualified Certified Social Compliance Auditors to conduct the Audit of these compliances under International Due Diligence Standards.



In India, the Child Labour is prohibited by law. The Child and adolescent Labour (Prohibition and Regulation) Act 1986 prohibits employment of children below the age of 14 in all occupations and employment of adolescent age between 14-18 years, in hazardous industries. The Act was amended in 2016 to make offences cognizable and provide stricter penalties for employers.

Constitutional Provisions

Article 21A, Right to Education: The State shall provide free and compulsory education to all children of 6-14 years.

Article 24, Prohibition of Employment of Children in Factories: No child below the age of 14 shall be employed to work in any factory or mine or engaged in any hazardous employment.

Article 39, The State shall direct its policy towards securing:

- a. That the health and strength of workers, men and women, and the tender age of children are not abused and that the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.
- b. That the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that the childhood and youth are protected against exploitation and against moral and material abandonment.

Article 45, Provision for early childhood care and education to the children below the age of 6 years.

- a. **Reporting on Child Labour form part of the BRSR** (Business Responsibility and Sustainability Reporting) at its point no 6-number of complaints; Point No 9-Assessment for the year- %age of your plants and offices that were assessed, by entity or statutory authorities or third parties; Point on Leadership Indicators, Details of assessment of value chain partners-%age of value chain partners by value of business done with such partners that were assessed.



- b. **Caution:** Our members should be cautious to check if any child labour exists particularly in the following industries: Mining, Garments, Carpets, Wool, Cashew, Jute, Artifacts, Potteries, Sericulture, Leather Skinning, Manufacturing -Leather Garments and Footwear, Diamond-Cutting, Brass Wares, Mechanized Fishing, Food Processing, Brewages and Packaging.

Climate Change

SDG-13 on Climate Change It calls for taking urgent action to combat climate change and its impact. These actions include Mitigation, Adaptation and Loss & Damage. Climate Change is a global challenge that requires international cooperation and collaboration.

Mitigation involves reducing Green House Gas Emissions through measures, such as use of renewable energy, energy efficiency and sustainable logistics.

Adaptation This focuses on adapting to the unavoidable impacts of climate change, such as changing climate patterns, extreme weather events, rising sea levels, etc.

Loss & Damage This involves monetary compensation by the major GHE emitters to the vulnerable jurisdictions. During COP 27 and COP 28 landmark decisions had been taken to create a fund for this with the World Bank/ UNFCCC.

Paris Agreement on Climate Change This is an international agreement signed by 198 countries. However, USA has recently pulled out of it during COP 29. The main aim of this agreement to control Climate Change by containing Green House Gas Emissions so that the rise in Global Temperatures is well within 2 degrees Celsius as compared with the pre-industrial levels, with the ambition to pursue efforts to limit it to 1,50 degrees Celsius.

India and Climate Change India has set 2070 as the Net Zero Target at COP 26 during 2021 at Glasgow. India's Fourth Biennial Update Report (BUR-4)



highlights a 7.93% reduction GHG emissions in 2020 as compared to 2019. This shows India's commitment to Climate Change. The National Energy Plan is in accordance with the Paris Agreement target of 2o C of Global Warming. Other major steps taken are: Doubling renewable energy targets 450 GWts by 2030, National Solar Mission, Carbon Intensity of the economy to be cut by 45% by 2023, Cut 1 billion Tonnes of GHG Es from the amount projected to the year 2030, introduction of project LIFE- meaning changing Life Style to benefit the environment.

Green Aluminum

India's Aluminum exports of Aluminum and Articles decreased to USD 2443.86 million in 2023 from USD 8849.91 in 2022. (Ministry of Commerce & Industry). The data is categorized under World Trend Plus Association's Metal and Mining Sector-Table WB. UNCTAD.AL: Non-ferrous metals: Aluminum: Export Value by Individual Economies and Territories.

India-USA. USA is the second largest export market for India, with exports reaching almost USD 946 million in 2023-24, accounting for 12% of the total. With the recent imposition of tariffs on Indian Steel and Aluminum, the Aluminum exports will be much more affected. With effect from June 4,2025 the tariff rates have doubled from 25% to 50%.

India-EU. EU has imposed Carbon Border Adjustment Mechanism-CBAM as an instrument to address Carbon Leakage. It affects the Aluminum industry by putting a price on emissions associated with Aluminum produced in countries produced outside EU and imported into EU, by imposing a Carbon Tax. Initially it involves the Aluminum importers situated in EU to report direct and indirect emissions associated with Aluminum production in imported goods from third countries on a quarterly basis. For this, the importer has to rely on the exporter's information. From January 1, 2026 the EU importers can buy CBAM Certificates on imported aluminum, just like Emission Trading System (ETS). **It is important to note that that can be minimized by choosing suppliers who have implemented sustainable practices and reduce their carbon emissions.**



Aluminum includes, Unwrought aluminum, aluminum powders and flakes, and all kinds of aluminum products, ie., including bars, rods, wires, plates, sheets, foils, tubes and pipes, tube and pipe fittings, structures, reservoirs, tanks, casks, drums, cans, boxes and other containers and cables.

Green Aluminum: Aluminium is known for its light weight, strength and recyclability. Traditionally, its production is highly energy-intensive and contributes to Green House Emissions. It accounts for nearly 2-3% of the global emissions. This is mainly due to the Smelting Process that is highly energy intensive, which is dependent on fossil fuels. The process of electrolysis of alumina consumes a lot of electricity which is being sourced from carbon-heavy grids. Further, the indirect emissions from bauxite mining, alumina refining and logistics (Scope-3) add to the environmental footprint. The demand for Electric Vehicles (EVs) and renewal infrastructure is going to increase the demand for aluminum. On top of this, as explained above, countries like EU are very strict on their Carbon Border Adjustment Measures (CBAMs). Therefore, the solution lies in Green Aluminum.

What is Green Aluminum, Aluminum that uses in its manufacturing:

- a. **Renewal energy**, like hydro, nuclear or solar.
- b. **Process Innovation**, use of ceramic anodes, instead of carbon. The former emits oxygen, while the latter emits CO₂ during electrolysis.
- c. **Circularity**, reuse of aluminum requires 90% less energy.
- d. **Use of AI**, Use of Digitalization and AI are revolutionizing the aluminum industry for its decarbonization.
- e. One of the biggest aluminum suppliers, Canada has immediately shifted to Hydro power for the manufacture of green aluminum, increasing competition for India.



- **Importance of Supply Chain in Exports**

Checklist for our members

Understanding Supply Chain in Export Management is the most important task for our members. In the present-day world, the Supply Change landscape continues to change at an unprecedented pace. In 2025, organizations will need to navigate a complex interplay of technological advancement, geopolitical shifts and changing consumer expectations. **To thrive in this dynamic environment, our members must embrace technology and innovation, build resilience, capacity building and prioritize sustainability.**

Industry 4.0, includes Data Analytics, IoT, Block Chain and Artificial Intelligence Techniques. These techniques are transforming supply chain operations at a remarkable speed. These techniques enable more intelligent sourcing, optimize supplier selection, refine production schedules, reduce lead time, negotiations processes, improved inventory management, demand forecasting, smart packaging, better and predictive vehicle maintenance, real time tracking of vehicles, improve quality and efficiency and reduce all round costs. Applications include Standardized Freight Data, exchange to deliver operational efficiencies, fine tune routes and port planning, reduce emissions, and costs.

To maximize the potential of I4.0, our members should embrace a mindset of continuous learning and experimentation. Stay informed about the latest trends and technologies to identify opportunities to disrupt traditional practices to generate value. Besides these, in order to get the best results, our members should encourage collaboration among other teams. With the human element added into I4.0, it is moving towards Industry 5.0.

Global Geopolitical Dynamics Rising global tensions, trade wars, sanctions, ongoing conflicts and leading to economic fluctuations are all increasing the uncertainties for the export business. In the recent years, major shipping lines have faced significantly increased costs, and severe delays due to geopolitical tensions, trade disputes and severe weather conditions due to climate change all of which are threatening global trade.



To mitigate these risks our members can advise their clients and employers to focus on diversification, contingency planning, and data driven decision making, cyber security, enhance supply chain visibility, develop strong partnerships and collaborations, improve communication and foster more resilient networks.

Visibility and Traceability: The **pharmaceutical industry**, with its intricate global networks and stringent quality control regulations, demands visibility and traceability. The industry is using Block Chain, Industrial Internet of Things (IIoT) and Radio Frequency Identification (RFID) from raw material to final product, ensuring authenticity, quality and compliance with regulatory standards. Real-time tracking shipments allow for proactive risk management, prevention of theft, counterfeit transactions and timely action at the time of disruptions.

Our members being part of the Audit Committee of the Board can ensure that such SOPs are scrupulously followed and regularly analyze the system generated MIS.

Capacity Building : Employ I5.0 techniques so that there is all round human development. In the present dynamic world, investing in skill development is very important for the organization to sustain and grow. Additionally, fostering a positive work environment, employee well-being and complaint redressal mechanism help in maintaining healthy atmosphere.

Green Supply Chain: Most of the countries have made strict emission laws for outsider companies to export their products into their country. **These not only involve that the goods should be manufactured with the help of Green and Sustainable technologies, but also ensure that these are delivered through Sustainable and Green Supply Chains.** This involves emissions during both up-stream and down-stream supply chains. Our members can ensure that these are properly accounted for with regulatory compliances.



Scope-3 has 15 categories which may affect the supply chain and ultimately the entire export process.

Up-stream:

Category-1- purchase of all goods and services from cradle-to-gate emissions.

Category-2- purchase of all capital goods from cradle-to-gate emissions.

Category-3- purchase of all fuel and energy, not included in Scope 1 and 2 from cradle-to-gate emissions.

Category-4- transportation of goods between the scope 1 supplier and its own site of production, including inter-unit transportation.

Category-5- Waste generated in Operations, includes disposal at landfills and EHTPs.

Category-6- Business Travels, employee travel in vehicles not owned by the employer.

Category-7- includes employee travel in to and fro from home to work sites in vehicles not owned by the employer.

Category-8- Upstream Leased Assets, operating assets obtained in lease as a lessee.

Down-stream:

Category-9-Downstream transportation and distribution, includes transportation of goods sold by the company to the end consumer.

Category-10- Processing of intermediate products sold.

Category-11- End-use of goods and services sold.

Category-12-End-of-life treatment of sold products, including waste disposal.



Category-13-Downstream Leased Assets, leased by the company as a lessor and operated by the lessee.

Category-14-Operations of the Franchisees.

Category-15-Operations of investments, including debt, equity and project finance.

TRADE DISPUTES

• QUALITY COMPLAINTS

- a. **Chapter 8 of the FTP deals** with the Quality Complaints and Trade Disputes. In an endeavor to resolve trade disputes and build confidence in the business environment, a trade dispute resolution mechanism has been laid down. Normally, complaints are pertaining to the quality of goods and services supplied; partial supply, non-supply, and non-adherence of delivery schedules.
- b. **Duty of the Exporter:** Rule 11 of the Foreign Trade (Regulation) Rules 1993 requires that the exporter should mention the value, quality, the description of the goods being exported in the Shipping Bill and certify the quality and specifications as stated are in conformity with the terms as mentioned the export contract. Any violation of such provisions render the exporter for penal action.
- c. **Committee on Quality Complaints and Disputes (CQCTD)**
 - a. CQCTD is responsible for investigating into all quality complaints. It shall take prompt action to resolve the dispute within 3 months of its receipt.
 - b. The Committee at the Regional Authority (RA) level can authorize Export Inspection Agency (EIA) whether there has been any technical failure in meeting the quality standards.



- c. Initially steps will be taken to settle the dispute amicably and if not, then action may be taken against the erring exporter as per the provisions of the Act.
 - d. Complaints against the foreign entities shall be referred to the respective trade division in the Department of Commerce, Vanijya Bhawan, New Delhi through Indian Missions abroad.
 - e. In case the Indian Missions abroad are satisfied about the mala fide intention of the foreign entity, they shall send details to DGFT for circulation amongst other government bodies, EPCs, etc.
- d. **Penalties under the FT(D&R) Act 1992 and FT (Regulation) Rules, 1993**
- a. Section 8 of the Act empowers the DGFT to suspend or cancel the Import-Export Code (IEC) of the exporter.
 - b. Section 9(2), (4) empower the DGFT to refuse to grant or renew a license, certificate or scrip, or any other instrument granting financial and/or fiscal benefits under the Act.
 - c. Section 11(2) provides for imposition of fiscal penalty in case a person exports in contravention of the provisions of the Act and/or Rules or orders made thereunder or the Foreign Trade Policy.

- **Alternate Dispute Resolution (ADR) Mechanism**

Mediation

- a. **India has enacted the Mediation Act, 2023.** Section 2(h) defines it to be process which, “includes a process, pre-litigation mediation,



online mediation, community mediation, conciliation or an expression of similar import, whereby parties attempt to reach an amicable settlement of their dispute with the assistance of a third person referred to as mediator, who does not have the authority to impose a settlement upon the parties to the dispute.

b. Takeaways:

- a. The definition is broad and covers technological advances in the form of online Mediation- Online Dispute Resolution (ODR).
- b. Even if an implied intent to mediate is shown in the dispute resolution clause parties can refer the dispute to Mediation.
- c. Part II of the Arbitration and Conciliation Act 1996 which deals with the provisions of Conciliation shall now become redundant.

c. Scope of the Act

- a. As per Section 1 of the Act, it applies to both domestic and international mediations provided these are conducted within the territorial boundaries of India. Section 2 states that all mediations which are conducted in India, shall be regulated by the provisions of the Act where all parties to the mediation are Indian, or there exists a mediation agreement between the parties providing for the mediation to be conducted as per the provisions of the Act, or mediation is an international mediation having at least one of the parties to the said mediation being a foreign national.
- b. India, no doubt is a signatory to the Singapore Convention since August 7, 2019 however, it has still not been ratified. This essentially means that there is no recognition of cross-border Mediation Settlement Agreements.



Arbitration and Conciliation Act, 1996

- d. It is an Act to consolidate and amend the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards as also to define the law relating to conciliation and for matters connected therewith or incidental thereto. The Preamble of the Act, *inter alia* states that as the UNCITRAL Model Law and Rules make significant contribution to the establishment of unified legal framework for the fair and efficient settlement of disputes arising in international commercial relations, it is expedient to make the law respect arbitration and conciliation.
- e. **Scheme of the Act**
- a. The Act is divided into four parts and seven Schedules.
 - b. **Part I** deals with domestic arbitration.
 - c. **Part II** deals with international commercial arbitration.
 - d. **Part III** deals with the Conciliation (after the enactment of the Mediation Act, 2023 this part has become redundant) and
 - e. **Part IV** deals with supplementary provisions.
 - f. **First Schedule** is the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (The New York Convention)
 - g. **Second Schedule** is the Protocol on Arbitration Clauses.
 - h. **Third Schedule** is the Convention on the Execution of Foreign Arbitral Award.
 - i. **Fourth Schedule** prescribes model fee for arbitral tribunal.
 - j. **Fifth Schedule** enumerates the disclosures to be made by an arbitrator to ascertain his independence or impartiality.



- k. **Sixth Schedule** prescribes the form in which the disclosures enumerated in the Fifth Schedule are to be made by an Arbitrator; and
 - l. **Seventh Schedule** prescribes categories of relationship the existence whereof would make a person ineligible to be appointed as an arbitrator.
- f. Similarly, other countries have also enacted their Arbitration Laws. At this juncture, it becomes important to understand the difference between Seat and Venue of Arbitration.
- g. **The “Seat”** of Arbitration is the ‘situs’ of arbitration. It takes care of the crucial law, the procedural law, and which courts shall exercise supervisory jurisdiction. For international arbitrations, the concept assumes much more importance, as it acts as an indicator for both curial law as well as supervisory jurisdiction.
- h. **The “Venue”** of an arbitration merely defines the geographical place where such arbitration is conducted and not associated with the curial law and supervisory powers of the courts.
- i. Therefore, the Dispute Resolution Clause is drafted very carefully.
- e. Contracts for International Sale of Goods-CISG**
- a. The United Nations Convention on Contracts for the international sale of goods, also known as Vienna Convention is a multilateral treaty set up in 1980. It provides a set of uniform rules governing the formation, validity and performance of contracts for the international sale of goods. As on date 97 countries have ratified this treaty. India has been reluctant to sign this treaty, because it considers that the treaty is incomplete and not comprehensive. It does not take into consideration matters relating to validity of a contract, like fraud, illegality, or misrepresentation relating to the contract.



India is of the opinion that we have two well developed and established Acts: The Contract Act and Sale of Goods Act. Therefore, there is no need for a separate CISG.

- b. **Arbitration is of two types**, Ad hoc and Institutional. There are international institutions of repute for arbitration. These institutions have their own rules both for Mediation and Arbitration. Some of the institutions are:
- a. International Chamber of Commerce, ICC.
 - b. The Singapore International Arbitration Centre, SIAC.
 - c. Permanent Court of Arbitration, PCA.
 - d. The Hong Kong International Arbitration Centre
 - e. The London Court of International Arbitration Centre.
 - f. Stockholm Chamber of Commerce Arbitration Institute, SCC.
 - g. The International Centre for Dispute Resolution, ICDR in the international branch of the American Arbitration Association, AAA.
 - h. Silicon Valley Arbitration & Mediation Centre, SVAMC.
 - i. Mediate.com
 - j. Asian International Arbitration Centre, Kuala Lumpur, Malaysia.
 - k. Dubai International Arbitration Centre.
 - l. Swiss Chamber's Arbitration Institution, SCAI.
 - m. German Arbitration Institute (DIS).



n. Arbitration Centre of the World Intellectual Property Organization, WIPO.

- **World Trade Organization-WTO**

- a. WTO is the only international organization dealing with Rules of Trade between nations. It is head quartered in Geneva. It officially commenced operations on January 1,1995 pursuant to the Marrakesh Agreement. Its members are most of the trading countries globally replacing the General Agreement on Tariffs and Trade. WTO Agreements are negotiated and signed by most of the trading countries and ratified by their parliaments. It provides a forum for its members to resolve their mutual trade disputes. It also helps in monitoring trade policies, technical assistance and training for developing countries and cooperation with other international organizations.
- b. A dispute arises when one country adopts a trade policy measure and the fellow WTO members consider it to be a breach of the WTO Agreement. Settling disputes is the responsibility of the Dispute Settlement Body (DSB) which consists of all WTO members. The DSB is the sole authority to establish panels of experts to consider the case. It monitors the implementation of the recommendations and rulings. Either side can appeal the panel's rulings to a permanent 7-member Appellate Body.
- c. India has till date filed 24 cases as a Complainant, 32 cases as a respondent and 184 cases as a third party.



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INTERNATIONAL TRADE, SERVICES &
WTO DIRECTORATE
(under IA Committee)
FOR THE YEAR 2025-26**

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CA. (Dr.) Sanjeev Kumar Singhal, Dy. Convenor
CA. Charanjot Singh Nanda, President, (Ex-officio)
CA. Prasanna Kumar D, Vice-President, (Ex-officio)
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