

## **Master Circular on Import of Goods and Services**

### **Section I - Introduction**

(i) Import trade is regulated by the Directorate General of Foreign Trade (DGFT) under the Ministry of Commerce & Industry, Department of Commerce, Government of India. Authorised Dealer Category – I (AD Category – I) banks should ensure that the imports into India are in conformity with the Foreign Trade Policy in force and Foreign Exchange Management (Current Account Transactions) Rules, 2000 framed by the Government of India vide Notification No. G.S.R.381 (E) dated May 3, 2000 and the Directions issued by Reserve Bank under Foreign Exchange Management Act, 1999 from time to time.

(ii) AD Category – I banks should follow normal banking procedures and adhere to the provisions of Uniform Customs and Practices for Documentary Credits (UCPDC), etc. while opening letters of credit for import into India on behalf of their constituents.

(iii) Compliance with the provisions of Research & Development Cess Act, 1986 may be ensured for import of drawings and designs.

(iv) AD Category – I banks may also advise importers to ensure compliance with the provisions of Income Tax Act, wherever applicable.

(v) Any reference to the Reserve Bank should first be made to the Regional Office of the Foreign Exchange Department situated in the jurisdiction where the applicant person resides, or the firm / company functions, unless otherwise indicated. If, for any particular reason, they desire to deal with a different office of the Foreign Exchange Department, they may approach the Regional Office of its jurisdiction for necessary approval.

### **Section II - General Guidelines for Imports**

#### **B.1. General Guidelines**

Rules and regulations to be followed by the AD Category – I banks from the foreign exchange angle while undertaking import payment transactions on behalf of their clients are set out in the following paragraphs. Where specific regulations do not exist, AD Category – I banks may be governed by normal trade practices. AD Category – I banks may particularly note to adhere to "Know Your Customer" (KYC) guidelines issued by Reserve Bank (Department of Banking Regulation) in all their dealings.

#### **B.2. Remittances for Import Payments**

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

#### **B.3. Import Licences**

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

#### **B.4. Obligation of Purchaser of Foreign Exchange**

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

(ii) Where foreign exchange acquired has been utilised for import of goods into India, the AD Category – I bank should ensure that the importer furnishes evidence of import viz., Exchange Control Copy of the Bill of Entry, Postal Appraisal Form or Customs Assessment Certificate, etc., and satisfy himself that goods equivalent to the value of remittance have been imported.

(iii) In addition to the permitted methods of payment for imports laid down in [Notification No.FEMA14/2000-RB dated 3rd May 2000](#), payment for import can also be made by way of credit to non-resident account of the overseas exporter maintained with a bank in India. In such cases also AD Category – I banks should ensure compliance with the instructions contained in sub-paragraphs (i) and (ii) above.

## **B.5. Time Limit for Settlement of Import Payments**

### **B.5.1. Time limit for Normal Imports**

(i) In terms of the extant regulations, remittances against imports should be completed not later than six months from the date of shipment, except in cases where amounts are withheld towards guarantee of performance, etc.

(ii) AD Category – I banks may permit settlement of import dues delayed due to disputes, financial difficulties, etc. However, interest in respect of delayed payments, usance bills or overdue interest for a period of less than three years from the date of shipment may be permitted in terms of the directions in para C.2 of Section III below.

### **B.5.2. Time Limit for Deferred Payment Arrangements**

Deferred payment arrangements, including suppliers' and buyers' credit, providing for payments beyond a period of six months from date of shipment up to a period of less than three years, are treated as trade credits for which the procedural guidelines laid down in the Master Circular for External Commercial Borrowings and Trade Credits may be followed.

### **B.5.3. Time Limit for Import of Books**

Remittances against import of books may be allowed without restriction as to the time limit, provided, interest payment, if any, is as per the instructions in para C.2 of Section III of this Circular.

## **B.6. Import of Foreign Exchange / Indian Rupees**

(i) Except as otherwise provided in the Regulations, no person shall, without the general or special permission of the Reserve Bank, import or bring into India, any foreign currency. Import of foreign currency, including cheques, is governed by clause (g) of sub-section (3) of Section 6 of the Foreign Exchange Management Act, 1999, and the Foreign Exchange Management (Export and Import of Currency) Regulations 2000, issued by Reserve Bank vide [Notification No.FEMA 6/2000-RB dated May 3, 2000](#), as amended from time to time.

(ii) Reserve Bank may allow a person to bring into India currency notes of Government of India and / or of Reserve Bank subject to such terms and conditions as the Reserve Bank may stipulate.

### **B.6.1. Import of Foreign Exchange into India**

A person may –

(i) Send into India, without limit, foreign exchange in any form other than currency notes, bank notes and travellers cheques;

(ii) Bring into India from any place outside India, without limit, foreign exchange (other than unissued notes), subject to the condition that such person makes, on arrival in India, a declaration to the Custom Authorities at the Airport in the Currency Declaration Form (CDF) annexed to these Regulations; provided further that it shall not be necessary to make such declaration where the aggregate value of the foreign exchange in the form of currency notes, bank notes or travellers cheques brought in by such person at any one time does not exceed USD 10,000 (US Dollars ten thousand) or its equivalent and/or the aggregate value of

foreign currency notes (cash portion) alone brought in by such person at any one time does not exceed USD 5,000 (US Dollars five thousand) or its equivalent.

### **B.6.2. Import of Indian Currency and Currency Notes**

(i) Any person resident in India who had gone out of India on a temporary visit, may bring into India at the time of his return from any place outside India (other than from Nepal and Bhutan), currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25,000 (Rupees twenty five thousand only).

(ii) A person may bring into India from Nepal or Bhutan, currency notes of Government of India and Reserve Bank of India for any amount in denominations up to Rs.100/-.

### **B.7. Third Party Payment for Import Transactions**

AD category I banks are allowed to make payments to a third party for import of goods, subject to conditions as under:

- a. Firm irrevocable purchase order / tripartite agreement should be in place. However this requirement may not be insisted upon in case where documentary evidence for circumstances leading to third party payments / name of the third party being mentioned in the irrevocable order / invoice has been produced.
- b. AD bank should be satisfied with the bonafides of the transactions and should consider the Financial Action Task Force (FATF) Statement before handling the transactions;
- c. The Invoice should contain a narration that the related payment has to be made to the (named) third party;
- d. Bill of Entry should mention the name of the shipper as also the narration that the related payment has to be made to the (named) third party;
- e. Importer should comply with the related extant instructions relating to imports including those on advance payment being made for import of goods.

## **Section III - Operational Guidelines for Imports**

### **C.1. Advance Remittance**

#### **C.1.1. Advance Remittance for Import of Goods**

(i) AD Category – I bank may allow advance remittance for import of goods without any ceiling subject to the following conditions:

(a) If the amount of advance remittance exceeds USD 200,000 or its equivalent, an unconditional, irrevocable standby Letter of Credit or a guarantee from an international bank of repute situated outside India or a guarantee of an AD Category – I bank in India, if such a guarantee is issued against the counter-guarantee of an international bank of repute situated outside India, is obtained.

(b) In cases where the importer (other than a Public Sector Company or a Department/Undertaking of the Government of India/State Government/s) is unable to obtain bank guarantee from overseas suppliers and the AD Category – I bank is satisfied about the track record and bonafides of the importer, the requirement of the bank guarantee / standby Letter of Credit may not be insisted upon for advance remittances up to USD 5,000,000 (US Dollar five million). AD Category – I banks may frame their own internal guidelines to deal with such cases as per a suitable policy framed by the bank's Board of Directors.

(c) A Public Sector Company or a Department/Undertaking of the Government of India / State Government/s which is not in a position to obtain a guarantee from an international bank of repute against an advance payment, is required to obtain a specific waiver for the bank guarantee from the Ministry of Finance, Government of India before making advance remittance exceeding USD 100,000.

(ii) All payments towards advance remittance for imports shall be subject to the specified conditions.

### **C.1.2. Advance Remittance for Import of Rough Diamonds**

a) AD category – I banks are permitted to take decision on overseas mining companies to whom an importer (other than Public Sector Company or Department / Undertaking of Government of India / State Government) can make advance payments, without any limit / bank guarantee/ stand-by letter of Credit. Banks must ensure the following:

- i. The overseas mining company should have the recommendation of GJEPC.
- ii. The importer should be a recognised processor of rough diamonds and should have a good track record.
- iii. AD Category - I banks should, undertake the transaction based on their commercial judgment and after being satisfied about the bonafides of the transaction.
- iv. Advance payments should be made strictly as per the terms of the sale contract and should be made directly to the account of the company concerned, that is, to the ultimate beneficiary and not through numbered accounts or otherwise.
- v. Further, due caution may be exercised to ensure that remittance is not permitted for import of conflict diamonds (Kimberly Certification).
- vi. KYC and due diligence exercise should be done by the AD Category - I banks as per the existing guidelines.
- vii. AD Category - I banks should follow-up submission of the Bill of Entry / documents evidencing import of rough diamonds into the country by the importer, in terms of the Act / Rules / Regulations / Directions issued in this regard.

b) In case of an importer entity in the Public Sector or a Department / Undertaking of the Government of India / State Government/s, AD Category - I banks may permit the advance remittance subject to the above conditions and a specific waiver of bank guarantee from the Ministry of Finance, Government of India, where the advance payments is equivalent to or exceeds USD 100,000/- (USD one hundred thousand only).

### **C.1.3. Advance Remittance for Import of Aircrafts/Helicopters and other Aviation Related Purchases**

1. As a sector specific measure, airline companies which have been permitted by the Directorate General of Civil Aviation to operate as a scheduled air transport service, can make advance remittance without bank guarantee, up to USD 50 million. Accordingly, AD Category – I banks may allow advance remittance, without obtaining a bank guarantee or an unconditional, irrevocable Standby Letter of Credit, up to USD 50 million, for direct import of each aircraft, helicopter and other aviation related purchases.

2. Importers of Aircrafts/ Helicopters and other Aviation related Purchases, not eligible under clause (1) above can make advance remittance without bank guarantee, in terms of Para C.1.1 above.

The remittances for the above transactions shall be subject to the following conditions:

- i. The AD Category - I banks should undertake the transactions based on their commercial judgment and after being satisfied about the bonafide of the transactions. KYC and due diligence exercise should be done by the AD Category-I banks for the Indian importer entity and the overseas manufacturer company as well.
- ii. Advance payments should be made strictly as per the terms of the sale contract and directly to the account of the manufacturer (supplier) concerned.
- iii. AD Category - I banks may frame their own internal guidelines to deal with such cases, with the approval of their Board of Directors.
- iv. In the case of a Public Sector Company or a Department / Undertaking of Central /State Governments, the AD Category - I bank shall ensure that the requirement of bank guarantee has been specifically waived by the Ministry of Finance, Government of India for advance remittances exceeding USD 100,000.

v. Physical import of goods into India is made within six months (three years in case of capital goods) from the date of remittance and the importer gives an undertaking to furnish documentary evidence of import within fifteen days from the close of the relevant period. It is clarified that where advance is paid as milestone payments, the date of last remittance made in terms of the contract will be reckoned for the purpose of submission of documentary evidence of import.

vii. Prior to making the remittance, the AD Category – I bank may ensure that the requisite approval of the Ministry of Civil Aviation / DGCA / other agencies in terms of the extant Foreign Trade Policy has been obtained by the company, for import.

vii. In the event of non-import of aircraft and aviation sector related products, AD Category - I bank should ensure that the amount of advance remittance is immediately repatriated to India.

Prior approval of the concerned Regional Office of the Reserve Bank will be required in case of any deviation from the above stipulations.

#### **C.1.4. Advance Remittance for the Import of Services**

AD Category – I bank may allow advance remittance for import of services without any ceiling subject to the following conditions:

(a) Where the amount of advance exceeds USD 500,000 or its equivalent, a guarantee from a bank of international repute situated outside India, or a guarantee from an AD Category – I bank in India, if such a guarantee is issued against the counter-guarantee of a bank of international repute situated outside India, should be obtained from the overseas beneficiary.

(b) In the case of a Public Sector Company or a Department/ Undertaking of the Government of India/ State Governments, approval from the Ministry of Finance, Government of India for advance remittance for import of services without bank guarantee for an amount exceeding USD 100,000 (USD One hundred thousand) or its equivalent would be required.

(c) AD Category – I banks should also follow-up to ensure that the beneficiary of the advance remittance fulfils his obligation under the contract or agreement with the remitter in India, failing which, the amount should be repatriated to India.

#### **C.2. Interest on Import Bills**

(i) AD Category – I bank may allow payment of interest on usance bills or overdue interest on delayed payments for a period of less than three years from the date of shipment at the rate prescribed for trade credit from time to time.

(ii) In case of pre-payment of usance import bills, remittances may be made only after reducing the proportionate interest for the unexpired portion of usance at the rate at which interest has been claimed or LIBOR of the currency in which the goods have been invoiced, whichever is applicable. Where interest is not separately claimed or expressly indicated, remittances may be allowed after deducting the proportionate interest for the unexpired portion of usance at the prevailing LIBOR of the currency of invoice.

#### **C.3. Remittances against Replacement Imports**

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

#### **C.4. Guarantee for Replacement Import**

In case replacement goods for defective import are being sent by the overseas supplier before the defective goods imported earlier are reshipped out of India, AD Category-I banks may issue guarantees at the request of importer client for dispatch/return of the defective goods, according to their commercial judgment.

### **C.5. Import of Equipment by Business Process Outsourcing (BPO) Companies for their Overseas Sites**

AD Category – I bank may allow BPO companies in India to make remittances towards the cost of equipment to be imported and installed at their overseas sites in connection with the setting up of their International Call Centres (ICCs) subject to the following conditions:

- (i) The BPO company should have obtained necessary approval from the Ministry of Communications and Information Technology, Government of India and other authorities concerned for setting up of the ICC.
- (ii) The remittance should be allowed based on the AD Category - I banks' commercial judgment, the bonafides of the transactions and strictly in terms of the contract.
- (iii) The remittance is made directly to the account of the overseas supplier.
- (iv) The AD Category – I banks should also obtain a certificate as evidence of import from the Chief Executive Officer (CEO) or auditor of the importer company that the goods for which remittance was made have actually been imported and installed at overseas sites.

### **C.6. Receipt of Import Bills/Documents**

#### **C.6.1. Receipt of import documents by the importer directly from overseas suppliers**

Import bills and documents should be received from the banker of the supplier by the banker of the importer in India. AD Category – I bank should not, therefore, make remittances where import bills have been received directly by the importers from the overseas supplier, except in the following cases:

- (i) Where the value of import bill does not exceed USD 300,000.
- (ii) Import bills received by wholly-owned Indian subsidiaries of foreign companies from their principals.
- (iii) Import bills received by Status Holder Exporters as defined in the Foreign Trade Policy, 100% Export Oriented Units / Units in Special Economic Zones, Public Sector Undertakings and Limited Companies.
- (iv) Import bills received by all limited companies viz. public limited, deemed public limited and private limited companies.
- (v) Similarly AD Category - I banks are permitted to allow remittance for imports up to USD 300,000 where the importer of rough diamonds, rough precious and semi-precious stones has received the import bills / documents directly from the overseas supplier and the documentary evidence for import is submitted by the importer at the time of remittance subject to the same conditions as above.

The import would be subject to the prevailing Foreign Trade Policy. AD Category I Banks must exercise their commercial judgement and satisfy themselves with respect to the bonafides of the transactions. AD Category - I banks should do the KYC and due diligence exercise and should be fully satisfied about the financial standing / status and track record of the importer customer. Before extending the facility, they should also obtain a report on each individual overseas supplier from the overseas banker or reputed overseas credit rating agency.

#### **C.6.2 . Receipt of import documents by the AD Category – I bank directly from overseas suppliers**

- (i) At the request of importer clients, AD Category – I bank may receive bills directly from the overseas supplier as above, provided the AD Category – I bank is fully satisfied about the financial standing/status and track record of the importer customer.

## **C.7. Evidence of Import**

### **C.7.1. Physical Imports**

(i) In case of all imports, where value of foreign exchange remitted / paid for import into India exceeds USD 100,000 or its equivalent, it is obligatory on the part of the AD Category – I bank through which the relative remittance was made, to ensure that the importer submits :-

(a) The Exchange Control Copy of the Bill of Entry for Home Consumption, or

(b) The Exchange Control Copy of the Bill of Entry for warehousing, in case of 100% Export Oriented Units, or(c) Customs Assessment Certificate or Postal Appraisal Form, as declared by the importer to the Customs Authorities, where import has been made by post, as evidence that the goods for which the payment was made have actually been imported into India.

(ii) In respect of imports on Delivery against acceptance basis, AD Category – I bank should insist on production of evidence of import at the time of effecting remittance of import bill. However, if importers fail to produce documentary evidence due to genuine reasons such as non- arrival of consignment, delay in delivery/ customs clearance of consignment, etc., AD bank may, if satisfied with the genuineness of request, allow reasonable time, not exceeding three months from the date of remittance, to the importer to submit the evidence of import.

### **C.7.2. Evidence of Import in Lieu of Bill of Entry**

(i) AD Category – I bank may accept, in lieu of Exchange Control Copy of Bill of Entry for home consumption, a certificate from the Chief Executive Officer (CEO) or auditor of the company that the goods for which remittance was made have actually been imported into India provided :-

(a) The amount of foreign exchange remitted is less than USD 1,000,000 or its equivalent and

(b) The importer is a company listed on a stock exchange in India and whose net worth is not less than Rs.100 crore as on the date of its last audited balance sheet, or, the importer is a public sector company or an undertaking of the Government of India or its departments.

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

### **C.7.3. Non-physical Imports**

(i) Where imports are made in non-physical form, i.e., software or data through internet / datacom channels and drawings and designs through e-mail / fax, a certificate from a Chartered Accountant that the software / data / drawing/ design has been received by the importer, may be obtained.

(ii) AD Category – I bank should advise importers to keep Customs Authorities informed of the imports made by them under this clause.

## **C.8. Issue of Acknowledgement**

AD Category – I bank should acknowledge receipt of evidence of import e.g. Exchange Control Copy of the Bill of Entry, Postal Appraisal Form, or Customs Assessment Certificate, etc., from importers by issuing acknowledgement slips containing all relevant particulars relating to the import transactions.

## **C.9. Verification and Preservation**

(i) Internal inspectors or auditors (including external auditors appointed by AD Category – I bank) should carry out verification of the documents evidencing import, e.g. Exchange Control copies of Bills of Entry or Postal Appraisal Forms, or Customs Assessment Certificates, etc.

(ii) Documents evidencing import into India should be preserved by AD Category – I bank for a period of one year from the date of their verification. However, in respect of cases which are under investigation by investigating agencies, the documents may be destroyed only after obtaining clearance from the investigating agency concerned.

#### **C.10. Follow-up for Import Evidence**

(i) In case an importer does not furnish any documentary evidence of import, as required under paragraph C.7. of Section III, within 3 months from the date of remittance involving foreign exchange exceeding USD 100,000, the AD Category – I bank should rigorously follow-up for the next 3 months, including issuing registered letters to the importer.

(ii) AD Category - I banks should henceforth submit a statement on half-yearly basis as at the end of June & December of every year, in form BEF furnishing details of import transactions, exceeding USD 100,000 in respect of which importers have defaulted in submission of appropriate document evidencing import within 6 months from the date of remittance using the online eXtensible Business Reporting Language (XBRL) system on a Bank-wide basis instead of the present system of branch-wise submission, to the respective Regional Offices of the RBI. The Statement should be submitted within 15 days from the close of the half-year to which the statement relates.

(iii) AD Category – I bank need not follow up submission of evidence of import involving amount of USD 100,000 or less provided they are satisfied about the genuineness of the transaction and the bonafides of the remitter. A suitable policy may be framed by the bank's Board of Directors and AD Category – I bank may set their own internal guidelines to deal with such cases.

#### **C.11. Issue of Bank Guarantee**

AD Category – I banks are permitted to issue guarantee on behalf of their importer customers in terms of Notification No. FEMA 8/2000-RB dated May 3, 2000, as amended from time to time.

#### **C.12 Import of Gold**

##### **C.12.1 Import of Gold**

- i. The 20:80 scheme of import of gold was withdrawn on November 28, 2014. However, the obligation to export under the 20:80 scheme would apply to the unutilised gold imported before November 28, 2014.
- ii. Nominated banks and nominated agencies, as notified by DGFT, are permitted to import gold on consignment basis. All sale of gold domestically will, however, be against upfront payment. Nominated banks are free to grant gold metal loans.
- iii. Star and Premier Trading Houses (STH/PTH) can import gold on Document against Payment (DP) basis as per entitlement without any end use restrictions.
- iv. The import of gold coins and medallions is permitted. However, prohibition on sale of gold coins and medallions by banks continues pending further review.

Head Offices / International Banking Divisions of AD Category - I banks shall henceforth submit the following statements under XBRL system from October 2014 onwards. (a) Statement on half yearly basis (end March / end September), showing the quantity and value of gold imported by the nominated banks/ agencies/ EOUs/ SEZs in Gem & Jewellery Sector, mode of payment-wise. (b) Statement on monthly basis showing the quantity and value of gold imports by the nominated agencies (other than the nominated banks)/ EOUs/ SEZs in Gem & Jewellery sector during the month under report as well as the cumulative position as at the end of the said month beginning from the 1st month of the Financial Year. Both the statements shall be submitted, even if there is 'Nil' position, by the 10th of the following month / half year, to which it relates.

##### **C.12.2. Import of Gold Jewellery Including Jewellery Made of Precious Metals or/and Studded With Diamonds / Precious Stones /Semi-precious.**



Suppliers' and Buyers' credit (trade credit) including the usance period of Letters of Credit opened for import of gold in any form, including jewellery made of gold/precious metals or/and studded with diamonds/semi-precious/precious stones, should not exceed 90 days from the date of shipment.

### **C.13. Import of Other Precious Metals**

#### **C.13.1. Import of Platinum /Palladium/Rhodium/ Silver/Rough, Cut & Polished Diamonds / Precious and Semi-precious Stones.**

(a) Suppliers' and Buyers' Credit, including the usance period of Letters of Credit opened for import of Platinum, Palladium, Rhodium and Silver and rough, cut and polished Diamonds, Precious and semi-precious stones; should not exceed 90 days from the date of shipment.

However for "Clean Credit i.e. credit given by a foreign supplier to its Indian customer/ buyer, without any Letter of Credit (Suppliers' Credit) / Letter of Undertaking (Buyers' Credit) / Fixed Deposits from any Indian financial institution for import of rough, cut and polished diamonds, precious and semi-precious stones, may be permitted for a period not exceeding 180 days from the date of shipment."

(b) AD Category – I banks should ensure that due diligence is undertaken and Know Your Customer (KYC) norms and Anti-Money Laundering (AML) guidelines, issued by the Reserve Bank are adhered to while undertaking import of the precious metals and rough, cut and polished diamonds. Further, any large or abnormal increase in the volume of business should be closely examined to ensure that the transactions are bonafide and are not intended for interest / currency arbitrage.

#### **C.13.2. Import of Platinum / Silver on Unfixed Price Basis**

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

### **C.14. Import Factoring**

(i) AD Category – I bank may enter into arrangements with international factoring companies of repute, preferably members of Factors Chain International, without the approval of Reserve Bank.

(ii) They will have to ensure compliance with the extant foreign exchange directions relating to imports, Foreign Trade Policy in force and any other guidelines/directives issued by Reserve Bank in this regard.

### **C.15. Merchanting Trade**

#### **C.15.1. For a trade to be classified as Merchanting Trade following conditions should be satisfied:**

- a. Goods acquired should not enter the Domestic Tariff Area and
- b. The state of the goods should not undergo any transformation.

#### **C.15.2. AD Category – I bank may handle bonafide Merchanting Trade Transactions and ensure that:**

(a) Goods involved in the transactions are permitted for export / import under the prevailing Foreign Trade Policy (FTP) of India as on the date of shipment and all the rules, regulations and directions applicable to export (except Export Declaration Form) and import (except Bill of Entry) are complied with for the export leg and import leg, respectively,

(b) Both the legs of a Merchanting Trade Transaction are routed through the same AD bank. The bank should verify the documents like invoice, packing list, transport documents and insurance documents (if originals are not available, non-negotiable copies duly authenticated by the bank handling documents may be taken) and satisfy itself about the genuineness of the trade.

- (c) The entire Merchanting Trade Transactions should be completed within an overall period of nine months and there should not be any outlay of foreign exchange beyond four months.
- (d) The commencement of Merchanting Trade would be the date of shipment / export leg receipt or import leg payment, whichever is first. The completion date would be the date of shipment / export leg receipt or import leg payment, whichever is the last;
- (e) Short-term credit either by way of suppliers' credit or buyers' credit will be available for Merchanting Trade Transactions, to the extent not backed by advance remittance for the export leg, including the discounting of export leg LC by an AD bank, as in the case of import transactions ;
- (f) In case advance against the export leg is received by the Merchanting Trader, AD bank should ensure that the same is earmarked for making payment for the respective import leg. However, AD bank may allow short-term deployment of such funds for the intervening period in an interest bearing account;
- (g) Merchanting Traders may be allowed to make advance payment for the import leg on demand made by the overseas seller. In case where inward remittance from the overseas buyer is not received before the outward remittance to the overseas supplier, AD bank may handle such transactions by providing facility based on commercial judgement. It may, however, be ensured that any such advance payment for the import leg beyond USD 200,000/- per transaction, should be made against Bank Guarantee / LC from an international bank of repute, except in cases and to the extent where payment for export leg has been received in advance;
- (h) Letter of Credit to the supplier is permitted against confirmed export order keeping in view the outlay and completion of the transaction within nine months;
- (i) Payment for import leg may also be allowed to be made out of the balances in Exchange Earners Foreign Currency Account (EEFC) of the Merchant Trader.
- (j) AD bank should ensure one-to-one matching in case of each Merchanting Trade transaction and report defaults in any leg by the traders to the concerned Regional Office of RBI, on half yearly basis in the format as given in Annex 1, within 15 days from the close of each half year, i.e. June and December.
- (k) Defaulting Merchanting Traders, whose outstandings reach 5% of their annual export earnings, would be caution-listed.
- (l) The KYC and AML guidelines should be observed by the AD bank while handling such transactions. Merchanting Traders have to be genuine traders of goods and not mere financial intermediaries. Confirmed orders have to be received by them from the overseas buyers. AD banks should satisfy themselves about the capabilities of the Merchanting Trader to perform the obligations under the order. The overall Merchanting Trade should result in reasonable profits to the Merchanting Trader.

### **C.15.3. Merchanting trade to Nepal and Bhutan**

As Nepal and Bhutan are landlocked countries, there is a facility of transit trade whereby goods are imported from third countries by Nepal and Bhutan through India under the cover of Customs Transit Declarations in terms of the Government of India Treaty of Transit with these two countries. In consultation with Government of India, it is clarified herein that goods consigned to the importers of Nepal and Bhutan from third countries under merchanting trade from India would qualify as traffic-in-transit, if the goods are otherwise compliant with the provisions of the India-Nepal Treaty of Transit and Indo-Bhutan Treaty of Transit respectively.