

CONFIDENTIAL

REPORT
OF
EXPERT COMMITTEE
ON
EXPORTS AND IMPORTS

DECEMBER 1983



RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
BOMBAY

C O N T E N T S

Letter of Transmittal

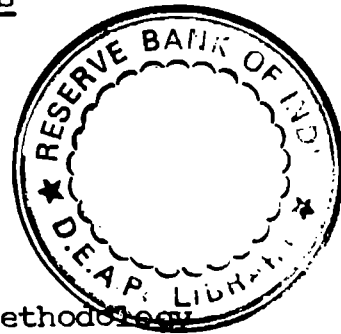
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LETTER OF TRANSMITTAL

Bombay

December 22, 1983.

To

Dr. Manmohan Singh,
Governor,
Reserve Bank of India,
Central Office,
Bombay.

Sir,

We have great pleasure in submitting to you the Report of the Expert Committee set up by the Reserve Bank of India to review the Exchange Control regulations and procedures relating to import and export of goods and services.

This Report also incorporates the recommendations contained in the Committee's Interim Report since they form an integral part of the whole study. They have, however, been regrouped under appropriate subject headings and are indicated by an asterisk.

We express the hope that the recommendations will be found useful and arrangements will be made to implement them expeditiously.

We should like to express our deep appreciation for the excellent administrative support that the Committee received from the Member-Secretary, Shri S.S. Thakur and his colleagues in the Secretariat, Shri K.N. Gangurde, Deputy Controller and Sarvashri V.D. Pendse and G.J. Jog, Exchange Control Officers, which greatly facilitated the Committee's deliberations.

Yours faithfully,

M. Patwardhan
(M.S. Patwardhan)

Tarun Das
(Tarun Das)

C.K. Hazari
(C.K. Hazari)

Kalyan Banerji
(Kalyan Banerji)

S. Padmanabhan
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A.D. Rege
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A.S. Chatha
(A.S. Chatha)

V.L. Kelkar
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S. Sundar
(S. Sundar)

T.N. Anantharam Iyer
(T.N. Anantharam Iyer)

S.S. Thakur
(S.S. Thakur)
Member Secretary

CHAPTER IIntroductionAppointment of Expert Committee
and its composition

1.1 In terms of his Memorandum dated 23rd November 1982, the Governor of the Reserve Bank of India (RBI) constituted an Expert Committee to review exchange control regulations and procedures relating to the export and import of goods and services comprising the following members:-

- | | | |
|----|--|----------|
| 1. | Shri M.S. Patwardhan
Managing Director,
National Organic Chemical
Industries Ltd. | Chairman |
| 2. | Shri Kalyan Banerji,
Executive Director,
Export-Import Bank of India. | Member |
| 3. | Shri A.S. Chatha,
Joint Secretary,
Ministry of Commerce,
Government of India. | Member |
| 4. | Shri Tarun Das,
Executive Director,
Association of Indian
Engineering Industry. | Member |
| 5. | Shri C.K. Hazari,
Financial Adviser,
Escorts Ltd. | Member |
| 6. | Shri T.N. Anantharam Iyer,
Executive Director,
Reserve Bank of India. | Member |

- | | | |
|-----|--|------------------|
| 7. | Dr. V.L. Kelkar,
Economic Adviser,
Ministry of Energy,
Department of Petroleum,
Government of India. | ember |
| 8. | Shri S.Padmanabhan,
Deputy Managing Director,
State Bank of India. | Member |
| 9. | Shri A.D. Rege,
General Manager,
Bank of India. | Member |
| 10. | Shri S.Sunder,
Joint Secretary,
Ministry of Finance,
Government of India. | Member |
| 11. | Shri S.S. Thakur,
Controller,
Exchange Control Department,
Reserve Bank of India. | Member-Secretary |

With three representatives of Indian industry, three professional bankers (including a development banker), three senior officials representing Government of India and two from RBI, the Committee believes that it has been able to look at the problems brought before it from the angle of not only policy objectives but also practical application.

Terms of Reference

1.2 The terms of reference of the Committee as set out in the RBI Governor's Memorandum dated 23rd November 1982 were as under:-

- i) to examine the exchange control regulations, procedures and documentation relating to export and import of goods and services and to suggest modification and simplification thereof;

- ii) to review the exchange control regulations relating to allied issues such as opening of offices abroad by Indian firms/companies, payment of commission to trade representatives, remittance of royalties, licence fees, deputation of Indian personnel abroad and the availing of expert services of foreign personnel, etc. and to suggest modification/simplification in the procedures and practices;
- iii) to review the present system of delegation of powers to authorised dealers in foreign exchange and to suggest areas where further powers may be delegated to them in this context;
- iv) to review the scope for further decentralisation of functions of the Exchange Control Department between its Central Office and regional offices; and
- v) to consider any other relevant matters.

Number of meetings of the Committee

1.3 The inaugural meeting of the Committee was held on 10th December 1982 at Bombay. Thereafter the Committee held in all 16 meetings at different centres, viz. Bombay (9), New Delhi (4), Calcutta (1), Madras (1), and Cochin (1). On most occasions, the Committee's sittings were spread over two consecutive days.

Submission of Interim Report

1.4 The Committee was originally given a period of six months to submit its report. Through a circular letter, the Committee had invited suggestions from diverse interests connected with India's

international trade on the topics covered by its terms of reference. These included a number of Export Promotion Councils/Commodity Boards, Chambers of Commerce and Industry, Association of Indian Engineering Industry, Federation of Indian Chambers of Commerce and Industry, Federation of Indian Export Organisations, Foreign Exchange Dealers' Association of India, Associated Chambers of Commerce and Industry, etc. Another circular was sent to authorised dealers and to regional offices of Exchange Control Department (ECD).

1.5 While the response to the Committee's request for suggestions was good, most of the suggestions/recommendations reached the Committee only by April 1983. Having come to the conclusion that the wide range of topics referred to it and the large number of suggestions/representations received from different quarters required much longer than six months to study, the Committee requested the RBI Governor, vide the Chairman's letter dated 12th May 1983, that its term be extended by a further period of six months. The Governor graciously extended the Committee's term upto December 1983.

1.6 While seeking an extension of time to complete its work, the Committee had also decided to submit to RBI an Interim Report containing its

recommendations on topics already studied so that RBI could set in train necessary action for their implementation. The Interim Report was submitted to the RBI Governor on 29th June 1983. The Committee is happy to note that RBI has already initiated action for implementation of many of the recommendations contained in the Interim Report.

Acknowledgements

1.7 In completing the task assigned to it, the Committee has received valuable assistance from a number of organisations as well as individuals. The Committee is thankful to the numerous organisations which sent written suggestions and/or deputed delegations to appear before it at different centres. The Committee should like to thank the Officers-in-Charge of Offices of ECD at New Delhi, Madras, Cochin and Calcutta for making excellent arrangements in connection with the Committee's visits to those centres. Thanks are also due to the Association of Indian Engineering Industry and the Federation of Indian Export Organisations and their co-sponsors Export Credit & Guarantee Corporation and the Foreign Exchange Dealers' Association of India for organising Workshops at New Delhi and Bombay to provide a forum for an exchange of ideas on the wide-ranging suggestions submitted by their members to the Committee.

1.8 The Committee is particularly grateful for valuable suggestions made by Shri P.K. Kaul, Finance Secretary and Shri S.Abid Hussain, Commerce Secretary with whom, it had discussions on a wide range of topics.

1.9 The Committee should like to express its deep appreciation for the excellent administrative support that it received from the Member-Secretary, Shri S.S. Thakur and his colleagues in the Secretariat, Shri K.N. Gangurde, Deputy Controller and Sarvashri V.D. Pendse and G.J. Jog, Exchange Control Officers. Their dedicated hard work and unfailing courtesy greatly facilitated the Committee's work.

CHAPTER II

Underlying Philosophy and Methodology

Philosophy

Background

2.1 Exchange control was introduced in India in September 1939 at the outbreak of the Second World War by virtue of emergency powers derived from the Defence of India Rules, mainly to conserve non-sterling area currencies and to utilise them for essential purposes. As control over foreign exchange transactions even during the post-war period was found unavoidable, exchange control was placed on a statutory basis by enactment of the Foreign Exchange Regulation Act (FERA), 1947. The Act empowered RBI and, in certain cases, Government of India to control and regulate dealings in foreign exchange, payments outside India, export and import of currency notes and bullion, acquisition of foreign securities and transfer of securities between residents and non-residents, etc. The 1947 Act was later replaced by more comprehensive legislation viz. Foreign Exchange Regulation Act (FERA), 1973 which came into force on 1st January, 1974. This legislation provides the statutory framework for exchange control.

Need for Exchange Control

2.2 The importance of exchange control as a tool for conserving the limited foreign exchange resources and utilising them according to the national priorities is recognised universally and a number of developing countries, including India, confronted with a difficult balance of payments position are obliged to practise exchange control in varying degrees as permitted under provisions of Article XIV of the IMF Agreement. Even industrially developed countries like the Federal Republic of Germany, the U.K. and Japan have had to go through a severe regime of exchange control at one time or the other. The very object of FERA, 1973 is "to conserve India's foreign exchange resources and to utilise them properly in the interest of the economic development of the country". Having regard to the country's overall balance of payments position and constraints in achieving a sharp increase in the rate of growth of our exports, the Committee's mandate assumes that exchange control is unavoidable and is here to stay in the foreseeable future.

2.3 While exchange control remains in force in India, a conscious effort is necessary to refashion it as a tool to increase the rate of growth of export of goods and services from India rather than serving merely as a mechanism of 'conserving' foreign exchange through rigid controls on the outflow of funds. The emphasis of the exchange control policies has thus to shift from mere conservation of limited foreign exchange resources to facilitating earning of more and more foreign exchange to meet our increasing requirements. As a part of our overall strategy to improve significantly the export performance in the years ahead, it would be unavoidable to spend a reasonable part of our foreign exchange earnings on development of infra-structure and exploration of foreign markets. In the present international climate characterised by a sluggish growth of world output and trade, fierce competition from industrially developed countries and a trend towards raising protectionist barriers, maintaining a steady growth in our exports is a formidable challenge. The Committee believes that provision of a package of liberal facilities to the exporter community is necessary even though it may result in a somewhat higher outgo of foreign exchange as compared to the present expenditure.

It also believes that our exporters are entitled to ask for an exchange control policy framework and procedures which are not time consuming and do not hinder their efforts to compete effectively in the international market.

2.4 Having regard to the high priority accorded to export promotion by the Government of India, it was but natural that the terms of reference of the Committee should place greater emphasis on matters relating to exports vis-a-vis other areas forming part of the study.

Importance of Customer Service

2.5 In his inaugural address to the Committee, the RBI Governor had observed that ECD is a service-oriented department. As it is an arm of RBI which comes into frequent contact with members of the public and the business community, the department is one of the most important image-building organs of the Country's central bank. The quality of service rendered by ECD and the efficiency with which it is rendered, therefore, deserve RBI's special attention. Simplification of exchange control rules and procedures within the framework of the overall policy objectives has to be a constant endeavour of

RBI so that the procedures keep pace with the changing needs. With this goes the objective of removal of irritants and outdated rules which no longer serve any useful purpose. The Committee has borne this overall objective in mind while recommending various procedural changes.

Need for greater decentralisation
and delegation of powers

2.6 Another area to which the Committee has paid special attention is the need for decentralisation of work and delegation of powers. Administration of exchange control at present involves four different tiers. At the **apex** level is the Government of India which lays down the basic policies relating to import and export of goods, investment of foreign capital in India and Indian capital abroad, foreign travel by Indian citizens, etc. However, apart from formulation of the basic exchange control policies in consultation with RBI, Government of India is also directly involved in the disposal of individual applications/cases through the Ministry of Finance and bodies like the Foreign Investment Board (FIB) and Inter-Ministerial Committees on joint ventures and subsidiaries abroad. Within RBI, the Central Office of ECD is responsible for supervision and control over the working of the Offices of ECD

established at various centres. The Central Office is also responsible for keeping the existing policies and procedures under regular review and has to maintain constant liaison with Government (mainly Ministry of Finance). Next to the Central Office come the 16 Offices of ECD and one Exchange Control Cell spread over the country, which are mainly entrusted with the responsibility of dealing with individual applications and cases on a day to day basis. They are also responsible for receiving a number of periodical returns from various agencies and scrutinising them. At the last rung of the ladder are authorised dealers in foreign exchange which are mostly commercial banks authorised to deal in foreign exchange under licences granted by RBI. There are also other agencies such as money changers, airline/ shipping companies and travel agents which are granted licences by RBI to carry on specific activities falling within the domain of exchange control. As the number of its own Offices throughout the country is very small, RBI has to rely heavily on authorised dealers for providing various services to the community of importers, exporters as well as travellers going abroad.

2.7 From the written representations received from many trade bodies as well as dialogues held with a number of their representatives, the Committee found that the present arrangements tend to concentrate too many powers in ECD, particularly in its Central Office.

Greater role for Authorised Dealers

2.8 With a limited network of 16 Offices of ECD and one Exchange Control Cell, it is not practical for RBI to handle all applications directly. Consequently, authorised dealers have to play a very crucial role as agents of RBI in the administration of exchange control, particularly in matters relating to imports and exports. The Committee has, therefore, identified a number of areas where additional powers could be delegated to authorised dealers in the interest of efficient customer service and quick disposal of applications. The Committee is aware that all branches of authorised dealers do not have the requisite expertise and trained personnel to handle specialised exchange control work. The Committee has, accordingly, recommended that while delegating additional powers to authorised dealers in certain specified areas, a degree of selectivity may be introduced. Even so, in the Committee's view "control in detail" should now be

substituted by "control by principles and yardsticks". In order to fulfil its supervisory role effectively, RBI can introduce a reinforced reporting system and make more effective and systematic use of other methods like snap inspections of branches of authorised dealers to ensure that they are conducting their foreign exchange business on sound lines and in conformity with the prescribed procedures/standing instructions.

Concept of self-regulation

2.9 The Committee believes that if not the entire exporter community, a number of leading exporting companies have now attained a certain degree of maturity and could be relied upon to have proper internal checks and controls to ensure that their activities are carried on in accordance with the guidelines laid down by RBI/Government. A degree of self-regulation can now, therefore, be allowed to be practised by well established exporters. The eligibility criteria for exporters permitted to practise self-regulation may be different for different purposes although in all cases a proven track record would be the sine qua non for special facilities being granted. The Committee believes that this is only an extension of Government's policy to give special treatment to

2.9

Trading Houses, Export Houses and 100% Export-Oriented Units. The Committee has thus tried to identify some areas where exporters fulfilling certain eligibility criteria could be subjected to a somewhat relaxed procedure so that they could concentrate their efforts on improving their export performance. Here too, RBI can lay down a proper reporting system so as to enable it to deal with defaulters or perpetrators of irregularities firmly and swiftly.

Policy Matters

2.10 In its letter addressed to various trade bodies, the Committee had made it clear that matters relating to export finance were outside the scope of its terms of reference. Similarly, it was clarified that the Committee could not go into issues connected with the basic import-export policies of Government of India and the structure and quantum of various export incentives provided by Government. In spite of these clarifications, the Committee received a number of suggestions and oral representations which fell within one or the other of the above two areas. Such recommendations/suggestions, had to be left out of the scope of the Committee's study. However, RBI has been requested to refer the important recommendations/suggestions to the authorities concerned.

Organisational aspects

2.11 Exchange control and exchange management covers a wide area of activities which have grown in complexity over the years. As the Committee had a specific mandate to study the current exchange control regulations relating to imports and exports, it concentrated its attention on matters relating to foreign trade and trade-related travel. Since an important objective of the study is to suggest measures for bringing about an improvement in the quality of performance of ECD in general and of its customer service in particular, the Committee has also thought it desirable to make certain general recommendations on organisational aspects such as training and placement of personnel and strengthening of the inspection apparatus.

MethodologyCollection of suggestions/
views from interest groups

2.12 There are a number of organisations in the country connected with the import-export trade. The Committee, therefore, decided in its inaugural meeting held on 10th December 1982 to request them through a common letter to forward their written suggestions/views to the Committee's Secretariat. A circular letter was

accordingly addressed to important Export Promotion Councils/Commodity Boards, Chambers of Commerce & Industry, etc. soliciting their views and suggestions. The letter and its enclosures are reproduced in Appendix 'A'. Similar circular letters were also addressed to all authorised dealers and Offices of ECD.

2.13 All the suggestions received from different organisations were given careful consideration by the Committee in the course of its deliberations.

Visits to important centres and discussions with various organisations

2.14 Apart from meetings held in Bombay and New Delhi, the Committee visited three important centres viz. Calcutta, Madras, and Cochin. In addition to holding its regular meetings there, the Committee took the opportunity to discuss specific local problems with representatives of Export Promotion Councils, Chambers of Commerce, etc. The Committee held discussions with representatives of a few authorised dealers at Bombay and Cochin as well as senior officials of various Government bodies such as the Tea Board, Jute Commissioner's Office, Marine Products Export Development Authority, Enforcement Directorate, Customs and Excise, Trade Fair Authority of India, etc. at these centres. The Committee also

met the Officers-in-charge of the Offices of ECD and their senior colleagues at Bombay, Calcutta, Cochin, Madras and New Delhi to discuss their suggestions and operational problems.

2.15 The Federation of Indian Export Organisations (FIEO) had organised a Workshop in Bombay in association with the Foreign Exchange Dealers' Association of India (FEDAI) and Export Credit & Guarantee Corporation (ECGC) to discuss various topics covered by the Committee's terms of reference. A similar Workshop was also organised by the Association of Indian Engineering Industry (AIEI) in New Delhi in August 1983. Both the Workshops were attended by some members of the Committee who found the discussions useful.

2.16 A complete list of organisations which sent delegations to meet the Committee at different centres is given in Appendix 'B'.

Internal Study Groups

2.17 Certain important topics covered by the terms of reference of the Committee such as export follow-up procedure and forward cover facilities had been earlier referred by RBI to internal Study Groups. Since the recommendations of the internal Study Group on

Export Follow-up Procedure had already been finalised and accepted by RBI for implementation with effect from 1st October 1983, the Committee did not consider it necessary to go into the problem afresh. As the Study Group on Forward Facilities had also nearly completed its work and prepared a preliminary report for submission to the RBI Governor, the Committee did not attempt an independent examination of the subject. It, however, referred some important suggestions received from different interest groups to the RBI Study Group for consideration. While framing its recommendations regarding project exports, the Committee has taken due note of the recommendations contained in the Report of the Task Force on Project Exports appointed by Government of India in May 1981.

Structure of the Final Report

2.18 The recommendations of the Committee on various subjects are incorporated in the subsequent chapters. The recommendations have been grouped subject-wise and the rationale behind each recommendation has also been explained. The relevant paragraphs of the Exchange Control Manual (ECM) have also been cited, wherever applicable. As the recommendations contained in the Committee's Interim Report presented to RBI in June

1983 are an integral part of the whole study, they have also been incorporated in this Report. They have, however, been marked with asterisks. A Summary of the recommendations is given in Chapter XIV. The full forms of various abbreviations used in the Report have been given in Appendix 'C'.

CHAPTER IIICommodity Exports on Normal or
'Cash' Terms*Period for realisation of export proceeds -
(Paragraph 11A.9 of ECM)

3.1 In terms of the provisions of Foreign Exchange Regulation Rules, 1974, the value of goods exported to Pakistan and Afghanistan under normal or 'cash' terms is required to be realised within a period of 3 months from the date of shipment, while in respect of such exports to all other countries the export value has to be realised within a period of 6 months. Historically, the shorter period of 3 months provided for realisation of proceeds in respect of exports to Pakistan and Afghanistan was mainly on account of proximity of these countries to India. However, in case of exports to other neighbouring countries like Sri Lanka, Burma, etc., the period allowed for realisation of export proceeds is 6 months. Even Bangladesh, which prior to its separation from Pakistan was allowed a period of 3 months, now gets a period upto 6 months for remitting the proceeds of goods imported from India. Further, geographical proximity of the importing country has gradually lost its relevance, particularly in the case of exports by air.

The Committee feels that in the changed situation it is anomalous to provide for a shorter period for realisation for only two neighbouring countries vis-a-vis India's other trading partners.

3.2 The Committee, accordingly, recommends that the period for realisation of export proceeds in respect of shipments to Pakistan and Afghanistan may be raised from 3 months to 6 months to bring these two countries on par with other countries importing goods from India on cash terms. RBI may promote necessary amendment to the Foreign Exchange Regulation Rules, 1974 in this behalf.

*Extension of time limit for realisation of export value (Paragraph 11C.28 of ECM)

3.3 In terms of the Foreign Exchange Regulation Rules, 1974, an exporter is required to obtain RBI's prior approval for extension of the period for realisation of export proceeds beyond 6 months (or 3 months as the case may be) from the date of shipment whenever he is unable to realise the proceeds within the statutory time limit. RBI grants such extension on being satisfied that the realisation of export proceeds was not possible in spite of the best efforts of the exporter, due to circumstances beyond his control and that the extension

of time, if granted, would enable him to realise the proceeds during the extended period.

3.4 In the case of many countries faced with balance of payments difficulties, even though importers retire the import bills and deposit the value thereof with local banks in the home currency, externalisation of funds, which requires prior permission of the central banking authority of the country concerned, takes considerable time depending upon the stringency of its external reserves position. In all such cases, since the export value is not repatriated to India within the time stipulated for realisation of proceeds, the concerned exporter has to obtain extension of time from RBI. The situation is beyond the control of the exporter, and the making of applications for extension of time and the grant thereof are mere formalities.

3.5 As RBI is the statutory authority vested with the power to grant extension of time, all these routine applications have at present to be dealt with by ECD. General permission to authorised dealers to dispose of such routine applications would assist the exporters through speedier disposal of applications and reduce the administrative burden on RBI.

3.6 The Committee, therefore, recommends that RBI may give general permission to authorised dealers to allow extension of time for realisation of export proceeds in cases where the export bills have been retired by the importers by making payments in domestic currencies but externalisation of the funds is delayed due to local exchange control restrictions. RBI may promote necessary amendment to the statutory provisions, if necessary, and issue administrative instructions to authorised dealers in this regard. In all other cases, the applications for extension of time should continue to be made to RBI.

*Reduction in invoice value of
Export shipments
(Paragraph 11C.23 of ECM)

3.7 The need for a reduction in invoice value of goods exported generally arises on account of late shipment, fall in demand in overseas markets, change in fashion, inferior quality of goods, refusal of original buyers to accept consignments leading to sale of the goods to alternate overseas buyers, etc. While quality claims are lodged after payment of the export value by the overseas buyers, reduction in invoice value is insisted upon by the overseas buyers as a pre-condition for acceptance of shipping documents and clearance of the goods. In such cases, the exporter is

in a much more vulnerable position because the shipment has already been made and clearance of goods and payment therefor is in jeopardy. In the absence of a ready alternate buyer, the Indian exporter is in a weak position vis-a-vis the consignee and unless a quick settlement of the dispute is arrived at, the exporter often ends up paying additional amounts in foreign exchange towards demurrage, bank charges, warehousing charges, etc. As time passes, the risk of the consignee demanding a heavier reduction in the invoice value or altogether backing out from the commitment also increases.

3.8 While considering applications for reduction in invoice value, in addition to checking the bona fides of the request with reference to documentary evidence, RBI takes into account the past performance of the concerned exporter in regard to export realisations, export outstandings beyond the period prescribed for realisation and the frequency at which he applies for reduction in invoice value. Wide powers have been delegated to Offices of ECD to deal with such applications.

3.9 No powers have, however, been delegated to authorised dealers in this regard on the ground that they have no means to verify the overall export

3.6

performance (particularly export outstandings) of the concerned exporter who is at liberty to deal with any number of banks. Authorised dealers also do not have ready information about exporters under investigation by the Enforcement Directorate. While these are valid reasons, the Committee feels that there is need for expeditious action in such cases because delay in accepting the requests for reduction in invoice value can lead to further reduction being demanded by the overseas buyers due to passage of time. The Committee feels that there is a case for selectively allowing exporters of proven credentials to settle demands for small reduction in invoice value without the prior permission of RBI.

3.10 The Committee, therefore, recommends as under:

- i) The exporters enjoying Blanket Permit facility may be allowed to agree, on their own, to a reduction in invoice value upto 10 per cent of the value of a shipment subject to a ceiling of Rs.10,000/- and compliance with floor price requirements, if any. This facility need not, however, be extended to shipments of readymade garments and leather goods, the export of which is subject to allocation of quotas by the

Government of India. The exporter should expeditiously report details of each case to RBI through his bank together with supporting documents for post facto scrutiny.

- ii) The position in regard to the delegation may be reviewed by RBI after a reasonable trial of say, one year.
- iii) All other cases of reduction in invoice value of export shipments may continue to be referred to Offices of ECD through the exporters' bankers as hitherto.

*Remittances on account of quality,
etc. claims on export shipments
(Paragraph 11H.10 of ECM)

3.11 Quality claims on export shipments arise mainly on account of inferior quality of goods, shortage in weight or quantity, late shipment, non-fulfilment of some contract terms, expenses incurred by overseas buyers for processing or reconditioning of goods, etc. Since the approval of remittances towards claims involves use of a fair degree of discretion, no powers have been delegated by RBI to authorised dealers in this regard. Wide powers are, however, vested in Offices of ECD to approve such applications, provided they are properly documented. In respect of applications where the amount

3.8

of claim/invoice value of the shipment itself is so small that it is not economical for the exporter to obtain an independent survey/inspection report, which is otherwise an essential requirement, the Officers-in-Charge of Offices of ECD have powers to approve the applications if the overall export performance of the concerned exporters for the previous two years is considered satisfactory. Further, authorised dealers have been permitted to effect remittances towards small value export claims against Blanket Permits issued under the ITC Scheme, on behalf of the holders of such permits, provided the amount of a claim does not exceed 10 per cent of the f.o.b. value of the shipment or Rs.10,000/- whichever is less.

3.12 A frequency analysis of quality claims allowed by some of the Offices of ECD indicated that a high percentage of applications for remittances towards export claims is for relatively small amounts. The Committee is of the view that quick settlement of such claims is necessary for creating confidence among foreign buyers and, therefore, limited delegation of powers to authorised dealers is desirable.

3.13 The Committee, accordingly, recommends that powers may be delegated to authorised dealers to allow remittances towards small value claims upto 10 per cent of the invoice value or Rs.20,000/-, whichever is less, provided the application is supported by the same documentary evidence as is required to be submitted by the exporters to RBI under the existing procedure. RBI may issue detailed guidelines to authorised dealers to enable them to handle such applications and also introduce a suitable reporting system.

*Waiver of GR/PP Form Procedure
for Gift Articles (Paragraphs 11A.3
and 11 I.2 of ECM)

3.14 According to the existing procedure, residents are permitted to send by post parcel small gifts in favour of their near relatives/friends living abroad, without compliance with the GR/PP Form procedure provided the value of each such gift is not more than Rs.50/-. The sender is required to make a personal declaration to the effect that the value of the gift does not exceed Rs.50/- and that its despatch does not involve any transaction in foreign exchange. The value limit of Rs.50/- for such gifts has remained unchanged for many years. As the prices of gift articles have increased **manifold**, hardly any worthwhile gift can be bought with a nominal amount of Rs.50/-.

3.10

3.15 Authorized dealers are permitted to issue certificates in favour of their regular constituents to send gift articles abroad, provided the gift proposed to be sent does not exceed Rs.500/- in value and the gift is sent by air-freight or by post parcel. In all cases where the value of the gift to be sent to a non-resident relative/friend without its being declared to the Customs on an export declaration form exceeds Rs.500/-, the sender has to make an application to RBI for necessary permission. Such approvals granted by RBI are commonly known as "GR/PP waivers".

3.16 The Committee is of the view that owing to the general increase in the prices of gift articles over the years, there is need for revising upward the value limit upto which residents may be permitted to send gift parcels against their personal declarations and without complying with the GR/PP form formalities. There is also need to raise the value limit upto which authorised dealers could be permitted to issue certificates in favour of their regular constituents for sending gift parcels to relatives/friends living abroad.

3.17 The Committee, therefore, recommends as under:

- i) The existing limit of Rs.50/- upto which gifts are allowed to be sent by residents to their non-resident relatives/friends on the strength of the senders' personal declarations and without compliance with GR/PP form procedure may be raised to Rs.200/-. This should cover all modes of despatch. Necessary steps may be taken to amend the two Notifications issued by Government of India on 1st January 1974 in this behalf.
- ii) The existing limit of Rs.500/- upto which authorised dealers are permitted to issue certificates in favour of their regular constituents for sending gift articles abroad may be raised to Rs.2,000/-. This should be a per capita per annum limit to be watched by authorised dealers who may allow only regular constituents to avail of the facility.

Replacement of defective parts - reimbursement of expenses incurred by overseas buyers

3.18 During the discussions the Committee had with some trade organisations, a suggestion was made that exporters may be granted blanket permission upto 5 per cent of the value of equipment/machinery exported

3.12

to enable them to export from India new spares in replacement of defective parts or to reimburse the actual cost of the spares, if purchased locally by the overseas buyers, during the warranty period.

While the Committee does not favour the idea of issue of blanket permission for the purpose in question, it feels that in some cases where standard spares are available locally in the country of the buyer and the cost of such spares is small as compared to the expenses involved in despatching them from India, RBI should allow the exporters to reimburse the cost of such spares purchased by the overseas buyers locally (and not from third country sources), during the warranty period.

3.19 The Committee, accordingly, recommends that RBI may evolve a suitable procedure under which Indian exporters could be given, on the merits of individual applications. Exchange Control approval to remit funds from India to the overseas buyers in reimbursement of the expenses incurred by them during the warranty period towards the cost of spares in replacement **of defective parts of machinery/equipment** imported from India.

Undrawn Balances -
(Paragraphs 11C.12 and 11C.13 of ECM)

3.20 In respect of certain commodities like mineral ores, jute goods, cashew nuts, etc. which are prone to shrinkage, loss of weight, change in chemical properties and the like, overseas buyers have been traditionally insisting on the Indian exporters drawing bills of exchange for an amount somewhat smaller than the full invoice value, so that the undrawn balance could be adjusted against subsequent quality claims, should any claims actually arise. The existing procedure permits the exporters to draw bills leaving an undrawn balance upto a maximum of 5 per cent of the invoice value, subject to the exporter giving an undertaking to realise/account for such undrawn balance within 6 months from the date of shipment. Lately, some other commodities like leather goods, ready-made garments, onion, garlic, dry fish, etc. are also sought to be imported under a similar arrangement, mainly by buyers from the Rupee Payment Area. Indian exporters are required to obtain prior approval of RBI in cases where it is not customary to leave any undrawn balance in respect of a particular commodity or where the balance to be left undrawn exceeds 5 per cent of the invoice value.

3.21 At present, the Offices of ECD have no powers to consider such requests from exporters and all the requests are required to be referred to Central Office of ECD for consideration. This can occasionally cause delay in conveying the approval and may even lead to cancellation of the export order. The Committee feels that the powers to grant approvals for cases involving undrawn balances beyond 5 per cent need not remain concentrated in the Central Office of ECD.

*3.22 The Committee, therefore, recommends as under:

- i) RBI should, in consultation with Government of India, draw up a list of commodities in respect of which exporters could be allowed to draw bills leaving undrawn balances. The list should be revised from time to time.
- ii) In respect of the commodities so identified, powers may be delegated to authorised dealers to accept export bills in cases where the balance to be left undrawn does not exceed 5 per cent of the total invoice value, irrespective of whether the export order is covered by a letter of credit or not. The approval should be subject to the

exporter furnishing an undertaking regarding repatriation of the undrawn portion or accounting for its adjustment against a quality claim, within 6 months from the date of shipment, as at present.

iii) In respect of identified commodities, Central Office of ECD should lay down, in consultation with Government, the maximum percentage upto which balances could be permitted to be left undrawn by exporters in respect of each commodity included in the list. Offices of ECD may be permitted to decide cases of undrawn balances upto the specified percentages without reference to Central Office.

iv) Applications involving undrawn balances in excess of the specified percentages in respect of identified commodities and applications involving undrawn balances in respect of any commodity not included in the approved list, should be dealt with on merits in **Central Office of ECD.**

3.23 • The problem relating to undrawn balances in respect of export of cashew to U.S.A. is somewhat peculiar. The buyers' agents in U.S.A. (brokers) place orders on Indian exporters for supply

of cashew nuts with a condition that 5 per cent of the invoice value should be left undrawn at the time of shipment. Out of this undrawn balance, 2.5 per cent of invoice value represents commission payable to the agents and the remaining 2.5 per cent is for adjustment towards the buyers' claims on account of quality of the cashewnuts supplied. However, instead of accounting for the undrawn balance independently for each shipment, the U.S. brokers keep with themselves the balances due to the exporters. They maintain running accounts in their books in the names of the concerned Indian exporters and freely adjust amounts due by and to them through these accounts. Large accumulated balances are held in such running accounts. Even when some amounts are remitted to India at irregular intervals, they are not related to specific shipments. As a result, authorised dealers are not able to identify the relative triplicate GR forms and send them to RBI duly certified. A large number of triplicate GR forms have accumulated with the branches of authorised dealers in Kerala, particularly in the Quilon area. The follow-up of undrawn balances in respect of shipments of cashew to U.S.A. has thus been rendered extremely difficult

and has created a great deal of infructuous work for the Office of ECD at Cochin as well as for authorised dealers.

3.24 The problem in this regard is two-fold : **first**, how to secure repatriation of the balances already accumulated in running accounts with the U.S. brokers and dispose of the relative triplicate GR forms lying with authorised dealers and second, how to avoid accumulation of undrawn balances with U.S. agents in future. To overcome the present impasse, the Committee feels that RBI should adopt a crash programme to close the cases relating to old shipments of cashew, in respect of which undrawn balances have not been accounted for and there is no possibility of such balances being repatriated to India. Further, for creating confidence in the minds of U.S. brokers that quality claims as and when preferred would be quickly honoured by the Indian exporters with relatively simple documentary evidence being demanded, powers would have to be delegated to authorised dealers to allow remittances on account of claims against exports of cashew upto a limited extent. Where necessary, RBI may also have to agree to exporters of cashew furnishing bank guarantees in favour of their U.S. importers in case the latter are prepared to accept guarantees in lieu of undrawn balances.

3.25 The Committee, accordingly, recommends as under:

- i) The Committee has, vide paragraph 6.22 of this Report, recommended that RBI and ITC Blanket Permit Schemes should be combined. Pending introduction of a unified Blanket Permit Scheme, exporters of cashew holding blanket permits under RBI Scheme may be granted the facility at present available to holders of Blanket Permits under ITC Scheme of settling on their own, small value export claims upto 10 per cent of the f.o.b. value of shipment or Rs.10,000/- whichever is less. This facility may also be made available under the unified Blanket Permit scheme proposed under paragraph 6.22 of this Report.
- ii) The problem of outstanding triplicate GR forms relating to export of cashew nuts to U.S.A. needs to be handled by RBI on a special footing. Instead of allowing these triplicates to remain with authorised dealers indefinitely, Office of ECD at Cochin should call up all triplicates which have remained with authorised dealers for more than one year from the dates of relative shipments and close all those cases where the amounts still outstanding are relatively small and chances of their realisation are not considered good. As

far as possible, all such cases which are outstanding for more than one year and the unrealised balance is less than 2.5 per cent of invoice value of the relative shipment or Rs.5,000/-, whichever is less, should be closed.

3.26 At the suggestion of the Committee, the Cashew Export Promotion Council had agreed to discuss with the U.S. importers the possibility of opening letters of credit for 97.5 per cent of the invoice value of each shipment leaving only 2.5 per cent of the invoice value undrawn for direct payment of brokerage or commission. If the U.S. importers/brokers accept the proposal, RBI may examine the feasibility of allowing Indian exporters to execute bank guarantees in favour of the U.S. importers to ensure prompt settlement of claims, in case such a counter-demand is made.

Exports on consignment basis
(Paragraph 11 C.15 of ECM)

3.27 Exporters maintaining warehouses/trading branches abroad with RBI's permission export goods to such warehouses/branches for off-the-shelf delivery. Such shipments are declared on GR forms in the normal way but it is not always possible for the shippers to dispose of the goods strictly in the

RBI



3.20

chronological order of their arrival in the warehouses/trading branches and/or within the period prescribed for realisation of export proceeds. As a result, authorised dealers cannot certify realisation of proceeds on the triplicate (now duplicate) copies of the relative forms as they cannot exactly match the proceeds realised with individual shipments.

3.28 Suggestions were received from some quarters that a considerably longer period should be permitted for realisation of value of all goods exported on consignment basis. The period proposed varied from one year to two years. The Committee is unable to endorse the suggestion for an across-the-board increase in the period prescribed for realisation of export value. The Committee, however, recognises the need for a somewhat relaxed procedure for accounting for the proceeds of off-the-shelf sales of products exported on consignment basis to warehouses and trading branches. Accordingly, as far as exporters permitted to maintain warehouses/trading branches abroad are concerned, the Committee recommends that RBI should evolve a procedure under which the duplicate GR forms covering consignment exports to such warehouses/branches abroad need not be routed through authorised dealers.

*3.29 The Committee recommends that RBI may require exporters effecting shipments in favour of their own warehouses/trading branches abroad to get the GR forms on which such shipments are declared approved by **Offices of ECD** at the pre-shipment stage. RBI should maintain a record of such approvals so that it could initiate follow up action, where necessary. The concerned exporters may submit the Customs certified duplicates of such GR forms direct to the concerned Office of ECD within 21 days of shipment, instead of routing the GR forms through authorised dealers as in other cases. On realisation of export proceeds, the exporters should furnish to RBI inward remittance certificates on the basis of which RBI would mark off the pending GR duplicates serially even if lump sum remittances are received and a direct correlation cannot always be established between specific shipments and amounts repatriated. Such exporters may also be permitted to apply directly to the concerned Office of ECD for extension of time for realisation of export proceeds in respect of all GR forms which are not marked off against the proceeds realised till the expiry of the period prescribed for realisation of proceeds.

3.30 In the case of exporters (other than those exporting goods on consignment basis to their own warehouses abroad) desiring to make exports on consignment basis, the main problem is that the realisation of full export proceeds within the statutory period of 6 months is not possible and it often **becomes** necessary for such exporters to obtain RBI's approval for extension of time. The Committee is of the view that while there is no need to grant across-the-board increase in the period prescribed for realisation of proceeds of exports made on consignment basis, there should be a suitable administrative mechanism by which RBI could grant extension of time in such cases at the initial stage itself, on merits of individual applications. The Committee understands that RBI has set up an Inter-Departmental Working Group with ECD as the focal point to consider proposals for export (of non-engineering goods) on credit terms extending upto 365 days. The Committee is of the view that the exporters, intending to make exports on consignment basis and desiring extension of time beyond six months, before making the shipments, should bring their proposals before the Working Group. In approved cases, exporters should follow the normal GR procedure under which duplicate GR/PP forms would be submitted to authorised

dealers alongwith shipping documents and it would be the responsibility of the concerned authorised dealers to watch repatriation of export proceeds and to forward the relative duplicate GR/PP forms to RBI on realisation of the proceeds.

3.31 The Committee accordingly recommends that the cases of export of non-engineering goods on consignment basis in favour of overseas parties other than the exporters' own warehouses, where the period for realisation of export proceeds is likely to extend beyond 180 days may be referred for prior clearance to the Inter-Departmental Working Group set up by RBI. In all such cases approved by the Inter-Departmental Working Group, the exporters should follow the normal GR procedure.

Remittance of agency commission on exports
(Paragraphs 11H.1 to 11H.8 of ECM)

3.32 Under the existing rules, applications for ad-hoc remittances of commission on exports are required to be referred to RBI. RBI normally allows payment of commission upto 10 per cent in case of non-traditional items of export which are included in the 'select' list and upto 5 per cent in the case of traditional items of export included in the 'non-select' list. There are, however, a number of commodities e.g. loose tea, jute goods, cotton textiles, etc. in respect of

which lower sub-ceilings for the rate of agency commission are prescribed. Export of technical or consultancy services is treated on par with 'select' items for the purpose of payment of commission.

3.33 In order to avoid frequent applications to RBI for remittance of commission, exporters can register their agency agreements with RBI which issues registration certificates to them. On the strength of such registration certificates, authorised dealers can effect remittances of commission as soon as shipments are made and shipping documents are submitted to them for negotiation or collection. The registration certificates are valid for 3 years at a time and authorised dealers are permitted to make remittance of commission upto one year beyond the date of expiry of the certificates. In cases where exporters have not obtained registration certificates, authorised dealers have been permitted to remit commission or allow deduction of commission amount upto 5 per cent of invoice value from the invoice itself, provided, among other things, the shipment is covered by a letter of credit, the rate of commission is normal for the line of trade in question, the letter of credit provides specifically for payment of commission and the amount of commission is declared on the relative GR/PP forms.

3.34 Registration of agency agreements is optional.

Powers have been delegated to Offices of ECD to clear ad-hoc applications for remittance of commission and normally cases are not required to be referred to Central Office of ECD except where the proposed rate of commission exceeds the norms laid down. Exceptional cases are considered by Central Office of ECD in consultation with Government, where necessary.

3.35 The Committee feels that RBI should encourage long-term agency agreements as this would ensure a continuous and healthy relationship between Indian exporters and their overseas agents. To facilitate this, the registration certificates may be made valid for a sufficiently long period, say, upto 5 years.

3.36 In regard to ad-hoc applications for remittance of agency commission, RBI has been following well established norms concerning maximum permissible rates of commission and documentary evidence in support of applications. The Committee feels that there is a case to delegate powers to authorised dealers to deal with such applications upto a certain percentage limit subject to compliance with necessary procedural formalities which are at present required to be observed

by Offices of ECD. Such delegation would help exporters to secure faster approvals for remittance of commission and also relieve the pressure of routine work on Offices of ECD.

3.37 At present, there is only limited delegation of powers in favour of authorised dealers in terms of which they can allow payment of commission upto 5 per cent in case of export shipments covered by letters of credit, irrespective of whether the commodity involved is a 'select' list item or a 'non-select' list item. Most cases relating to payment of commission on export of 'select' list items have to be referred to RBI since the rate of commission in such cases is generally in excess of 5 per cent. The Committee is of the view that in order to make the delegation more meaningful, powers could be delegated to authorised dealers to allow payment of commission upto 5 per cent in respect of exports of 'non-select' list items and upto 10 per cent of invoice value in case of 'select' list items of export, irrespective of whether or not the shipment is covered by a letter of credit. As an additional safeguard, a suitable monetary ceiling could be stipulated in either case. In the Committee's view a ceiling of Rs.25,000/-

in case of 'non-select' goods and a ceiling of Rs.50,000/- in case of 'select' list items would be reasonable. In the case of 'non-select' items of export for which commission payment at rates lower than 5 per cent is permitted by RBI also, the monetary ceiling could be Rs.25,000/-. RBI would have to furnish detailed lists of commodities falling under the 'select' list and 'non-select' list items of export for the guidance of authorised dealers. Similarly, RBI would also have to circulate complete details of commodities in respect of which the maximum permissible rates of commission are lower than 5 per cent.

3.38 During the discussions the Committee had with representatives of authorised dealers, a view was expressed that it might not be practicable to delegate these powers to all branches of authorised dealers handling export documents as many branches did not have the requisite experience and trained staff to perform the work. On the other hand, it was pointed out that if the number of branches of authorised dealers exercising these powers was limited, exporters might experience some difficulty in that the branch handling shipping documents might not necessarily be a designated branch for the purpose of handling ad-hoc

applications for remittance of commission. The Committee feels that RBI should take the final decision in this regard in consultation with authorised dealers as their experience and views would provide an important and useful input to the decision making process.

3.39 At times, exporters enter into agreements with their overseas agents providing for rates of commission upto certain percentage of the value of export orders secured through their efforts. At present, Offices of ECD insist on the exporters concluding agency agreements with fixed rates of commission so that there is no ambiguity or element of uncertainty about the amount of commission to be remitted from time to time. It was represented to the Committee by various export organisations that provisions in the agency agreements for payment of commission upto a specified maximum percentage of value of shipments occasionally enables exporters to negotiate for a lower amount of commission commensurate with the efforts put in by the overseas agent for securing the orders, provided the maximum rate upto which commission is payable is within the rate upto which RBI normally allows payment of commission in respect of the commodities in question. Sometimes exporters also enter into agency agreements providing for payment of commission on graded scales

related to the value of export orders. The Committee is of the view that there should be no objection to exporters entering into agency agreements providing for payment of commission upto specified maximum rates or on graded scales, since such agreements would result in saving of foreign exchange. Sometimes it becomes necessary for exporters to avail of the services of more than one agent e.g. when there is a general or sole selling agent for all exports going to a particular country/territory but other agents' services are engaged occasionally for rendering after-sales services. The Committee feels that RBI should allow exporters to pay commission to more than one overseas agent in respect of the same export order, provided the total outflow on account of commission in such cases is not in excess of the amount of commission calculated at the rate normally allowed by RBI in respect of the commodity in question.

3.40 A suggestion was received from some quarters that exporters may be allowed to pay agency commission in respect of exports of machinery and equipment made by Indian partners against their equity participation in joint ventures abroad. The Committee finds this suggestion untenable. The machinery and equipment to be supplied to an overseas joint venture

against equity participation in it is identified by the concerned parties before entering into an agreement. A third party has no role to play in such bilateral arrangements and, therefore, there is no case for the payment of commission to an agent. If, however, exports are made to an overseas joint venture by an Indian participant in the ordinary course of export business i.e., under normal payment terms and the exporter has a general or sole selling agent for the area, there should be no objection to the agent being paid his usual commission.

3.41 It was also represented to the Committee that in cases where exporters have entered into sole selling agency agreements, agency commission should be allowed to be paid to such agents in free foreign exchange and through third country channels even in respect of exports made under Rupee Lines of Credit extended by Government of India as well as Indian financial institutions like Exim Bank to foreign Governments/financial institutions. The argument advanced in support of the demand was that such sole selling agents are expected to render after-sale services during the warranty period even if the exports are made under Rupee Lines of Credit. The Committee is unable to accept this argument as valid. Rupee lines of credit, particularly those arranged at

Government level, are extended at concessive rates of interest and the importer country is presumed to have a ready 'shopping list' for Indian goods to be paid for out of such credits. In fact, the commodities to be exported under such lines of credit are carefully identified in consultation with the importer countries and lists thereof appended to the credit agreements. In such direct or bilateral deals, intermediaries have hardly any role to play. Further, the importer country has a right to insist on the entire amount of the rupee credit being available for payment towards the cost of goods and to stipulate that no deduction would be permitted towards payment of agency commission even in its own currency. Permission to pay agency commission in such cases would thus result in an additional outgo of foreign exchange.

3.42 The Committee notes that at present RBI allows payment of commission in the currency of the importer country by way of deduction from the invoice value in respect of exports under lines of credit extended by Indian financial institutions/commercial banks. The Committee feels that the existing procedure should be allowed to continue, provided the importer country concerned has no objection to such an arrangement. RBI may consider allowing payment of commission

in free foreign exchange through third country channels in such cases on a selective basis - as an exception and not a rule - only if the rupee credit does not exceed 90 per cent of the FOB value of exports, the balance 10 per cent coming from the importing country as advance/down payment. As regards exports covered by Rupee lines of credit extended by Government of India, however, the Committee is of the view that no agency commission, either by way of deduction from the invoice value or in free foreign exchange, should be allowed to be paid. Accordingly, the sole selling/territorial agency agreements signed by Indian exporters, should contain a clause to the effect that no commission would be payable to the sole selling agents in respect of exports covered under Rupee Lines of Credit extended by Government of India.

3.43 The Committee, accordingly recommends as under:

- *i) The period of validity of the Registration Certificates for commission agency agreements may be raised to 5 years or till the validity of the relative agency agreement, whichever is earlier. The existing provision permitting authorised dealers to effect remittances of commission within a period of one year beyond the date of expiry of the registration certificates may remain unchanged.

- * ii) Powers may be delegated to authorised dealers to allow ad-hoc remittances of agency commission upto 5 per cent of invoice value in respect of exports of 'non-select' list items with an over-riding monetary ceiling of Rs.25,000/- and upto 10 per cent in respect of 'select' list items of export with an over-riding ceiling of Rs.50,000/-, provided the amount of commission is declared on the relative GR/PP form(s), the rate of commission is within the rate applicable to the commodity in question and suitable documentary evidence is produced by the exporter to show that the order was secured through the overseas agent concerned. RBI may furnish to authorised dealers full details of 'select' and 'non-select' list items of export as also of 'non-select' commodities for which lower percentagewise sub-ceilings are prescribed for payment of commission. Changes, if any, in the lists of 'select' and 'non-select' items as well as in the sub-ceilings, if any, should be communicated to authorised dealers expeditiously. These delegated powers should apply to all shipments irrespective of whether or not they are covered by letters of credit. They should, however, exclude shipments going to any Bilateral Account country as payment of agency

commission in respect of exports to those countries is governed by a separate set of guidelines. RBI may issue detailed guidelines to authorised dealers about disposal of applications for remittance of commission. A suitable return should also be introduced for authorised dealers to report these cases to RBI at periodic intervals.

The question whether powers to allow remittances of agency commission against ad-hoc applications may be delegated to all branches of authorised dealers empowered to handle shipping documents or only to their designated branches may be settled by RBI in mutual consultation with authorised dealers.

∟ Note:- The above recommendations differ from the original recommendation contained in paragraph 4.6(ii) of the Committee's Interim Report in the following two aspects:

- (a) In the Interim Report, the Committee had recommended approval by authorised dealers of ad-hoc applications for remittance of commission upto 5 per cent for 'non-select' list commodities and upto 10 per cent for 'select' list commodities but subject to an overall monetary ceiling of Rs.25,000/-

in each case. In the new recommendation, while the maximum permissible percentages have been kept unchanged, the proposed monetary ceiling has been raised to Rs.50,000/- in the case of 'select' list commodities.

- b) In the Interim Report, the Committee had recommended delegation of powers only to designated branches of authorised dealers. The revised recommendation leaves this question to be settled by RBI in consultation with authorised dealers after a critical study.⁷

- iii) RBI may accept for registration/ approval of remittance of agency commission, agency agreements stipulating 'maximum' rates of agency commission or rates of commission 'upto' a specified percentage provided such maximum rates are within the rates upto which RBI normally allows payment of commission in respect of the commodities in question. RBI may also accept for registration agency agreements providing for payment of commission on graded scales based on the value of export orders secured through the agents.

- iv) RBI may also allow sharing of commission by more than one overseas agent in respect of any export order, provided the total outgo by way of commission to different agents does not exceed the amount calculated at the maximum rate upto which RBI normally allows payment of commission in respect of the commodity in question and appointment of an additional agent/s is justified.

- v) No payment of commission need be allowed in respect of exports made to overseas joint ventures against the equity participation of the Indian partners. There should, however, be no objection to agency commission being paid to a regular sole selling agent on exports to such joint ventures if the exports are made and paid for in the normal way.

- vi) Agency commission in respect of shipments made under Rupee lines of credit extended by financial institutions/commercial banks may continue to be made by way of deduction from the invoice value of each shipment. In exceptional cases, payment of commission in free foreign exchange in a third country may be considered by RBI on merits only if there is an advance or down payment

of at least 10 per cent i.e., where the line of credit is to cover a maximum of 90 per cent of the f.o.b. value of goods exported from India. Such exceptional cases should be considered in the Central Office of ECD.

No agency commission, either in local currency by way of deduction from invoice value or in free foreign exchange, should be allowed to be paid in respect of exports covered by Rupee lines of credit extended by Government of India. Sole selling/territorial agency agreements signed by Indian exporters should incorporate a clause stipulating that no commission would be payable on exports financed under Rupee lines of credit extended by Government of India.

∟ Note - As regards agency arrangements in countries where the exporter concerned has set up an office/branch or posted a representative, please refer to paragraphs 8.7 and 8.8(viii) of the Report.7

Payment of commission on exports
made to overseas agents on
'Principal-to-Principal' basis

3.44 At present, Indian exporters are not allowed to pay commission even to their regular overseas agents, with whom they have long term agency agreements, in respect of orders placed on the exporters

by the agents in their own names i.e. when goods are consigned in favour of the agents as buyers. In such cases, RBI allows the exporters to compensate the agents by giving them a discount on the invoice value (to the extent allowed by the Customs), instead of commission which is allowed only in respect of orders booked on behalf of third parties. This procedure is designed to ensure that remuneration in the **form** of agency commission is paid only to overseas agents for having rendered a definite service and not in cases where the export contract is settled directly between buyer and seller. Various trade organisations represented to the Committee that while, from the point of view of India, the effect of remitting commission and allowing discount is one and the same, namely reduction in the amount of realisation against exports, the overseas agents placing orders in their own names are at a disadvantage if they are offered a discount instead of commission. There is some substance in this argument. However, while appreciating that there would be some cases where an agent is obliged to import the goods in his own name but for eventual sale to other overseas buyers and in such cases the regular agent may be justified in asking for payment of agency commission

on the imports made by him on a principal-to-principal basis, the Committee feels that a major relaxation in the procedure presently followed by RBI for payment of commission to overseas agents is not necessary. The question has to be viewed not only from the angle of outgo of foreign exchange but also from the angle of justification for paying remuneration where apparently a definite service is not rendered.

3.45 The Committee, therefore, recommends that in cases where overseas agents of Indian exporters place orders in their own names on behalf of ultimate buyers, RBI may selectively agree to payment of agency commission to regular overseas agents on such exports made on 'principal-to-principal' basis, provided RBI is satisfied, among other things, that by allowing payment of commission in this manner, the exporter will not become entitled to any additional export incentives and that there would be no loss of revenue to Government of India.

*Remittances towards charges for testing
Indian products/equipment abroad
(Paragraph 11H.14 of ECM)

3.46 Under the existing procedure, Offices of ECD are permitted to allow remittances not exceeding US.\$750/- towards charges for testing Indian products/equipment abroad subject to the following conditions:-

- i) Similar testing facilities are not available domestically, or
- ii) The testing abroad is insisted upon by the overseas buyers.

While considering such applications, Offices of ECD take into account the export performance of the applicant, prospects of securing export order/s, recommendation of the concerned Export Promotion Council/Commodity Board (in cases where requisite testing facilities are domestically available), etc. Applications involving remittances in excess of US.\$750/- on this count are required to be referred to Central Office of ECD. Such applications are cleared by Central Office of ECD provided:

- i) A certificate regarding non-availability of similar testing facility domestically is obtained from the Directorate General of Technical Development (DGTD) or the concerned department of the respective Government Ministry, or
- ii) Documentary evidence is produced to show that testing at a particular overseas laboratory, etc. is insisted upon by the overseas buyer.

3.47 Under the present arrangement, all applications for remittance towards testing charges are dealt with by RBI, either at the Offices of ECD or in Central Office of ECD. The Committee feels that there is a case for delegating limited powers to authorised dealers to quicken the disposal of such applications. The Committee also feels that the existing limit of US.\$750/- upto which Offices of ECD have been permitted to allow remittances towards testing charges is low (even for delegation to authorised dealers) having regard to the fact that the charges for testing products have gone up considerably over the years. The Committee is of the view that the monetary limit for applications to be cleared by Offices of ECD should be significantly higher than the limit applicable to authorised dealers, if the delegation is to be meaningful. The Committee also feels that there should be a single nodal agency (say DGTD) for certification of non-availability of the requisite testing facilities in India and applicants should not be required to approach various Ministries/Departments of the Central Government for the purpose.

3.48 The Committee, accordingly, recommends as under:-

- i) Powers may be delegated to authorised

dealers to allow remittances on account of testing charges abroad upto US.\$1,000/- subject to compliance with the same terms and conditions as are applied at present by Offices of ECD while granting approvals. RBI may issue detailed guidelines to authorised dealers in this regard. RBI may also prepare, in consultation with Government of India, a list of commodities in respect of which facilities for testing abroad may be allowed and circulate it amongst authorised dealers. The list may be updated at regular intervals.

- ii) Offices of ECD may be permitted to allow remittances on account of testing charges abroad upto US.\$5,000/- subject to the same norms as are applied at present by Central Office of ECD.
- iii) RBI may take up with Ministry of Finance the question of revising the present guidelines so that the responsibility of certification about non-availability of testing facilities in India, in support of applications for remittances for undertaking testing abroad is entrusted to a single nodal agency. As DGTD has the requisite expertise in all technical disciplines, it may be considered fit to play the role of such a nodal agency.

*Remittances towards legal expenses in connection with export transactions (Paragraph 11F.13 of FCM)

3.49 Under the existing regulations, authorised dealers are permitted to make remittances upto US.\$500/- (or its equivalent) per bill, for meeting legal expenses in connection with dishonoured export bills. This provision has been made with a view to enabling exporters to initiate legal action promptly in cases involving dishonour of export bills. No powers have, however, been delegated to authorised dealers to allow remittances towards legal expenses in respect of matters not connected with exports.

3.50 Offices of ECD have been permitted to allow remittances towards legal expenses to the extent of US.\$5,000/- or 20 per cent of the value of the shipment in question, whichever is less, in connection with matters relating to exports. Applications involving remittances in excess of the above ceilings are considered in Central Office of ECD. In cases where the amount of legal expenses involved is substantial, the applications are considered in consultation with the Legal Department of RBI.

3.51 The Committee feels that the amount of US.\$500/- upto which authorised dealers are at present permitted to effect remittances of legal

expenses in respect of dishonoured export bills is rather small taking into account the overall increase in the cost of legal services abroad. The Committee is also of the view that the limits upto which Offices of ECD can allow remittances towards legal expenses need an upward revision.

3.52 The Committee, therefore, recommends as under:-

- i) Powers may be delegated to authorised dealers to allow remittances upto US.\$1,000/- per bill towards legal expenses in connection with dishonoured export bills.
- ii) Powers may be delegated to Offices of ECD to allow remittances towards legal expenses in connection with export transactions to the extent of 25 per cent of the value of the export bill in question or US.\$10,000/-, whichever is less.
- iii) In all other cases the applications may continue to be dealt with in Central Office of ECD (in consultation with RBI's Legal Department and/or Government of India).

(Note: Remittances towards legal expenses not connected with exports are dealt with under Paragraph 10.1 of this Report).

Methods of Payment - Acceptance of personal cheques/bank drafts from overseas buyers (Chapter 4 and Paragraph 11A.10 of ECM)

3.53 Settlement of transactions in foreign exchange between residents and non-residents has to conform to approved methods of payment as laid down in Chapter 4 of ECM. In regard to export of goods from India, the payments have to be received in a currency appropriate to the country to which shipments have been made. Further, the export proceeds have to be remitted to India through the normal banking channels (i.e., through overseas correspondents of authorised dealers) and not direct from the overseas buyers to the Indian exporters. On receipt of the remittance by TT/MT, the authorised dealer in India has to adjust it against the export transaction in question and send the relative triplicate (now duplicate) GR/PP form to RBI, duly certified. Some exporters, especially exporters of gems and jewellery, sending goods on mail order basis, however, also accept payment in the form of cash/personal cheques/bank drafts. Payment received by means of cheques or bank drafts results in delay in realisation of export value as the instruments have to be sent abroad for collection after their receipt in India. As far as payment through personal cheques drawn on overseas banks is concerned, there is also

a risk of some of the cheques being dishonoured on presentation. Payment received in the form of foreign currency notes is also fraught with risks like forgeries, etc. Apart from these difficulties, payments received through such means cannot be adjusted expeditiously against the outstanding GR/PP forms in the absence of necessary details like invoice numbers, GR/PP form numbers, etc. Such methods of payment towards value of goods exported from India are, therefore, regarded as irregular by RBI. If, for any reason, payment of the export value cannot be received through the correspondent of the exporter's bank and is sought to be received in some other manner, specific permission of RBI has to be obtained.

3.54 It has been represented to the Committee by the gem and jewellery export trade that many overseas buyers of their products prefer to make payment by means of personal cheques, bank drafts, etc. as arranging remittances of small amounts through the normal banking channel is both cumbersome and costly. It is reported that the prohibition on acceptance of personal cheques/bank drafts has particularly affected mail order business very severely because in this line of business the value of individual orders is small and exporters generally ask for payment in advance to

secure their interests. This kind of business cannot be done by insisting on payment only through a correspondent of an authorised dealer. The Committee feels that this issue needs a pragmatic approach. Export proceeds received by means of cheques/drafts constitute a negligible portion of the total export realisation and it is in the Country's overall interest to encourage new lines of export trade rather than allow them to languish through insistence on strict compliance with involved procedures. It is the Committee's view that very small exporters selling goods of nominal value to individual foreign tourists visiting India or to numerous overseas buyers by mail order/during personal visits abroad would be deprived of some potential export business if they cannot be permitted to receive payment directly from the clients by means of personal cheques and bank drafts. A slight relaxation in the prescribed methods of payment of export proceeds on a selective basis would thus seem to be desirable.

3.55 The Committee, accordingly, recommends as under:

- i) RBI may permit exporters of gems and

jewellery, handicrafts, artware and the like to accept payment of export proceeds from their overseas buyers by means of bank drafts upto a value of US.\$10,000/- or equivalent drawn in favour of the exporters. The exporter concerned should designate a branch of an authorised dealer to which shipping documents in respect of all such shipments will be delivered for negotiation/collection together with the relative GR/PP forms. It would be incumbent on the exporters to tender bank drafts to the designated branch of the authorised dealer within one week of their receipt together with complete details of shipments to which the payments pertain, such as GR/PP form number, invoice number, name of the overseas buyer, etc. which are necessary for the authorised dealers for certifying the outstanding GR/PP forms and forwarding them to RBI.

- ii) RBI may selectively allow exporters of gems and jewellery, handicrafts, artware and the like to also accept personal cheques of amounts upto US.\$500/- or equivalent drawn in their favour by overseas buyers in payment of value of exports. On receipt of the personal cheques, the exporters may deposit them with the authorised dealer with whom the corresponding GR/PP forms were lodged with all necessary particulars such as GR/PP

form numbers, invoice numbers, value of individual consignments, etc. to enable the authorised dealer to realise the cheques and send the forms to RBI duly certified. For this purpose the exporter concerned should designate a branch of an authorised dealer through which shipping documents pertaining to all such shipments would be routed. The authorised dealer may also submit to the concerned Office of ECD, a monthly statement, in a form to be prescribed by RBI, furnishing details of realisation of proceeds of export shipments by means of personal cheques . The facility may be granted on a very selective basis taking into account the track record of the applicant-exporters with regard to their export performance and export outstandings. The permission may be granted for one year at a time, subject to renewal on application.

Participation in Trade Fairs/Exhibitions
abroad - Role of Trade Fair Authority of India
(Paragraph 11A.11 of ECM)

3.56 The Trade Fair Authority of India (TFAI) was established in September 1976 as a nodal agency to deal with matters relating to India's participation in all overseas trade fairs/exhibitions (except book fairs) by amalgamating three different organisations

viz. Directorate of Exhibitions and Commercial Publicity, International Trade Fair Organisation and Indian Council for Trade Fairs and Exhibitions. Prior to TFAI's establishment, this work was handled by the Directorate of Exhibitions and Commercial Publicity and Indian Council for Trade Fairs and Exhibitions. Till 1981, some other organisations like Trade Development Authority, Export Promotion Councils, etc. could also sponsor participation of Indian organisations and recommend grant of necessary facilities to them for participation in trade fairs/ exhibitions abroad. Since 1981, however, TFAI is the only authority to clear proposals of Indian organisations for participation in overseas trade fairs/ exhibitions. Only in case of overseas book fairs/ exhibitions, intending participants are required to obtain clearance from Ministry of Education, Social Welfare and Culture.

3.57 There are about 3000 international fairs/ exhibitions organised the world over every year. As a nodal agency, TFAI draws up a perspective plan for India's participation in important overseas fairs and also prepares a calendar of participation. Since India cannot participate in all the fairs, TFAI

has to decide, on the basis of data collected, as to which international fairs/exhibitions to participate in as well as the optimum participation in each fair. While drawing up the calendar, TFAI takes into account the location, its geographical importance, Indian products to be exhibited in the fair, potential for generating export business for India, etc. In some cases TFAI, on its own, reserves pavilion space which is allotted to individual participants. In other cases, where TFAI does not reserve pavilion space, Indian companies/firms are allowed to participate on their own. In all cases, TFAI assesses the foreign exchange requirements of individual participants and makes suitable recommendations to RBI.

3.58 Once the clearance of TFAI is obtained by the participants, RBI grants all necessary facilities to them for participation in overseas trade fairs/exhibitions, such as release of exchange for booking pavilion space, delegates' travel abroad and engagement of services of salesmen, GR/PP waivers for export of exhibits for display, etc.

3.59 During the discussions the Committee had with them, representatives of a number of trade organisations pleaded for some relaxation in the present procedure requiring compulsory clearance of TFAI for participation in all types of exhibitions/fairs abroad. In particular, it was argued that for participation in specialised types of exhibitions/fairs such as machine tools fairs, fairs for textile machinery/electronic goods/civil construction equipment and the like, the concerned Export Promotion Councils or trade organisation had the requisite expertise to decide about India's participation and also to clear their members' applications in a systematic and speedy manner. It was pleaded that in such cases, prior clearance of TFAI for individual participants should not be insisted upon.

3.60 While the Committee appreciates the need for a single national agency to regulate and authorise Indian participation in all trade fairs/exhibitions abroad, it feels that there is some scope for TFAI to delegate powers to larger Export Promotion Councils/recognised trade bodies on a selective basis, to sponsor participation of Indian firms/companies in specialised overseas fairs/exhibitions where TFAI does not intend to directly undertake the responsibility of organising Indian participation. Once TFAI accepts the view that Indian participation

in the overseas trade fair/exhibition in question is desirable, it should lay down norms appropriate to the location for foreign exchange expenditure for different purposes. It should then delegate to the concerned Export Promotion Council or recognised trade body, the task of selecting the participants and recommending to RBI release of foreign exchange to individual participants in accordance with the norms laid down by TFAI. In such cases RBI should grant necessary exchange control approvals for release of exchange, export of exhibits, etc. on the basis of the recommendations made by the Export Promotion Council/trade body concerned.

3.61 In cases where Indian companies/firms desire to participate in overseas trade fairs/exhibitions for which pavilion space has been booked by TFAI, they should continue to apply to TFAI for necessary **sanction**. Similarly, individual organisations desiring to participate in overseas trade fairs/exhibitions abroad, on their own, should also continue to obtain prior sanction from TFAI.

3.62 The Committee understands that TFAI does not have any formal consultative machinery to obtain regular feed back from trade and industry about their difficulties and the Authority's role in organising

overseas fairs. The Committee is of the view that it would be useful for TFAI to have a formal consultative forum with adequate representation to Export Promotion Councils, Chambers of Commerce, other representative trade and industry organisations, etc.

3.63 The Committee, accordingly, recommends as under:

- i) TFAI may delegate, on a selective basis, powers to major and well-organised Export Promotion Councils/recognised trade bodies such as Engineering Export Promotion Council (EEPC), AIFI, etc. to sponsor participation of Indian firms/companies in specialised overseas fairs/exhibitions where TFAI does not intend to directly undertake the responsibility of organising the Indian participation. In such cases, once TFAI accepts the view that Indian participation in the overseas fair/exhibition in question is desirable, it should lay down norms (determined in accordance with the guidelines finalised in consultation with RBI) appropriate to the location of the fair, for release of foreign exchange for various purposes. TFAI should then leave the task of selecting participants and recommending to RBI release of exchange to individual participants to the Export Promotion Council or trade body concerned, in accordance with the norms laid down.

In such cases, RBI should grant necessary exchange control approval for release of exchange, export of exhibits, etc. on the basis of recommendations made by the Export Promotion Council/trade body concerned.

- ii) In cases where individual Indian organisations desire to participate in overseas trade fairs/exhibitions for which pavilion space has been booked by TFAI, they should continue to apply to TFAI for necessary clearance, as hitherto.
- iii) Indian companies/firms desiring to participate in overseas trade fairs on their own may also continue to obtain prior clearance from TFAI, as hitherto.
- iv) TFAI may set up a standing Consultative Committee in order to be able to obtain regular feed back about the difficulties faced by the intending participants in overseas fairs/exhibitions and to find solutions for their problems after mutual consultations. The Consultative Committee should be sufficiently broad based and should give adequate representation to Export Promotion Councils, Chambers of Commerce as well as other recognised trade organisations. The Consultative Committee should meet about once in three months.

CHAPTER IV

Project Exports

General

4.1 The term project exports used in its generic sense, covers the following types of contracts:

- (1) Contracts for supply of engineering goods on deferred payment terms.
- (2) Turnkey contracts for industrial/manufacturing ventures.
- (3) Civil construction contracts.
- (4) Service contracts i.e. contracts for supply of technical/managerial know-how, engineering services for erection of equipment, professional consultancy, etc.

4.2 Engineering and project exports have emerged as an important foreign exchange earner for India since the mid-seventies. The total export earnings of this sector were of the order of Rs.900 crores during 1980-81. However, the sector is expected to account for as much as Rs.9,000 crores of India's export earnings by 1990 according to the projections made by EEPC assuming a cumulative growth rate of 25 per cent with a real growth

rate of 15 per cent per annum after making due allowance for inflation. In spite of the set-back received on account of the prolonged Iran-Iraq war, the long term potential for export of engineering goods, turn-key projects and civil construction projects is sizeable and Government of India as well as other concerned agencies are committed to making all out efforts for promotion of this promising export activity.

4.3 Prior to 1975, Indian exporters intending to bid for overseas projects were required to secure separate approvals, at the pre-bid stage, from various authorities such as Department of Banking Operations and Development (DBOD) of RBI (for rupee credit requirements), ECD of RBI (for overseas borrowing, opening of bank accounts and site offices abroad, payment of agency commission, issuance of bank guarantees, third country purchases, etc.), ECGC (for counter-guarantees and risk insurance) and Industrial Development Bank of India (IDBI) (for guarantees and refinance facility). To obviate the need for the exporters to approach different agencies for such approvals and to save time, a Working Group was formed with representation from RBI [ECD and DBOD- now Industrial and Export Credit Department (IECD)]-7

IDBI and ECGC. The Working Group started functioning formally from 1st July 1975 with IDBI as its focal point. The role of IDBI has been taken over by the Export-Import Bank of India (Exim Bank) since its inception in 1981.

4.4 Indian exporters are required to obtain prior clearance of the Working Group or an authorised dealer, as the case may be, before tendering for the first three types of contracts. Authorised dealers are permitted to clear, with effect from January 1980, bids for supply of engineering goods on deferred payment terms and turnkey contracts of a value not exceeding Rupees one crore in terms of the general powers delegated to them by RBI. Similar delegation in favour of authorised dealers was made in September 1981 in respect of bids for civil construction contracts upto a value of Rupees one crore. All proposals for supply of engineering goods on deferred credit terms, turnkey contracts and civil construction contracts of a value exceeding Rupees one crore are required to be cleared at the pre-bid stage by the Working Group.

4.5 The Working Group is also required to clear small value proposals (for Rupees one crore or less) if they have any unusual features. As far as

4.4

pure service contracts are concerned, prior clearance of the Working Group/authorised dealers is not required. Various exchange control facilities are granted to the contractors on application after the contracts are signed.

RBI's role in Project Exports

4.6 Every bid cleared by the Working Group/authorised dealer which fructified into a contract casts on the Exim Bank, ECD and authorised dealer/s concerned the responsibility of monitoring the project till it is completed and handed over to the project authorities after the maintenance period, if any. Allowing an Indian company/firm to undertake a high value contract abroad implies assumption of risk and liability in foreign exchange for various commitments and preparedness to provide financial support to the Indian contractor till completion of the project irrespective of whether the contract earns a net profit or ends up in a net loss. The following are the various areas in respect of which project exporters are required to obtain exchange control approvals in connection with the execution of turnkey, civil construction and service contracts abroad:-

- (1) Opening and maintenance of temporary bank accounts abroad;
- (2) Opening and maintenance of temporary site and liaison offices abroad;

- (3) Payment of agency commission;
- (4) Raising working capital by means of bank borrowings abroad or through remittances from India;
- (5) Issuance of various bank guarantees either directly from India or through international banks abroad;
- (6) Purchase of material/machinery/construction equipment from 'third country' sources;
- (7) Export of machinery/equipment from India on reimport basis;
- (8) Engagement of foreign sub-contractors, consultants or personnel in connection with execution of overseas contracts;
- (9) "One-shot" joint venture agreements with overseas parties for execution of overseas projects;
- (10) Investment abroad of project funds rendered temporarily surplus; and
- (11) Inter-project transfers of funds.

Of these, the first 6 items are common to almost all overseas projects being executed by Indian contractors.

Working Group Mechanism

4.7 The Working Group comprises representatives of Exim Bank, ECGC and RBI (ECD and IECD). Representatives of Government of India (Ministries of Finance and Commerce) are expected to attend meetings convened to discuss high value proposals. As a rule, the authorised dealer who sponsors the bid has to

attend the Working Group meeting along with the bidder. Exporters desirous of bidding for export of engineering goods on deferred credit terms, civil construction contracts and turnkey contracts exceeding Rupees one crore in value are required to obtain a collective pre-bid clearance from the Working Group. After securing the contracts, the exporters have to approach various member-institutions of the Working Group giving details of the terms and conditions on which contracts are secured, on the basis of which Exim Bank, ECGC, RBI (ECD) and commercial banks grant to the applicants various financial facilities/exchange control approvals in line with the approvals in principle given and commitments made at the pre-bid stage.

4.8 Authorised dealers are at present permitted to grant pre-bid clearance for bids for pure supply contracts on deferred payment terms, turnkey contracts and civil construction contracts, provided the value of the bid does not exceed Rupees one crore and the proposal satisfies all norms laid down in the "Broad Guidelines" issued by RBI. Whenever participation of Exim Bank and/or insurance cover/counter guarantees from ECGC are called for, these institutions have to be consulted in advance. All proposals involving a value of more than Rupee one crore or those not satisfying any of the prescribed norms, irrespective of the value, need clearance of the Working Group.

(a) Powers of authorised dealers/Exim Bank to accord pre-bid clearance for project export proposals (Paragraphs 11D.7 & 11E.2 of ECM)

4.9 The scheme under which authorised dealers clear project export proposals upto the value of Rupees one crore at the pre-bid stage has been in vogue for a sufficiently long period and it has been found to be working satisfactorily. It was, however, brought to the Committee's notice that lately very few bids for overseas contracts fall within the value limit of Rupees one crore and consequently a majority of bids have to be unavoidably taken to the Working Group. There was, therefore, a general demand that the value of bids which could be cleared by authorised dealers should be suitably revised upward to make the scheme more meaningful. With the establishment of the Exim Bank, a specialised institution is now available to cater to the needs of project exporters and to act as a focal point of the Working Group. Having regard to the Exim Bank's special role and responsibility for promotion of project exports and the expertise built by it in the field, it was represented to the Committee that the Exim Bank may also be permitted to clear, on its own, various types of proposals for project exports at the pre-bid stage. It was generally agreed that the value of proposals to be cleared by the Exim Bank should be higher as compared

to the value limit fixed for proposals to be cleared by authorised dealers. There was also general agreement that each proposal going to the Exim Bank should go through a sponsoring bank (which would normally be the bidder's bank) as the successful bidders invariably require various guarantees and credit facilities from their bankers, in addition to facilities from the Exim Bank for execution of their overseas contracts. Creation of a three tier structure for clearance of export bids seemed to be widely favoured as it was expected to enable the Working Group to concentrate on high value proposals.

4.10 The Committee has considered the matter carefully and is in general agreement with the view that interests of project exporters would be served better if the value limit upto which authorised dealers could clear export proposals is suitably enhanced and the Exim Bank is also permitted to clear proposals upto a reasonable value limit. The Committee, accordingly, recommends as under:-

- (i) The value limit upto which authorised dealers can clear proposals for project exports of all types at the pre-bid stage may be raised from Rupees one crore to Rupees two crores, subject to the existing terms and conditions.

- (ii) The Exim Bank may be authorised to clear, in consultation with the bankers of the bidders, proposals for project exports of all types, of a value not exceeding Rupees five crores, provided such proposals satisfy all norms prescribed for pre-bid clearance by authorised dealers. The bidders should submit their proposals to the Exim Bank through their bankers (authorised dealers).

The delegation of powers in favour of the Exim Bank to clear proposals for project exports at the pre-bid stage may be reviewed after one year in the light of its working.

(b) Post-award clearance of successful bids by the Working Group

4.11 Many a time, the terms and conditions subject to which the Working Group clears project export proposals at the pre-bid stage are varied by bidders during their direct negotiations with the tender-calling authorities. Often, bidders request the Working Group to allow them a 'negotiating margin' or avail of it unilaterally. Thus, the scope and value of a contract actually signed may sometimes be substantially different from those furnished to the Working Group while securing the pre-bid clearance. As the fund-based as well as non-fund-based facilities for which commitments are made

by the Exim Bank, the exporter's bank/s and ECGC are directly related to the scope and value of the project, substantial changes therein necessitate fresh sanctions being obtained internally for the modified package. Although there is a common form of application, successful bidders are required to approach the member institutions viz. Exim Bank, ECGC and RBI (ECD) individually for sanction of various facilities/ approvals for execution of their contracts. One of the persistent demands of project exporters is that the package clearance concept should be extended to the post-bid stage also in order to obviate the need for separate applications to individual institutions for various facilities.

4.12 A suggestion was made to the Committee that all successful bids for civil construction and turn-key projects abroad which fructify into contracts may again be taken to the Working Group. The Working Group may convene special meetings for consideration of the contracts and give final clearance for all facilities to be granted by the member-institutions and the exporters' bankers, after taking into account the actual terms and conditions of the contracts. Member-institutions should, thereafter, issue letters to the exporters within a week conveying their formal approvals/sanctions for the various facilities as approved in the Working Group meetings.

4.13 The Committee sees some merit in this suggestion. However, in its view, such Working Group meetings at the post-award stage should not be necessary in respect of bids cleared by authorised dealers and Exim Bank where the contracts have been entered into in strict conformity with the terms and conditions stipulated by them while giving the package clearance. The Committee is also of the view that even following this package clearance by the Working Group at the post-contract stage, the member-institutions and the exporters' bankers should continue to issue separate letters to the exporters conveying sanctions/approvals of facilities granted by individual institutions, on the basis of a common application.

4.14 The Committee, accordingly, recommends that in respect of all proposals cleared by the Working Group which fructify into contracts the contractors should apply to the Working Group for a post-award package clearance. Exporters should be required to furnish full details of their contracts to all members through a common application form as at present. The Working Group should convene special meetings during which the individual members and bankers should make commitments for various fund-based and non-fund based

facilities/approvals applied for by the contractors. These may be followed by formal written communications from the concerned institutions within a week.

(Note - For recommendations regarding pre-bid clearance for service contracts of all types by authorised dealers/Exim Bank/Working Group, please see paragraph 4.25)

Inter-project transfer of funds

4.15 Some project exporters are executing a number of projects either in the same foreign country or in different countries and these projects are at different stages of execution. Occasionally, such exporters are placed in a situation where projects nearing completion have surplus funds while those which are in early stages of execution or faced with delay in release of progress payments are in need of bridge finance. Such exporters occasionally approach RBI for permission to transfer funds temporarily rendered surplus with one project to another project in need of working capital. RBI allows such transfers after taking into account the funds flow position of both the projects, subject to the condition that the borrowing project should retransfer the funds together with reasonable interest as soon as its funds position permits the retransfer. Among other things, RBI has to examine the request from the angle of exchange control

regulations in the country of the project on transfer of funds and capacity of the borrowing project to repay the bridge loan in good time. The Committee has received suggestions to the effect that project exporters may be permitted to transfer freely funds from one project to another without prior approval of RBI subject only to a post-facto report to it.

4.16 The Committee sees no justification in giving a free hand to project exporters to transfer funds from one project to another, even if both the projects are in the same country. It is also not convinced that exporters have any particular difficulty in anticipating, sufficiently in advance, the need for inter-project transfers and seeking approval of RBI to effect them. Allowing transfer of funds freely from one project to another would create difficulties for RBI and the contractors' bankers in monitoring effectively repatriation of net surpluses from individual overseas projects on their completion as there would be a natural tendency among exporters to transfer such net surplus from every completed project to another on-going project and this process of recycling funds could continue indefinitely. In many countries, payment to overseas contractors is made in two components - a foreign currency component

which is freely convertible and a local currency component which is non-convertible. Inter-locking of funds of different projects would also create difficulties in securing approval of the local authorities for converting the amounts into foreign exchange. If the borrowing project is not a profitable proposition, free transfer of funds to it would only lead to its sickness being passed on to other viable lending project. If different banks have provided financial facilities to the two projects in question, their consent should ordinarily be necessary before allowing inter-project transfer of funds.

4.17 Since RBI is following a fairly liberal policy in this regard and it is in the overall interest of the exporters themselves to use the facility of inter-project transfer of funds prudently and sparingly, the Committee is of the view that there is no case for making a general relaxation in this regard. As the contracts are cleared by the Working Group, the Committee recommends that the requests for inter-project transfer of funds may also be placed by RBI before the Working Group before conveying its formal clearance to the applicants. In order that too many such proposals do not have to be placed before the Working Group, cases involving transfers of relatively small amounts, say upto U.S. dollars one lakh (approx. Rs. 10 lakhs), may be approved by RBI on its own.

Issue of CCPS for import of machinery/
equipment and motor vehicles into India

4.18 Under the present procedure, whenever project-exporters approach Import Trade Control authorities for issue of Customs Clearance Permits (CCPs) in connection with import into India of equipment/machinery and motor vehicles purchased abroad out of project funds, they are required to produce a certificate either from RBI or Exim Bank to the effect that the equipment/machinery/vehicles in question was/were purchased for execution of an overseas project from out of funds of that project. RBI/Exim Bank finds it difficult to issue such certificates as project exporters enjoy freedom in regard to purchase of equipment/machinery/motor vehicles from third country sources and they are generally not in a position to produce a complete list of their intended purchases while obtaining pre-bid clearance of the Working Group. Even in cases where exporters produce such lists, major changes in them at a later stage are not ruled out. RBI/Exim Bank has also to depend entirely on the information furnished by the project exporter himself and has no independent means to verify the correctness of the details furnished. The Committee, therefore, recommends that whenever any project exporter desires to import into India equipment/machinery/motor vehicles purchased by

him abroad from out of project funds and approaches the ITC authorities for issue of CCPs, ITC authorities may obtain an affidavit from the exporter himself to the effect that the equipment, etc. in question was purchased out of project funds abroad and should not insist on the exporter producing a certificate either from RBI or Exim Bank in support of his statement. For payment of import duties, they may follow the usual procedure. RBI may pursue the proposal with the concerned authorities.

Periodic review of overseas projects

4.19 The progress of work of projects under execution abroad is required to be reviewed from time to time to ensure that corrective action is taken in good time in case of delay and/or other deficiencies in execution. Such reviews are at present undertaken only sporadically. In the Committee's opinion, formal joint reviews of on-going projects at regular intervals are very important, particularly because work on Indian projects abroad lags behind schedule in a majority of cases. The Committee was given to understand that the Working Group is mainly pre-occupied with the work relating to pre-bid clearance of new proposals and, therefore, does not find it easy to conduct regular reviews of on-going projects. The Overseas Projects Development Council (OPDC)

functioning under the aegis of the Ministry of Commerce is expected to conduct an overall review of overseas projects at the macro level. However, as far as micro-level reviews of individual projects are concerned, the present arrangement for review by financial institutions is rather loose and weak. The Committee feels that there is need for strengthening the machinery for structured formalised reviews of major on-going overseas projects.

4.20 The institutional members of the Working Group and commercial banks have a joint responsibility for the decisions taken at the time of giving a package clearance at the pre-bid stage. While the importance of periodic reviews of on-going projects needs no emphasis and the lending bankers as well as members of the Working Group are understood to be conducting such reviews, the Committee feels that there is need to lay down procedural norms for structured formalised reviews at regular intervals of major projects during their execution. The Committee recommends that the responsibility for conducting regular reviews of on-going overseas projects should also vest in the Working Group. While the Working Group meetings for giving pre-bid clearance for new

proposals are normally attended by middle level officials, participation of member-institutions in the review meetings should be at a senior level. To begin with, such review meetings should be organised to examine the progress of work of high value projects, say, exceeding Rs.25 crores in value. The threshold of Rs.25 crores may be changed in the light of actual experience of the review procedure.

Consortium approach by commercial banks
sponsoring project export proposals

4.21 High value bids for overseas projects normally call for the financial support of a number of commercial banks through a consortium. Once such a consortium arrangement is finalised, the project exporter concerned should ordinarily be required to deal with only the consortium leader for all matters relating to guarantees, disbursement of post-shipment credit, etc. It was brought to the notice of the Committee that in practice the project exporters have to approach each member bank in the consortium individually for all such facilities which is inconvenient and time consuming.

4.22 The Committee recommends that in cases where a consortium of banks undertakes the responsibility for providing a package of financial facilities for a project abroad, ordinarily the bank taking the largest

share in the facilities (guarantees plus export credits) should assume the role of the consortium leader and the project exporter concerned should be required, as far as possible, to deal with the consortium only through the leader.

Export of Managerial/Technical/Consultancy Services on contract basis (Part F, Chapter 11 of ECM)

4.23 In respect of pure service contracts of all types, the contractor's responsibility is limited to supply of only one input viz. professional or technical services and he has no responsibility for the supply of materials, equipment, machinery, etc. which is generally arranged by the project authority or another (prime) contractor. The supplier of services has, therefore, to furnish a performance guarantee, if at all, only in respect of the services of his personnel as distinct from a performance guarantee for the project as a whole. Service contracts are generally sub-contracts for small values, less complex in nature as compared to turn-key contracts and, therefore, carry less risk of default/failure. The bank guarantees and other financial facilities such as borrowing abroad for service contracts are modest. Exporters of services of all types - **technical** managerial or consultancy - are, therefore, not required to secure a prior clearance of RBI or any other financial.

institution before signing contracts for jobs abroad. In case they need any exchange control facilities such as opening of site offices, maintenance of foreign currency bank accounts, raising loans/overdrafts abroad for meeting working capital requirements, payment of agency commission, third country purchases of tools/tackle/equipment, etc. for execution of their contracts, they have to approach ECD at the post-contract stage. As the Indian contractor's 'association' with the overseas project authority/prime contractor is generally in the nature of a "one-shot operation", Government clearance under Section 27 of FERA is also not required.

4.24 The Committee observes that the present procedure was introduced at the time when Indian contractors undertook service contracts for very small amounts and did not need much financial support from India. Lately, however, service contracts involving large values are being undertaken by Indian contractors in the field of erection and installation of plant and machinery and civil construction, and the complexities of such sub-contracts are almost the same as in the case of prime contracts for turn-key and civil construction projects. Since service contracts in these areas involve heavy direct and indirect foreign exchange liabilities and

cannot really be undertaken without the support of the Indian banks and other financial institutions, it seems desirable to introduce for them the same discipline and procedure as are applicable to turn-key and civil construction projects abroad. In fact, even turn-key and civil construction contracts undertaken abroad by Indian firms/companies as prime contractors have very limited Indian inputs by way of machinery/equipment/materials. The main input being Indian labour and other professional services, such turn-key/civil construction contracts are also essentially service contracts from India's point of view. Except for the fact that pure service contracts do not need prior exchange control clearance, they are treated virtually on par with turn-key and civil construction contracts and practically all facilities which are required by Indian contractors executing turn-key and civil construction contracts abroad are also required by service contractors associated with erection/installation or construction work abroad. Many of them resort to purchase of equipment/tools from third country sources and also to borrowing abroad for meeting working capital requirements. They have also to furnish bank guarantees/counter-guarantees from India in the nature of performance guarantees (relating to the performance of their personnel), advance payment

guarantees, retention money guarantees, counter-guarantees for loans/overdrafts from banks abroad and the like. Thus, in addition to a variety of exchange control approvals, such service contractors also need the usual facilities from Exim Bank, ECGC and their bankers in India. As the distinction between turn-key/civil construction contracts and service contracts is often notional rather than real, the present practice of allowing such contractors to approach Indian financial institutions after signing their overseas contracts poses certain practical problems. A one-window clearance at the pre-bid stage in the case of service contracts would seem to be advantageous to the exporters of services as well as the Indian financial institutions.

4.25 The Committee, accordingly, recommends as under:-

- i) In cases where only usual exchange control facilities such as opening of site offices, maintenance of foreign currency bank accounts, payment of agency commission, foreign travel of personnel, etc. are required by the exporters of services, pre-bid clearance need not be prescribed. In such cases RBI should continue to grant the usual facilities on the basis of applications submitted to it by the exporters after signing the contracts.

- ii) In cases where the exporters of services need financial facilities for execution of service contracts involving foreign exchange liabilities such as furnishing various types of bank guarantees from India, raising loans and overdrafts abroad (against counter-guarantees from India), etc., such service contracts should be treated on par with turn-key and civil construction contracts and the proposals should be subject to pre-bid clearance.

- iii) Authorised dealers and Exim Bank may be authorised to grant pre-bid clearance for service contracts of various types upto the value of Rupees two crores and Rupees five crores respectively.

- iv) RBI, Exim Bank and ECGC should prescribe a suitable common proforma for exporters of services for applying to the Working Group/authorised dealer/Exim Bank for pre-bid clearance. They should also prescribe a suitable common proforma for submitting to them quarterly progress reports.

The Committee suggests that the work of finalising these proformae may be entrusted to a small Committee of officials drawn from the three institutions. Representatives of authorised dealers may also be associated with the proposed Committee.

*Bridge Finance for Project Exports
(Paragraph 11 E.4 of ECM)

4.26 Among other things, the Working Group considers proposals for overseas borrowings by project exporters to meet their working capital needs. Presently, the Working Group grants to project exporters, as part of the package clearance given at the pre-bid stage, an approval, in principle, to raise bridge finance upto 10 per cent of the contract value to meet working capital requirements of the contracts, provided satisfactory cash flow projections are submitted to the Working Group by the bidder while seeking the pre-bid clearance. Requests for bridge finance in excess of 10 per cent of contract value, but upto 15 per cent, are considered by ECD in consultation with the Working Group. The need for overseas borrowings is assessed after taking into account advance/down payment and progress payments vis-a-vis the working capital requirement for expenditure on labour, materials and machinery/equipment. Applications for overseas borrowings in excess of 15 per cent of the contract value are considered by ECD in consultation with Government of India (Ministry of Finance).

4.27 The Committee feels that since initial approval for undertaking execution of a project abroad is given by the Working Group after proper financial and

technical appraisal of the proposal, all subsequent requests for modifications therein during the execution of the contract should also be considered by the same body. Instead of making formal references to Government, the system of giving a single point clearance should be followed even in regard to applications for enhancement in the bridge finance facility. A representative of Government of India (Ministry of Finance) may be specifically invited to attend meetings of the Working Group convened to consider, inter alia, proposals for raising bridge finance in excess of 20 per cent of the contract value.

4.28 Based on the information available in respect of domestic as well as overseas projects, the Committee is of the view that the working capital requirement of a construction/turnkey project at the peak point may be assumed to be approximately 25 per cent of the contract value. This has to be met out of mobilisation advance/down payment plus bank borrowings. The advance payment is generally expected to be 10 per cent of the contract value but occasionally may be less. The Working Group should, however, continue to insist on a normal advance/down payment of 10 per cent and should not

in any case, consider a proposal where a reduced advance/down payment of at least 5 per cent of the contract value is not provided for. Assuming a minimum advance payment of 5 per cent, the normal working capital requirement should be computed by adding up the percentage of advance to that of the bank finance in such a manner that the aggregate does not exceed 25 per cent. In other words, the quantum of bridge finance would vary between 15 per cent and 20 per cent depending on whether the advance/down payment provided for in the contract is 10 per cent or 5 per cent.

4.29 The Committee, accordingly, recommends as under:-

- i) The maximum working capital requirements of a project abroad should be reckoned at 25 per cent of the contract value. Resort to bank borrowing for meeting normal working capital requirements of an overseas turn-key/construction project would vary depending on the percentage of advance/down payment. The Working Group should not clear any proposal providing for advance/down payment of less than 5 per cent of the contract value. Consequently, the Working Group may clear requests for bridge finance upto a maximum of 20 per cent of contract value as against 10 per cent as at present, at the pre-bid stage or during execution of a contract, provided realistically drawn up cash flow statements are submitted in support of the applications.

- ii) Where bridge finance requirements need an upward revision during the execution of the contracts on account of delays in the receipt of progress payments, the applications may be considered by the Working Group itself instead of being referred to Government of India (Ministry of Finance) as at present. In exceptional cases, where the financial stakes involved are very high or the project is likely to result in a loss leading to an outflow of foreign exchange, a representative of the Ministry of Finance may be specifically invited to attend such Working Group meetings.

*GR Waivers for 'Consumables' for Indian projects abroad (Paragraph 11D.23 of ECM)

4.30 Under the present procedure, Indian contractors executing construction/turn-key projects abroad, are required to export in that connection 'consumables' such as tools, tackle, nuts and bolts, wire-ropes, scaffolding, machinery spares, etc. for which separate payment is not to be made by the overseas project authorities. They have to declare such exports on GR forms in the same manner as export of other Indian goods. The contractors are also required to draw bills on their own site offices abroad and to send the shipping documents direct to those offices on the assumption that the export value can be remitted to India out of the progress payments for the 'services' segment of the contract.

4.31 In reality this poses practical problems.

Repatriation of export proceeds against consumables in the above manner results in reduction of the funds received by the contractors against progress bills. While, therefore, repatriation of the value of consumables to India may reduce rupee borrowings of the project exporters, it results in reduction in the funds available abroad to the exporters. The exporters have to resort to borrowing abroad to cover the short-fall in working capital which has the net effect of increasing their expenditure in foreign exchange towards interest on the borrowings. To avoid this, project exporters prefer to approach RBI for waiver of GR procedure in such cases. Such occasions are rather frequent and project exporters have to follow the elaborate drill of approaching ECD through their bankers for issue of a GR waiver every time a shipment of consumables is to be made. The Committee feels that the power to waive the GR formalities in such cases could be delegated to the authorised dealer (contractor's banker) monitoring the project, once the need and extent of such free supplies of consumables are examined and approved by the Working Group/RBI at the time of giving the package approval after the bid is successful. As there could be minor variations in the value of individual items of consumables approved by the

Working Group/RBI at the post-bid stage and the actual value thereof at the time of applying for the GR waivers, authorised dealers could also be empowered to ignore such minor variations, provided the overall value of consumables as approved by the Working Group/RBI remains unchanged.

4.32 The Committee, therefore, recommends that the present procedure under which the project exporters executing turnkey or civil construction contracts abroad are required to approach RBI for issue of GR waivers for export of items which are consumed in the process of execution of the projects (consumables) should be dispensed with. Instead, the project exporters may be required to submit to the Working Group or RBI, as the case may be, a statement giving the description, quantity and value of the various consumable items to be sent to the project sites, at the pre-bid stage or at least while seeking a package exchange control clearance on signing the contract. Once the list of items is approved by the Working Group/RBI, the project-exporter's bankers may be given general permission to issue GR waivers from time to time for the export of consumable items included in the approved list, under advice to RBI. While issuing the GR waivers, authorised dealers may ignore variations in the values of individual items

upto 10 per cent on either side as compared to the values declared while seeking the blanket approval provided the total value of consumables proposed to be shipped under GR waivers is within the overall value limit approved by the Working Group/RBI. Suitable advices may be issued by authorised dealers to customs in this regard in lieu of the GR waivers from RBI. RBI may issue detailed guidelines to authorised dealers in this regard and also request Customs authorities to accept advices from authorised dealers in lieu of GR waivers for despatch of consumables to projects abroad.

CHAPTER V

Import of goods into India

*Follow up of evidence of import -
Role of Authorised Dealers
(Paragraphs 13A.35 to 13A.37 of ECM)

5.1 Primary control on import of goods is exercised by Government of India through the Import Trade Control (ITC). RBI control is confined to the means and methods of financing imports. Here too, wide powers have been delegated in favour of authorised dealers to effect remittances against imports, whether against OGL or specific import licences issued by ITC authorities, and only a few types of cases e.g. imports on deferred payment terms, advance payments against imports, remittances against cash import licences after expiry of 6 months from the date of shipment, remittances in excess of the value of import licences, imports into bond, etc. are required to be referred to RBI through authorised dealers for specific approval. In all cases of imports, whether under OGL or specific import licences, it is obligatory on the part of authorised dealers through whom the remittances are made to obtain from their concerned importer-customers, documentary evidence such as the Exchange Control copy of the Bill of Entry, postal wrappers, etc. as proof of import of goods into India.

5.2

In a few categories of import transactions e.g. (i) imports under OGL, (ii) advance remittances against imports, (iii) unauthorised imports cleared by Customs, (iv) cases where bills of exchange are dishonoured and goods are sold on behalf of collecting banks or drawers, etc., authorised dealers are required to forward to RBI the documentary evidence of import. It has been brought to the Committee's notice that many importers do not submit the required documentary evidence to authorised dealers in time or at all, either on account of negligence or ignorance and cases of non-submission or delay in submission of documentary evidence of import are not followed up regularly and systematically. As a result, it becomes difficult for RBI to satisfy itself that goods have actually arrived in India against every remittance of foreign exchange allowed for that purpose. There are also instances where goods already paid for arrive at Indian ports but the importers concerned do not take delivery thereof owing to reasons like increase in import duty, heavy demurrage charges, fraudulent shipments of substandard or worthless goods, etc. As the follow up procedure for imports is not foolproof, there is a genuine apprehension that out of the country's heavy import bill, some amount of precious foreign exchange might be going out in the name of imports without corresponding imports actually taking place. The Committee feels that there

is need to streamline the procedure to minimise the risk of leakage of foreign exchange in the guise of imports.

5.2 As the work relating to imports is handled mostly by authorised dealers and as RBI comes into the picture only for a few types of cases, the Committee is of the view that the follow up of submission of documentary evidence of import such as Exchange Control copies of Bills of Entry and postal wrappers should also be the responsibility of authorised dealers through whom the remittances are effected. They should, however, report to RBI cases of default at periodic (say, quarterly) intervals to enable it to initiate appropriate action against the defaulters.

5.3 To facilitate effective follow up, the format of the Import Bills Register maintained by authorised dealers would need revision to provide additional columns to record (i) due date of receipt of documentary evidence of import (ii) date of issue of reminder and (iii) date of receipt of documentary evidence. The documentary evidence obtained by authorised dealers from importers should ordinarily be available for a random check during the inspection of their branches by RBI. As, however, RBI is not always in a position

to undertake the inspection of authorised dealers' branches at regular intervals, a procedure could be adopted to allow destruction of the bills of entry/postal wrappers after a reasonable interval, provided they have been subjected to an audit by the concerned bank's own internal auditors/inspectors and they record a suitable certificate against the relative entries in the Import Bills Register. Such a procedure would ensure that the documentary evidence is subjected to independent verification either by the bank's own Audit and Inspection Department or by RBI and would, at the same time, obviate the need for its preservation for an unduly long period.

5.4 The Committee, accordingly, recommends as under:-

- i) In all cases of import of goods into India, the authorised dealers through whom corresponding remittances are effected, should follow up the cases with the importers concerned for submission of requisite documentary evidence of import. To facilitate systematic follow up, authorised dealers may suitably amend the format of their Import Bills Register to provide additional columns to record (a) due date of receipt of documentary evidence of import, (b) date of issue of reminder, (c) date of receipt of documentary evidence and (d) date of verification by Internal Audit/RBI (against proper authentication).

- ii) Authorised dealers may submit to RBI, at quarterly intervals, a statement giving full details of cases where the bills of entry/postal wrappers have not been submitted by their importer-customers despite reminders. The statement should cover all cases of non-submission of documentary evidence of import within six months from the dates of corresponding remittances and should be forwarded to RBI within 15 days of the end of a calendar quarter. For the sake of uniformity, the format of the quarterly statement may be prescribed by RBI.

- iii) Branches of authorised dealers should carefully preserve the bills of entry/postal wrappers obtained from importers for verification by the banks' own Audit and Inspection Departments or RBI. Once the bills of entry/postal wrappers are subjected to verification either by Internal Audit or RBI, whichever is earlier, they may be destroyed. If the verification is done by Internal Audit, they should authenticate the fact against every relative entry in the Import Bills Register.

- iv) Detailed procedure in this regard should be laid down by RBI.

Documentary evidence of
import into India by post

5.5 While allowing clearance of goods shipped by sea or air, Customs authorities issue to the importer an Exchange Control copy of the Bill of Entry which contains particulars such as description, quantity and value of goods, invoice number, particulars of import licence/OTL under which the goods are imported, number and date of shipping/air-way bill, customs duty paid, etc. This enables authorised dealers/RBI to correlate each import transaction with the corresponding remittance allowed. In the case of goods imported by post, there are no bills of entry issued. Instead, a label is pasted by Customs on the postal wrappers at the time of clearance of goods which indicates only the amount of customs duty paid, if any. Hence, in respect of goods imported by post, the importers are required to submit the postal wrappers themselves to authorised dealers as documentary evidence of import for onward transmission to RBI. It was brought to the Committee's notice that postal wrappers often get badly mutilated in the process of opening parcels. Sometimes, wrappers are not preserved out of ignorance. Since they come in different sizes and shapes, their handling and preservation are rendered difficult. Further, since postal wrappers do not indicate essential information like description/quantity/value of goods, particulars of import licence or OGL, it is

difficult both for authorised dealers and RBI to satisfy themselves whether the wrappers produced by an importer actually pertain to the specific import transaction. This leaves scope for remittances being effected without the invoice value of the consignment being endorsed on the exchange control copy of the relative import licence in case of imports requiring such licences. In the Committee's view, the present cumbersome procedure requiring submission of postal wrappers to RBI through authorised dealers has outlived its utility. The shortcomings of this outmoded procedure could be overcome if the postal authorities issue a certificate in a prescribed form at the time of clearance of goods indicating therein essential particulars. The importer should submit a copy of this certificate to an authorised dealer as documentary evidence in support of the import by post. For this additional service, post offices may charge a reasonable fee, if necessary. A provision could also be made for the issue of a duplicate certificate against a penalty, in the event of loss of the original.

5.6 The Committee, accordingly, recommends that in the case of imports by post, the postal authorities may issue a certificate, in duplicate, at the time of delivery of goods to the importer after their

clearance by postal customs. The form of the certificate may be prescribed by the Customs authorities and should indicate, inter alia, particulars such as description/ quantity/value of goods, number and date of Import Licence/ OGL, full name of importer and date of delivery. The original of this certificate may be submitted by the importer to the authorised dealer through whom the remittance was made/ is to be made, as documentary evidence of import by post. The postal authorities may charge a reasonable amount of fee, if necessary, for issue of the certificate. RBI may take up the matter with the concerned Government authorities viz. Post and Telegraph Board through the Ministry of Finance, Department of Economic Affairs.

Acceptance of Guarantees or
Margins from third parties
(Paragraph 13B.4 of ECM)

5.7 The existing regulations do not permit authorised dealers to establish letters of credit covering import of goods into India on behalf of the holder of an Import Licence (or letter of authority) against guarantee offered or margin deposited by any other person or company/ firm. This provision, which has been in vogue for quite some time, seems to have been introduced to restrict trafficking in import licences at a time when a large number of items could be imported only against import licences and the

licences commanded a premium in the market. The situation has now changed completely and a great many items have been placed under OGL. REP licences issued to exporters are also allowed to be transferred freely. The restriction has thus lost its significance.

5.8 The Committee, accordingly, recommends that authorised dealers may be permitted to exercise their discretion to accept guarantees/margins from third parties as security for opening letters of credit for imports into India.

Imports on deferred payment basis
(Part D, Chapter 13 of ECM)

5.9 The import licences issued by ITC authorities can broadly be classified into two categories, viz. (i) cash licences and (ii) deferred payment licences. In respect of imports made into India against cash licences, importers are required to make remittances in respect of cost of goods within a period of six months from the date of shipment. In the case of licences issued on deferred payment basis, the terms of deferred payment are indicated in the licence and the remittances are allowed by RBI in accordance with these terms. Imports on deferred payment basis involve advance remittances and bank guarantees for remittance of subsequent instalments for which the concerned importers

5.10

are required to obtain approval of RBI through their bankers. While granting permission for the deferred credit arrangement, remittance of advance payment, and issue of guarantees covering deferred instalments, RBI also authorises the authorised dealer concerned to effect remittances towards subsequent instalments without further approval of RBI.

5.10 It was represented to the Committee that since the deferred credit arrangements are approved by the ITC authorities and are also indicated in the import licences, there is no need to ask the importers to approach RBI for a separate approval of the deferred credit arrangement, remittance towards advance payment and issue of bank guarantees in respect of remittances of deferred instalments. It was suggested that these powers may be delegated to authorised dealers.

5.11 The Committee is of the view that imports on deferred payment terms generally involve import of capital goods and machinery of high value, which calls for proper advance planning on the part of importers. The procedure of obtaining a one-time approval of RBI for deferred credit arrangement involves some additional time, but it is not likely to upset the long term planning of any importer. Further, once the deferred credit arrangement and advance

5.11

remittance are approved by RBI, authorised dealers are free to make remittances towards subsequent instalments. On the other hand, the information about deferred credits obtained from abroad for imports is useful to RBI for building a profile of the Country's deferred payment obligations. The Committee, therefore, recommends that the existing procedure may continue.

Endorsement of Exchange Control copies of Import Licences (Paragraph 13A.25 of ECM)

5.12 When letters of credit are opened or remittances are made towards import of goods into India against import licences, authorised dealers are required to endorse, among other things, the rupee equivalent of the foreign currency allocated/sold to the importer on the exchange control copies of the import licences. For this purpose, each import licence provides on its reverse five columns to indicate (i) date of transaction (ii) particulars of transaction (iii) rupee equivalent of amounts of letters of credit opened or of bills paid (not covered by letters of credit) and the balance (iv) rupee equivalent of actual remittance made whether under letter of credit or otherwise and outstanding balance, and (v) stamp and signature of authorised dealer.

5.12

5.13 When any letter of credit covering an import transaction is opened, the authorised dealer is required to endorse the rupee equivalent of the credit against column (iii) at the rate prevailing on the day of opening the letter of credit. While making remittances against import bills not covered under letters of credit, authorised dealers are required to complete column (iii) as well as column (iv). Thus column (iii) indicates the extent upto which the import licence has been used for opening letters of credit as also making remittances and the balance, and column (iv) indicates the amount of actual remittances effected towards import of goods against the particular licence. When a letter of credit covering import is opened, the authorised dealer has to endorse the rupee equivalent of the amount of credit in column (iii) and when the bills under the letter of credit are actually retired by the importer, the equivalent of the foreign exchange sold on the date of retirement at the rate then prevailing is required to be endorsed in column (iv). Authorised dealers are also required to credit or debit, as the case may be, the amounts of difference between the rupee equivalent of the amount at the time of opening of letters of credit and the rupee equivalent at the time of retirement of bills, arising from changes in the rates of exchange.

5.14 Some authorised dealers as well as FEDAI, have pointed out that this procedure has been creating avoidable problems. Many a time, the import licence is not available for making endorsements on two occasions, as it may have been lodged with another bank for opening another letter of credit or for retirement of documents. In such cases, if the banks have to wait for the exchange control copy of import licences for endorsement at the time of retirement of sight bills, they would not be in a position to deliver the documents to the importer. A suggestion was made that banks should be required to make endorsements on the import licences at one single point; at the time of opening letters of credit in the case of imports covered by letters of credit and at the time of remittance against sight bills or usance bills in the case of bills received on collection basis. It was also suggested that any difference arising from changes in the exchange rates at the time of opening of letters of credit and booking forward contracts or retirement of bills drawn under letters of credit need not be credited or debited to the import licence.

5.15 Some years ago, the import licences were required to be endorsed only once. The revised procedure was introduced after RBI observed that the old procedure resulted in remittances being

made in excess of the value of import licences in several cases, due to the absence of any endorsement at the time of opening of letters of credit. The Committee, however, feels that the difficulties being experienced by the authorised dealers in making endorsements on import licences at two stages are genuine, especially in case of large value import licences involving several letters of credit and a large number of endorsements on each of them. The procedure, therefore, needs to be reviewed.

5.16 In the case of import of capital goods, the value of import licences is expressed in a foreign currency as well as its rupee equivalent calculated at a designated exchange rate. In such cases, authorised dealers are required to endorse the licences not at the rate prevailing on the date of opening of letter of credit or on the date of effecting actual remittance but at the designated rate of exchange and, therefore, in such cases there is no difficulty for authorised dealers in endorsing the licences. In the case of capital goods, it is practical to issue import licences in a particular foreign currency, since such imports of capital goods are normally made from a single country. In the case of import of raw materials and other commodities, the importer may place orders with suppliers from different countries and,

therefore, expressing the value of the import licences in a single foreign currency and its rupee equivalent at a designated rate would pose some difficulty. The Committee is, however, of the view that since a large majority of import bills are expressed in U.S. dollars, it would facilitate matters if the value of import licences for raw materials and commodities is expressed in U.S. dollars with its rupee equivalent calculated at a designated rate of exchange.

5.17 The Committee, accordingly, recommends that the ITC authorities may be requested to express the value of all import licences in U.S. dollars and rupee equivalent thereof at a designated rate of exchange. RBI may take up the matter with the ITC authorities through Ministry of Finance.

Authorised dealers as joint holders to title to goods imported under letters of credit

5.18 Under the present ITC regulations, a bank opening a letter of credit for import of goods is treated as a joint holder to the title to the goods. Where a bill under letter of credit established by a bank is not honoured by its importer-customer who refuses to clear the goods, the bank should have a right to clear the goods and have them bonded, so as to avoid payment of demurrage and otherwise protect

its interests. Under the present procedure, the banks are required to obtain permission from ITC authorities for clearance and storage of goods in such cases. This results in avoidable delays and loss of or damage to the goods. When a bank opens a letter of credit on behalf of an importer, it secures itself by having a lien on the documents of title to the goods and on the actual goods themselves, when they arrive in India. If the bank is deprived of this security, it could be put to considerable loss. While the ITC/Customs authorities may take necessary penal action against the erring importer, the bank which has established the letter of credit, should not be penalised for the fault of the importer. Foreign suppliers' right to call back goods, payment for which has been refused, should also be protected.

5.19 The Committee is of the view that in the case of import bills drawn under letters of credit which remain unpaid due to refusal of the importers to clear the goods, the authorised dealers who have established letters of credit should be allowed to clear and store the goods without requiring them to obtain prior approval therefor either from ITC or Customs authorities. In such cases, authorised dealers may also be permitted to sell the goods (or re-export them to overseas suppliers). The goods imported into India against payment in precious foreign

exchange should not be allowed to incur demurrage or get auctioned or damaged in the anxiety to penalise the erring importers. The ITC/Customs authorities may initiate independent action against the defaulting importers.

5.20 The Committee, accordingly, recommends that in the case of import bills drawn under letters of credit which are dishonoured by importers, the banks opening letters of credit may be permitted, in their capacity as joint holders to the title to goods, to clear and store the goods without being required to obtain prior approval of ITC/Customs authorities. The banks should, however, furnish a detailed report to these authorities to enable them to initiate suitable action against the defaulting importers. In such cases, the ITC/Customs authorities should also permit the banks which have opened letters of credit to eventually sell the goods and realise the proceeds, since the letter of credit facility is provided by the banks against title to the documents covering imported goods or to the goods when they arrive into India. The ITC/Customs authorities may take appropriate action separately against the erring importers. RBI may take up this matter suitably with the concerned Government authorities through the Ministry of Finance.

*Postal Imports (Paragraph 13C.2 of ECM)

5.21 Under the current Exchange Control regulations, remittances against bills received for collection in respect of imports by post can be made by authorised dealers provided the amount of the bill does not exceed U.S.\$1,000/- or its equivalent and the goods imported are such as are normally despatched by post parcel. In other cases of postal imports, authorised dealers are required to obtain approval of RBI. In respect of import of books by post parcel, authorised dealers can, however, make remittances on behalf of book-sellers/publishers against bills received on collection basis irrespective of the amounts involved_7.

5.22 The Committee feels that the limit of U.S.\$1,000/- placed on import of goods by post which was fixed long ago needs an upward revision as items of higher value such as electronic goods, spares, etc. are also being imported by post for the reason that this channel is found to be cheaper and more convenient as compared to other modes of import.

5.23 The Committee, therefore, recommends that the limit of U.S.\$1,000/- placed on import of goods by post without prior permission of RBI may be raised to U.S.\$2,000/- per parcel, subject to compliance with ITC regulations.

*Private Imports-
Import of Complete Instruments/
Gadgets (Paragraph 13E.2 of ECM)

5.24 Authorised dealers have been permitted to make remittances toward cost of private imports by individuals/institutions upto Rs.1,000/- provided the goods to be imported are spare parts, not indigenously available, of instruments/gadgets imported for bona fide use of the applicants. Authorised dealers are, however, not permitted to remit, without the prior approval of RBI, exchange representing cost of import of complete instruments/gadgets, even if the import is permitted under the ITC regulations. The Committee is of the view that if the instrument/gadget is permitted to be imported under the ITC regulations, authorised dealers should be allowed to make remittances representing cost thereof without the prior approval of RBI on the analogy of permission granted for import of spares.

5.25 The Committee, therefore, recommends that authorised dealers may be permitted to allow remittances towards import of complete instruments/gadgets as well as spare parts upto the value of Rs.1,000/- without prior permission of RBI, provided import of the item is permitted under the prevailing ITC regulations.

*Advance remittances against private imports
(Paragraphs 13E.4 of ECM)

5.26 Authorised dealers are permitted to make advance remittances towards private imports upto U.S.\$.200/- in case of individuals and upto U.S.\$.1,000/- in case of institutions or upto the monetary limit prescribed in the prevailing Import Policy, whichever is lower. The Committee is of the view that these limits need an upward revision in the context of overall increase in the prices of goods abroad.

5.27 The Committee, therefore, recommends that the limits for advance remittances by authorised dealers on account of private imports may be raised from U.S.\$.200/- to U.S.\$.500/- in case of individuals and from U.S.\$.1,000/- to U.S.\$.2,000/- in case of institutions, subject to compliance with ITC regulations.

Practice of opening of letters of credit for small value imports

5.28 During the discussions with various delegations, it was brought to the notice of the Committee that Indian importers generally prefer to open letters of credit in respect of a majority of import transactions even when it is not insisted upon by overseas suppliers. In respect of large value imports, the motive seems to be to provide a safeguard against possible changes in the Import Policy

(imposing a ban on or canalisation of import of the commodity involved) after placement of the order for import. In respect of small value imports, letters of credit seem to be routinely opened to satisfy internal procedural requirements of the importer companies/firms. Opening of letters of credit for small value imports involves disproportionately high costs and effort for banks. This can be avoided by allowing importers to freely make advance remittances towards imports upto a maximum specified value instead of encouraging them to open letters of credit without considering the cost factor. A limit of U.S.\$1,000/- per import shipment is considered reasonable for making advance remittances towards commercial imports.

5.29 The Committee, accordingly, recommends that in view of the disproportionately high cost and work involved in opening letters of credit, importers may be permitted to remit in advance the cost of small value imports. The Committee further recommends that powers may be delegated to authorised dealers to make advance remittances against commercial imports upto a maximum of U.S.\$1,000/- per import shipment. RBI may issue suitable instructions to the authorised dealers in this behalf.

CHAPTER VIBusiness travelGeneral

6.1 Under the existing procedure, all applications for release of exchange for travel abroad (except travel under Foreign Travel Scheme and Neighbourhood Travel Scheme) are required to be made to RBI. In the case of large exporters having specified minimum foreign exchange earnings from export of goods or services, RBI issues, on application, Blanket **Exchange** Permits valid for a year. The holders of such Blanket Permits can draw exchange from authorised dealers for travel abroad of their representatives for the purposes specified in the Permits, without their having to approach RBI.

Delegation of powers to release exchange for business travel abroad - Ad hoc applications

6.2 At present, authorised dealers are permitted to release exchange for travel abroad of Indian nationals under Foreign Travel Scheme (FTS) and Neighbourhood Travel Scheme (NTS) and this procedure is working satisfactorily. Since 1971, powers have been delegated to select branches of State Bank of India to release exchange to eligible students for higher studies abroad.

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Though the number of students applying for release of exchange to State Bank of India is small, this scheme too is working satisfactorily. The procedural drill for approving applications for travel abroad on business grounds by Offices of ECD is quite simple. The eligibility criteria being liberal, the occasions where release of exchange for business travel abroad has to be altogether refused by RBI are negligible. The Committee is, therefore, of the view that powers could be delegated to select branches of authorised dealers to release exchange for business travel abroad in accordance with a standard set of guidelines laid down by RBI. Apart from providing additional points of service to the community of exporters and importers, the scheme would give considerable relief to RBI from attending to routine work and enable it to concentrate on more important functions. During the discussion the Committee had with representatives of authorised dealers, a view was expressed that in the case of release of exchange for business travel abroad, use of a certain degree of discretion may be involved which may occasionally pose problems for authorised dealers in exercising the delegated powers. Authorised dealers would, therefore, like the RBI guidelines to be detailed and specific requiring minimal use of discretionary powers.

6.3 Another point to be noted is that while considering applications from exporters for export promotion visits abroad, RBI takes into account the track record of the applicants. Since an exporter is free to deal with more than one authorised dealer in regard to export matters, authorised dealers may not always be in a position to verify the overall export performance of an applicant desiring to go abroad for export promotion. Similarly, authorised dealers would have difficulty in ascertaining whether the applicant has come to the adverse notice of any law enforcing agency, particularly the Enforcement Directorate.

6.4 The Committee is of the view that business travel abroad should not be viewed as a luxury but as a necessity. If we have to boost our exports, travel on export promotion grounds would have to continue to be permitted on a fairly liberal basis. Travel abroad on various other grounds such as selection of plant and machinery, purchase of raw materials, finalisation of technical collaboration arrangements, prospecting for joint ventures abroad and the like is also quite necessary and has to be allowed without too many restrictions. Therefore, in the Committee's opinion, even companies/firms which are not eligible for the

Blanket Permit facility (which is granted to those who earn certain minimum amounts of foreign exchange annually) but which have nevertheless to send their representatives abroad at fairly regular intervals in connection with other important business matters mentioned above, should not be required to submit ad hoc applications to RBI for release of exchange for visits abroad.

Composite Allocation of Foreign Exchange (CAFEX)
Scheme for business travel abroad

6.5 In order to obviate the need for companies/firms to approach RBI on individual occasions for release of exchange for overseas business visits of their representatives, the Committee recommends that RBI may introduce a new scheme which may be called the "Composite Allocation of Foreign Exchange (CAFEX) Scheme" under which block allocation of foreign exchange may be made by RBI in favour of eligible companies/firms. The companies/firms should draw exchange against their block allocation through designated branches of authorised dealers, during the validity of their CAFEX permits. Companies/firms which are not eligible for the Blanket Permit facility (normally granted to those who earn minimum specified amounts of foreign exchange) but which have nevertheless to depute their representatives abroad

and incur sizeable expenditure of, say, at least Rupees one lakh per annum on foreign travel may be considered eligible for this facility. Mainly these would fall in the following categories:-

- a) Large importers of plant and machinery/equipment, raw materials, process chemicals, etc.
- b) Companies/firms having collaboration arrangements or those proposing to enter into collaboration arrangements with overseas parties for manufacturing activities in India.
- c) Companies/firms engaged in setting up joint ventures abroad.
- d) Civil construction/engineering companies desirous of exploring the possibilities of securing contracts for construction and turn-key projects abroad.
- e) Exporters of technical/management/consultancy services, who are not eligible for the Blanket Permit facility but who have potential to earn foreign exchange through overseas contracts.

The facility should not be available to companies/firms which have been placed by RBI on the Exporters' Caution List and to those which have come to the adverse notice of the Enforcement Directorate or any other law enforcing agency.

6.6

6.6 A company/firm desirous of availing of the CAFEX facility should apply to RBI through a branch of an authorised dealer through which it proposes to draw exchange against its block allocation. In approved cases, RBI may issue a CAFEX permit valid for one year in favour of the applicant and forward it to the branch of an authorised dealer designated by the applicant. For drawal of exchange against the CAFEX permit, the applicant company/firm would have to apply to the concerned designated branch which should scrutinise the application and release exchange at the appropriate scale, if the application satisfies the guidelines laid down by RBI.

6.7 The eligibility of a company/firm and the block amount of foreign exchange to be allocated to it for business visits abroad during a year should be determined by RBI taking into account, inter alia, the following factors:

- a) Value of imports (made directly or on behalf of third parties) during each of the preceding three calendar years and/or the value of import licences held by the applicant.
- b) Prospects of finalisation of collaboration and/or joint venture agreements with overseas parties.
- c) Export realisation and export outstandings during the previous three calendar years.
- d) Average amount of foreign exchange availed of annually for business visits abroad against ad hoc applications during the preceding three calendar years.

6.8 Detailed procedural instructions regarding issue of CAFEX permits and their renewal, maximum number of representatives for whom exchange may be drawn and per diem rates therefor, periodical reports to RBI from the designated branches of authorised dealers, etc. may be issued by RBI in the form of a Memorandum of Instructions to Authorised Dealers.

Extension of CAFEX Scheme to financial institutions

6.9 At present, applications for release of exchange to officials of financial institutions like IDBI, Exim Bank, ECGC, etc. have to be made to ECD for prior clearance. These institutions play an important role in the promotion of India's external trade and are required to depute their officials abroad frequently for various purposes. The Committee, therefore, feels that these financial institutions need not be required to approach ECD every time they have to send their officials abroad and could instead be considered eligible for release of exchange under the CAFEX Scheme. For the purpose of grant of the CAFEX facility, commercial banks authorised to deal in foreign exchange, particularly those having large overseas operations, may also be treated on par with financial institutions and those desirous of availing of the CAFEX facility may be permitted to do so.

6.10 The Committee, accordingly, recommends that financial institutions like IDBI, Exim Bank, ECGC, etc. may be treated as eligible for block allocation of foreign exchange for travel abroad under the CAFEX Scheme. Authorised dealers having large overseas operations and electing to avail of block allocation of foreign exchange for travel abroad of their officials may also be treated as eligible for grant of exchange facilities under the CAFEX Scheme.

*Review of per diem rates of exchange

6.11 At present, there is no fixed periodicity at which RBI undertakes a review of the per diem rates of exchange released for business travel abroad. Such reviews are undertaken at irregular intervals only when there is a demand for conducting a review. RBI depends mostly on Indian Missions abroad for supply of data/comments regarding cost of living in various foreign countries.

6.12 Having regard to the high rates of inflation in most countries and its adverse impact on the cost of living, the Committee recommends that RBI should undertake a review of the per diem rates for release of exchange for travel abroad at standard intervals instead

of doing it sporadically. It is suggested that the review should be undertaken once a year. The Committee also recommends that RBI should enlarge the sources of information for undertaking the review/revision of scales. RBI can, for example, obtain data on cost of living, hotel tariffs, etc. from overseas offices of organisations like Air India, India Tourism Development Corporation (ITDC), overseas branches of Indian banks, etc. to supplement the information obtained from Indian Missions abroad.

Medical Insurance Cover

6.13 Suggestions were made to the Committee to the effect that additional exchange should be provided to businessmen going abroad, to cover expenses on account of medical treatment in case of sickness while on tour abroad. Since such a contingency arises only in a few cases, the Committee sees no justification for release of additional exchange to every person going abroad on business grounds.

6.14 The Committee, however, feels that a scheme could be introduced by the General Insurance Corporation of India (GIC), in consultation with RBI, under which Indian businessmen could take medical insurance cover in India against sickness while on

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visits abroad. The Committee was advised that this matter has been under consideration of RBI and a suitable scheme is proposed to be finalised in consultation with GIC.

6.15 The Committee recommends that RBI may follow up the matter with GIC for early introduction of a scheme under which Indian travellers could take insurance cover in India against possible sickness during their visits abroad.

Combination of RBI and ITC Blanket Permit Schemes (Paragraphs 15C.1 and 15C.6 of ECM)

6.16 In order to obviate the need for making frequent ad hoc applications for release of exchange for travel abroad for export promotion, RBI issues Blanket Exchange Permits to large exporters of goods and services having specified minimum foreign exchange earnings. This scheme is known as the RBI Blanket Permit Scheme. Besides visits abroad for export promotion, these Blanket Permits can be utilised for various other specified purposes.

6.17 Government of India have also introduced a scheme for release of exchange to Export Houses/ Trading Houses for promotional activities on the basis of their export performance in the previous financial year. This scheme is known as the ITC Blanket Permit Scheme.

Release of exchange under this scheme is in addition to the exchange allocation made under the RBI Blanket Permit Scheme. The details of the ITC Blanket Permit Scheme are announced every year in the Import Policy. Under this scheme, Export Houses recognised by the Ministry of Commerce are presently granted exchange upto 2.5 per cent of the FOB value of their exports during the previous financial year, subject to a maximum of Rs.7.5 lakhs. Export Houses can also avail of foreign exchange in excess of Rs.7.5 lakhs (but not exceeding their overall entitlement of 2.5 per cent of FOB value of their exports during the previous financial year) against surrender of their REP entitlements to Government for an equivalent amount. Trading Houses are granted exchange upto a maximum of Rs.50 lakhs under the ITC Blanket Permit Scheme. For getting their entitlement under the ITC Blanket Permit scheme, Export Houses/Trading Houses have to apply to Ministry of Commerce, Government of India together with documentary evidence showing their export realisation during the relative financial year. They are thereafter required to apply to the concerned Office of ECD together with a certified copy of Government's advice indicating the exchange entitlement, on the basis of which Blanket Exchange Permits are issued by RBI. These permits are

valid for a period of one year from the dates of issue. The Blanket Permits issued under the ITC Scheme can be utilised for various specified purposes indicated therein, in addition to travel abroad for export promotion.

6.13 While there is a ceiling on release of exchange under the ITC Blanket Permit Scheme, there is no such ceiling on release of exchange under the RBI Blanket Permit Scheme. Under the RBI scheme, allocation of exchange is determined taking into account, among other things, the applicant's export performance, export out-standings, amount of exchange utilised by him for approved purposes during the preceding years, etc. If the initial permit is fully utilised by the holder before the expiry of its validity, RBI issues a supplementary permit on merits, on being satisfied about the additional exchange requirements of the holder.

6.19 Although under the ITC Scheme, the exchange entitlement is authorised by Government of India (Ministry of Commerce), the exchange is released by RBI. The subsequent follow up regarding proper utilisation of exchange released, etc. is also done by RBI. Thus, both the Blanket Permit Schemes are administered by RBI.

6.20 The Committee is of the view that since both the schemes are administered by RBI and as exchange released under both the schemes is for promotional activities, there is no need to have **two** separate schemes of Blanket Permits. The Committee feels that there should be only one scheme for issue of Blanket Permits which should incorporate the best features of the two schemes. This would obviate the need for RBI to issue two separate permits to the same exporter for essentially similar purposes.

6.21 A view emerged after detailed discussions with representatives of Ministry of Finance and Ministry of Commerce that in the case of **Trading Houses** and **Export Houses** the blanket exchange entitlement would have to continue to be determined by the Ministry of Commerce. As there would unavoidably be some delays in the Trading Houses and Export Houses obtaining their entitlement certificates from the Ministry of Commerce on the basis of their export performance during the immediately preceding financial year, the Committee feels that the entitlement certificates issued by the Ministry of Commerce for the penultimate year could form the basis of issue of Blanket Permits by RBI to Trading Houses and Export Houses. The Committee is of

the view that the present limit of Rs.50 lakhs per annum for issue of Blanket Permits to Trading Houses is quite generous. As far as Export Houses are concerned, Ministry of Commerce may consider suitably raising the ceilings to compensate them for the loss of the facility of a second Blanket Permit under the existing RBI Scheme. In the case of exporters other than Trading Houses/Export Houses, the release of exchange may be determined by RBI on the basis of their export performance, as hitherto. In all cases, there should be a provision for issue of supplementary permits by RBI if the original Blanket Permits issued to them are fully utilised, before the expiry of the validity period of one year.

6.22 The Committee feels that there is no need to retain in the revised scheme the present ITC provision about allocation of additional exchange against surrender of REP entitlements to Government of an equivalent amount, as the proposed scheme envisages grant of additional exchange to Trading Houses/Export Houses if they fully utilise their original allocations within less than a year.

6.23 The Committee, accordingly, recommends that the two Blanket Permit Schemes viz. RBI Scheme and ITC Scheme may be replaced by a single unified Blanket Permit Scheme which should incorporate the best features

of both the Schemes. The Committee also recommends that the list of purposes for which the combined Blanket Permit could be used should include all items listed under the present two Schemes. Full details of the Scheme on the lines indicated in the preceding paragraphs may be worked out by RBI in consultation with Government of India (Ministries of Finance and Commerce).

Issue of Blanket Permits to Shipping companies

6.24 At present, RBI does not issue Blanket Permits to shipping companies for travel abroad of their representatives. Shipping companies have, therefore, to submit ad hoc applications every time there is need to depute representatives abroad. During the meeting the Committee had with representatives of the Indian National Shipowners' Association, it was represented that shipping companies are required to depute their representatives abroad quite frequently and almost always at short notice as delay in deputation of representatives to visit overseas ports where their ships may be stranded or even arrested for reasons such as non-payment of port dues or the like, would lead to payment of additional port charges as well as losses arising out of ships remaining idle at foreign ports.

6.25 It has been brought to the Committee's notice that there has been a persistent demand from Indian shipping companies for grant of the Blanket Permit facility. The Committee feels that the difficulties faced by Indian shipping companies in obtaining release of foreign exchange against individual applications in emergencies are genuine and they would be considerably mitigated if the companies are granted the Blanket Permit facility. Shipping companies earn sizeable amounts of foreign exchange by way of freight and should not be denied a facility which is granted to many other categories of earners of foreign exchange. The fact that shipping companies are permitted to maintain foreign currency accounts abroad need not stand in their way of getting Blanket Permits for travel abroad as the balances in their overseas bank accounts can be utilised only for specific purposes permitted by RBI.

6.26 The Committee, accordingly, recommends that the Blanket Permit facility may be extended to Indian shipping companies also. The Committee is satisfied that extension of the CAFEX facility (c.f. Paragraphs 6.5 to 6.8 of this Report) would not fully meet the needs of shipping companies as drawal of exchange through a designated authorised dealer only, as proposed under that Scheme, may not be practical in emergencies.

*Number of representatives who could draw
exchange under Blanket Permits
(Part C of Chapter 15 of ECM)

6.27 Prior to July 1981, companies/firms holding Blanket Exchange Permits were permitted to draw exchange for visits abroad for a maximum of three representatives to the same country/countries simultaneously. In order to restrict the outgo of foreign exchange on foreign travel, a condition was stipulated in July 1981 to the effect that holders of Blanket Permits should draw exchange for a maximum of two representatives for export promotion/business visits to the same country/countries at the same time. It has been represented to the Committee that this restriction on drawal of exchange for a maximum of two persons is creating some difficulties, especially when representatives of different wings of an organisation such as financial, marketing, technical, etc. are required to be deputed for co-ordinating efforts to clinch large export orders.

6.28 In the Committee's view, large corporate organisations normally have sufficient internal financial discipline and controls to ensure that their executives are not allowed to go abroad unless warranted by sound business considerations.

6.29 The Committee, therefore, recommends that the number of persons who can draw exchange under a Blanket Permit for visits to the same country/countries, at the same time (as a team) may be raised from two to three.

*Exchange for telex/telephone charges and secretarial services

6.30 At present, drawal of exchange separately from Blanket Permits is not permitted for meeting expenses incurred abroad towards telex/telephone charges and secretarial services during visits abroad of representatives of companies/firms holding Blanket Permits. They are expected to meet such expenses out of exchange drawn by them in accordance with the 'all inclusive' per diem scales stipulated by RBI. In some cases, it also becomes necessary to engage the services of translators/interpreters, especially while negotiating large contracts. It has been represented to the Committee that expenses required to be incurred on this count have gone up substantially and it is difficult for businessmen travelling abroad to meet them out of their per diem allowance. The Committee is satisfied that the per diem allowance is required to be spent mostly to meet hotel bills for stay and board and expenses towards surface transport. It would, therefore, not be possible for representatives of Blanket Permit

holders to meet out of the daily allowance additional expenses on account of telex/telephone charges for overseas communications and other services such as engagement of secretaries/interpreters. The Committee is of the view that RBI could authorise the Blanket Permit holders to draw additional exchange against their Blanket Permits for meeting such incidental expenses upto a reasonable extent. RBI may, while considering ad hoc applications for release of exchange for business travel abroad, also grant additional exchange facilities for these purposes, on application, on merits of each case.

6.31 The Committee, accordingly, recommends that RBI may permit drawal of a reasonable amount of exchange against a Blanket Permit for meeting expenses incurred by representatives of the Permit holder, while on business visits abroad, on telex/telephone charges, and for engaging the services of secretaries/interpreters/translators. The actual limit may be determined by RBI in individual cases and a suitable condition to that effect incorporated in the list of conditions attached to the Blanket Permit.

*Exchange for entertainment expenses

6.32 Under the existing rules, senior businessmen are permitted to draw exchange from Blanket

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Permits issued to their companies/firms upto US\$.500/- for meeting entertainment expenses. Junior businessmen can draw exchange upto US\$.250/- for this purpose. In case additional exchange is required for meeting entertainment expenses on special occasions, the Blanket Permit holders are required to obtain RBI's prior approval. This creates avoidable difficulties for the Blanket Permit holders, especially when they are required to incur additional expenses for entertainment on special occasions.

6.33 The Committee recommends that RBI may permit drawal of additional exchange upto a reasonable extent against Blanket Permits for meeting entertainment expenses on special occasions, such as signing of collaboration agreements, inauguration of overseas projects executed by Indian contractors, etc.

Issue of certificates of realisation of export proceeds (Paragraph 15D.2 of ECM)

6.34 Under the instructions issued by RBI, authorised dealers are required to issue certificates of export realisation to their exporter-customers, on a half-yearly basis. These certificates should clearly indicate the total realisation during each period and the value of outstanding export bills which have become overdue as at

the end of the period. Further, in the case of exporters dealing in 'select' list export products as also 'non-select' list products, authorised dealers are required to show separately the realisation from export of 'select' list products and other products. It was, however, represented to the Committee that authorised dealers often issue certificates for only consolidated amounts without giving the break up of realisation under 'select' list of export products and other products.

6.35 The Committee suggests that RBI may again issue instructions to authorised dealers to the effect that while issuing certificates of realisation of export proceeds, they should indicate separately the amounts of realisation from export of 'select' list products and other products.

CHAPTER VII

*Maintenance of US dollar accounts abroad by large exporter-importers

7.1 Under the present rules, Indian exporters are required to repatriate to India proceeds of their exports within a specified period and in a specified manner. Similarly, importers are also required to remit the cost of goods imported by them within a certain stipulated period and in a prescribed manner. Since exports and imports of even the same party are treated as distinct transactions for the purpose of receiving or making payments in foreign exchange, exporters are not allowed to utilise wholly or partially, proceeds of their export shipments for payment towards goods imported by them. It was represented to the Committee that the above requirement resulted in a significant loss to large exporters who are also large importers on account of two-way conversion of currencies: once while converting export proceeds received in foreign exchange into rupees, and again while converting rupees into foreign exchange for payment towards imports. The Committee also took note of the fact that the facility of maintaining dollar accounts abroad for crediting sale proceeds of exports and for making payments therefrom towards imports has

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been granted by RBI to Indian diamond merchants in 1992 mainly on the ground that the proceeds of diamond exports have to be used to a large extent for payment towards imports of rough, uncut diamonds. The Committee is of the view that a somewhat similar facility could be granted selectively and on an experimental basis, to large exporters who are also large importers to afford them protection from the losses inherent in two-way conversion of currencies on a regular basis. The Committee feels that initially the facility may be granted to (i) exporters who have an annual export turnover of at least Rs.10 crores and a minimum annual import turnover of Rs.2.5 crores, (ii) 100 per cent Export Oriented Units and (iii) units in the Free Trade Zones.

7.2 The Committee, accordingly, recommends as under:

- i) To minimise the loss sustained by large exporters who are also large importers, on account of two-way conversion of currencies on a regular basis, a facility may be allowed to such exporter-importers to maintain US dollar accounts abroad. The facility may be extended to the following categories of exporters:

- (a) Large exporters with a minimum annual export turnover of Rs.10 crores coupled with a minimum annual import turnover of Rs.2.5 crores;
 - (b) All units in Free Trade Zones (Santacruz Electronic Export Processing Zone and Kandla Free Trade Zone); and
 - (c) 100 per cent Export Oriented Units (EOUs).
- ii) Full details of the scheme may be worked out by RBI. However, its main features could be as under:
- (a) Eligible firms/companies may be permitted by RBI, on application, to open and maintain bank accounts in US dollars. The bank accounts may be maintained in the UK, USA or any other country or at an off-shore banking centre of the account-holder's choice.
 - (b) The eligible company/firm may normally be permitted to maintain only one US dollar account abroad at a time. RBI may at its discretion, allow more than one US dollar account to be maintained if it is satisfied about the need therefor.
 - (c) The account would be funded by proceeds of export shipments made from India by the account holder, which are invoiced in US dollars. The export of goods from India would be subject to compliance with all the prescribed formalities such as declaration of shipments on GR/PP forms, etc. No remittance would be allowed from India for funding the overseas account under any circumstances.

7.4

- (d) The eligible company/firm would have to designate a branch of an authorised dealer to function as a sponsor bank which will monitor the operations on the overseas account. The application (in the prescribed form) for opening of the dollar account should be submitted to RBI through the sponsor bank. All transactions in the overseas bank account should be routed through the sponsor bank. Under no circumstances would the foreign bank account be allowed to be operated by the exporter independently.
- (e) The eligible firm/company would be permitted to initially credit the proceeds of export bills drawn in US dollars to the overseas bank account and use the funds for payment towards eligible imports invoiced in US dollars. The imports would be subject to compliance with all the ITC formalities prevailing at the time of import.
- (f) Operations on the overseas bank account would be restricted to the following transactions:

Credits

- i) Proceeds of export shipments receivable in US dollars.
- ii) Interest earned on the balances in the account.

Debits

- i) Payments towards imports invoiced in US dollars. Only payments which the authorised dealers have been empowered to make under delegated authority (except payments to countries in Bilateral Account Group) may be routed through the account. All other import payments would be subject to prior approval of RBI_7.

ii) Remittances to India.

iii) Bank charges.

Any other credit or debit would require prior approval of RBI.

- (g) The maximum limits upto which export proceeds could be retained in such overseas accounts would be prescribed by RBI in individual cases taking into account the average monthly payments expected to be made by the account holders towards imports. The balances in the overseas accounts in excess of the prescribed maximum limits would have to be repatriated to India at least once every three months.
- (h) The funds in the account would not ordinarily be permitted to be invested abroad in fixed deposits.
- (i) The exchange control copies of import licences in respect of imports under specific licences would be kept by the account holder with the sponsor bank for endorsement as and when payment is made towards imports by debit to the overseas US dollar account.
- (j) A transcript of the overseas bank account along with a summary of transactions passed through it would be submitted to RBI on a monthly basis by the account holder.
- (k) The operations on the account would be restricted to transactions relating to exports and imports invoiced in US dollars and made in the name of the account holder. Transactions relating to exports and/or imports made by any other party such as a subsidiary or a sister concern would not be allowed to be routed through the dollar account.

7.6

(1) The account holder would not be permitted to avail of any borrowing facility such as loans or overdrafts from the account maintaining overseas bank or from any other source.

iii) Detailed operational instructions in regard to certification of duplicate copies of GR forms, reporting the transactions in 'R' returns, etc. may be issued by RBI. Ordinarily, the duplicate GR/PP forms in respect of export shipments of the account holder invoiced in US dollars would have to be submitted to the sponsor bank in India together with relative shipping documents to be negotiated/sent for collection.

7.3 The scheme may be initially in operation for a period of one year after which RBI may review it in the light of experience gained. RBI may allow the scheme to continue if it is found to be working satisfactorily, with such modifications as may be considered necessary.

CHAPTER VIII*Overseas Representation
(Chapter 21 of ECM)

8.1 Under the existing exchange control procedure, Indian companies/firms proposing to open offices or post representatives abroad have to submit their applications to the Central Office of ECD with a copy to the Office of ECD under whose jurisdiction the applicant is functioning. In approved cases, letters of approval are issued to the applicants directly by the Central Office of ECD, which also issues necessary instructions to its concerned Office to grant exchange facilities to the applicant. Approvals are granted in cases where RBI is satisfied that the proposal to open an office/to post a representative abroad would result in a net accrual/saving of foreign exchange. Exchange facilities for this purpose are normally granted to exporters who have annual earnings of at least Rs.25 lakhs from export of goods included in the 'select' list or Rs.50 lakhs of export earnings in respect of items included in the 'non-select' list. In the case of exporters of technical/consultancy services, the criterion of minimum foreign exchange earnings is fixed at a lower figure of Rs.10 lakhs per annum.

8.2

Applicants intending to open trading branches abroad have to furnish cash flow projections indicating how and at what stage the overseas trading branch is likely to generate sufficient income and become self-supporting. Once a trading branch becomes self-supporting and starts earning profits, the surplus profits are required to be repatriated to India.

3.2 The exchange facilities for maintenance of overseas offices/representatives are initially granted for one year and are renewed on an annual basis. Powers have been delegated to Offices of ECD to renew the permits subject to the following conditions:-

- i) The increase in the amount of exchange required for maintenance expenses for a further period, should not exceed 20 per cent of the original amount released;
- ii) The export performance of the applicant company/firm should not have declined by more than 10 per cent.

Applications for renewal of the facility which do not fulfil the above criteria or which have some special features are required to be referred to the Central Office of ECD for consideration.

8.3 The Committee feels that it would not be economical for small exporters with an annual export turnover of Rs.25 lakhs and 50 lakhs in select and non-select list

items of export respectively to maintain a viable full-fledged office abroad, especially in the developed countries where the cost of living is very high. Exporters with sizeable export turnover only should, therefore, be encouraged to open trading offices abroad. The Committee also notes that at present, RBI grants exchange facilities for maintenance of overseas offices/representatives for only one year, subject to renewal on application. Companies/firms permitted to open offices abroad may not generally be able to show positive results within such a short period and in case they are asked to close down the offices after just one year for want of satisfactory results, the amount of foreign exchange spent on capital and running expenses would be a total loss. It is, therefore, necessary that RBI should give the applicants an assurance that exchange facilities would be granted for a reasonable minimum period to facilitate proper advance planning.

8.4 At present, RBI considers applications on the basis of previous performance in regard to the applicant's export earnings. Some 100 per cent EOUs may not, however, have any past export performance to their credit but in order to fulfil their high export obligation, they may need to open liaison offices or post representatives abroad for promotion

8.4

of their products right from the beginning. In such cases, RBI should not apply the criterion of past export performance.

8.5 In case of potential exporters of consultancy or management services, the Committee understands that Government of India would like to encourage them to open offices abroad for promotion of export of their services, by granting them financial assistance from the Market Development Assistance Fund (MDAF). The Committee feels that RBI should grant exchange facilities for opening offices/posting representatives abroad, to all those consultancy organisations which are considered eligible by Government for grant of assistance from MDAF.

8.6 There are no fixed scales for release of exchange for meeting expenses of overseas offices/representatives. Generally, exchange facilities for maintenance of offices/representatives abroad are restricted to 10 per cent of average annual export earnings of the applicants. While the limit of 10 per cent of export realisation would be adequate for large exporters, it may create difficulties for medium size exporters, especially in respect of offices set up in Western countries, where the cost of living is very high. The Committee feels that there should be greater flexibility in this regard.

8.7 At present while granting exchange facilities, RBI, at times, insists that the applicant's commission agency agreements, if any, in the area served by the proposed office should be terminated. The role of an overseas office or representative is quite different from that of a commission agent and the former cannot always replace the latter. The insistence on termination of the agency arrangements is, therefore, not quite justified. Moreover, the amount of commission payable to the agent/s in the territory served by an overseas office/representative should not be adjusted against the amount of exchange to be released for maintenance expenses of the overseas office/representative.

8.8 The Committee, therefore, makes the following recommendations in regard to the procedure for opening offices and stationing representatives abroad:-

- i) In respect of exporters desiring to open trading branches abroad, the existing eligibility criterion of annual export turnover may be raised from Rs.25 lakhs to Rs.50 lakhs for "select" list goods and from Rs.50 lakhs to 75 lakhs for "non-select" list goods.

Note:- This recommendation is different from the original recommendation contained in paragraph 15.8(i) of the Committee's Interim Report. The scaling down of the limit for export performance from Rs.100 lakhs to Rs.75 lakhs for "non-select" list goods has been recommended after further consideration of the subject_7.

- ii) The existing eligibility criterion regarding minimum export turnover may be left unchanged in respect of applicants desiring to open liaison offices and/or post representatives abroad.
- iii) In the case of 100 per cent EOUs which do not have any export performance to their credit, RBI may permit opening of offices or stationing of representatives abroad on the merits of each case, to enable them to fulfil their export obligation. The foreign exchange entitlement should be decided by RBI taking into account the estimates of expenditure projected by EOUs and with reference to the cost of living in the countries where the offices are sought to be opened or representatives are to be stationed. For this purpose, RBI may appropriately classify the foreign countries rather than have a common yardstick for release of exchange for all countries.

iv) In the case of potential exporters of consultancy or technical services of various kinds, RBI should not insist on annual exchange earnings of at least Rs.10 lakhs. Government of India (Ministry of Commerce) and the National Association of Consulting Engineers are understood to be working out a scheme under which reputed consultancy firms/companies would be eligible to apply for financial assistance from MDAF towards the cost of maintaining offices/representatives abroad. While considering the applications from such consultancy companies/firms, their performance in India rather than their export performance should be given due weightage. Government of India (Ministry of Commerce) may communicate to the Central Office of ECD, from time to time, the names of consultancy organisations found eligible for claiming financial assistance from MDAF for opening offices or stationing representatives abroad. The clearance granted by Ministry of Commerce should be sufficient for RBI to grant to such companies/firms reasonable exchange facilities to open offices or station representatives abroad.

- v) Exporters of computer software should also be given liberal facilities to open offices abroad. The Committee notes that the Exim Bank operates a scheme for providing assistance to exporters of technology and consultancy services, including software. However, irrespective of whether Exim Bank assistance is provided or not, RBI may adopt a flexible approach and permit such companies/firms to open offices abroad on merits, even in cases where their previous export performance is not significant.
- vi) RBI has been selectively considering requests from large Indian importers to maintain purchase offices abroad with foreign exchange entitlement upto 2.5 per cent of the invoice value of imports by way of buying commission, provided the applicant is able to establish that maintenance of a purchase office abroad would result in economy of expenditure on imports through better co-ordination and more competitive prices. RBI should continue to grant this facility to large importers on the merits of each case. The expenditure on maintenance of a purchase office should ordinarily be kept within an overall limit of 2.5 per cent of the invoice value of imports, as hitherto.

- vii) While releasing foreign exchange for initial establishment expenses and for recurring expenses in the case of trading or non-trading offices, RBI at present, restricts the release to 10 per cent of the applicant's previous annual export earnings for one or two years. It also takes into account the foreign exchange outgo towards agency commission. There is need to relax this procedure. RBI should not adjust the agency commission payable to overseas agents while determining the quantum of foreign exchange to be released for maintaining an overseas office or branch. The limit of 10 per cent of export earnings towards maintenance of an office or a branch should also be operated flexibly. This would equally apply to applications for stationing of representatives abroad.
- viii) Where an applicant desires to continue the services of an overseas agent even in a country/territory where he proposes to open an office/branch, RBI need not insist on termination of the agency arrangements as a pre-condition for opening an office/branch.
- ix) At present, exchange permits are issued valid initially for a period of one year and automatic renewals are granted

by Offices of ECD provided the variations in the expenditure on maintenance of the overseas office/branch/representative and the export performance of the parent company remain within stipulated limits. RBI may make the initial permit valid for 18 months to give the applicant sufficient time to prepare and submit a statement of expenses incurred on maintenance of the overseas office/representative during the first year. Renewal of exchange permits beyond 18 months would be subject to production of annual statement of expenses. RBI may, while granting approvals for opening of offices abroad, also convey its assurance that exchange facilities would be granted for a minimum period of 3 years or till the office becomes self-supporting, whichever is earlier.

8.9 The Committee notes that at present all applications for permission to open offices and post representatives abroad are considered initially in the Central Office of ECD. Powers have, however, been delegated to Offices of ECD to renew remittance facilities in approved cases, at annual intervals, subject to the beneficiaries fulfilling certain conditions. A suggestion was made that, in order to expedite the disposal of applications for opening offices/posting representatives abroad, powers may be delegated to Offices of ECD to deal with such requests. The Committee feels that the advantages of considering such applications

8.11

in the Central Office of ECD outweigh the disadvantages of the centralised system. In the Committee's view, opening of an overseas office/branch or even stationing of a representative abroad is a major decision for the applicant company/firm which it should take after very careful consideration. Since companies/firms cannot ordinarily plead urgency in such cases, RBI should get reasonable time to examine the applications before granting approvals.

8.10 The Committee, therefore, recommends that the existing procedure of dealing with all initial applications for opening of offices/posting of representatives abroad in the Central Office of ECD may be left unchanged.

CHAPTER IXIntermediary Trade and Counter-TradeIntermediary or Merchanting Trade

9.1 In some lines of international trade, apart from direct dealings between exporters and importers, transactions are also undertaken by intermediaries or merchant traders who purchase goods from one country and sell them to another. The intermediaries, who possess upto date knowledge about the demand and supply position of various commodities as well as price movements, use their special knowledge and skills to obtain goods from the cheapest available sources and sell them to needy buyers at a profit. Intermediary or merchanting trade becomes possible on account of insufficient information on the part of trading countries regarding demand and supply for various commodities and their prices, non-existence of trade relations between the countries concerned on account of political or other reasons, etc. It is estimated that nearly a third of the total world trade is handled by intermediaries. The attraction for this line of trade lies in the fact that the volumes handled are very large and the turnover quick so that even a thin per unit profit margin can earn a handsome total remuneration for the

intermediary. Of course, the risks inherent in this line of trade are greater since in addition to normal trade risk, intermediaries have often to face exposure to exchange fluctuation risk in respect of two different currencies. To operate successfully, merchant exporters require sound financial backing and high professional expertise coupled with good knowledge of movements in international commodity prices and an efficient communication system.

9.2 At present, authorised dealers are permitted to approve, in principle, requests from their regular customers to undertake intermediary trade transactions or open letters of credit in respect of such transactions in favour of overseas suppliers, provided -

- i) firm purchase/sale contracts are concluded with overseas buyers/sellers;
- ii) importer's country permits import of the goods in question and payment therefor will be forthcoming;
- iii) payment terms agreed with either party do not involve outflow of foreign exchange from India except for normal transit period not exceeding one month;
- iv) where a letter of credit is to be established in favour of or payment is to be made on D/P or D/A basis to the overseas supplier, an advance payment or an irrevocable letter of credit for full value is received from the overseas buyer in favour of the Indian merchant and in the latter case, the drafts to be drawn under the two letters of credit are of even tenor;

- v) the transaction is completed within a reasonable period not exceeding six months from the date of opening the letter of credit or obtaining approval in principle;
- vi) the transaction, when completed, leaves reasonable profit for the Indian merchant on the total cost including all additional expenses like freight, insurance, etc.; and
- vii) the methods of payment adopted for such transactions are approved ones.

All cases not satisfying any of these conditions but nevertheless attractive from the foreign exchange angle or cases of doubtful nature require prior clearance of RBI.

9.3 Opening of letters of credit and/or making remittances for goods to be bought and held in stock for sale at a later date is prohibited. Financing of transactions between two countries in the Bilateral Group or for import of goods from a country in the Bilateral Group for sale to a country in the External Group or vice versa is also prohibited. Indian merchants are not permitted to open bank accounts abroad, to have trading offices abroad or to resort to overseas borrowings to finance intermediary trade.

9.4 Intermediary trade is thus possible under the present exchange control regulations in a restricted manner. It was represented to the Committee that the present regulations are very stringent and that

RBI should be prepared to grant more liberal facilities to Indian merchant traders to enable them to expand their operations. The range of facilities could cover permission for and provision of bank finance to purchase and store goods in anticipation of their eventual sale, permission to open trading branches overseas, maintain bank accounts abroad, borrow abroad against guarantees from banks in India, etc. The Committee held discussions with representatives of some prominent merchant traders with a view to ascertaining the nature of additional facilities they considered necessary in order to increase the volume of their trade. The impression the Committee gathered after discussing the subject in different forums is that even the companies/firms engaged in intermediary trade are not too clear about the exact steps necessary to claim a larger share of the overall intermediary trade for India. The only concrete demand put forward by them was permission to maintain U.S. dollar accounts abroad. However, none of them could indicate the precise requirement of bank guarantees, etc.

9.5 It is evident that Indian traders desirous of undertaking intermediary trade would have to compete with well-established international giant corporations operating in the field and in the absence of comparable

financial strength and expertise, this competition would continue to be amongst unequals. In intermediary trade, the volumes handled are large, the profit margins small and the commodities dealt with susceptible to sudden and wide fluctuations in prices. The merchant traders must, therefore, have the financial strength to absorb occasional losses. It is the Committee's considered view that while this may be a promising area, it is also highly risky and the authorities would **have** to be very selective while considering requests for grant of additional facilities to merchant exporters. It would also not be prudent for financial institutions to grant sizeable additional facilities to merchant traders without properly assessing the risks in individual transactions. It, therefore, seems desirable that, by and large, the present procedure under which authorised dealers are permitted by RBI to give approvals to individual merchanting trade transactions subject to compliance with certain basic conditions, should continue in a large majority of cases.

9.6 Experience will indicate what additional facilities will be needed e.g., working capital either through remittances from India or by raising funds overseas with guarantees from India.

A policy framework for the grant of such facilities will have to be evolved by RBI in consultation with Government of India (Ministries of Finance and Commerce). The Committee, would, however, like RBI and Government to examine further the feasibility of granting following facilities for merchant exporters on a selective basis:

- i) Applications from merchant traders with an annual turnover of atleast Rs.10 crores to maintain dollar accounts abroad to finance their operations may be considered favourably. If the applicant companies also qualify for maintenance of US dollar accounts abroad as large importer-exporters (cf. Chapter VII of this report), the two dollar accounts should be maintained separately and the transactions in the two should never be mixed up.
- ii) Some merchant exporters may find it more convenient to operate through subsidiaries established abroad. If applications are received from any merchants with a minimum annual export turnover of Rs.10 crores to establish wholly-owned subsidiaries abroad, the Inter-Ministerial Committee on Subsidiaries, functioning under the aegis of Ministry of Finance, may consider such applications favourably, under the overall Government policy.

- iii) RBI may consider, on a very selective basis, applications of Indian merchant-traders for the facility of stocking goods purchased by them pending their disposal after finding **buyers** ready to purchase the goods at profitable prices.
- iv) RBI may selectively waive the condition that both the legs of a merchanting transaction should be on matching terms or terms favourable to the Indian merchant.
- v) In respect of the merchant traders who are permitted to set up subsidiaries at important trading centres abroad for undertaking intermediary trade, RBI may consider applications of the Indian parent companies for extension of bank guarantees from India to cover the overseas subsidiaries' bank borrowings to meet their working capital requirements.
- vi) RBI may also allow, on a limited scale, the facility of borrowing abroad (against guarantees to be issued from India) to the merchant traders operating from India to meet their need for finance abroad.

Counter Trade

9.7 A phenomenon that has recently emerged on the international scene is counter trade, also variously known as switch trade and link deals. Counter trade is not to be mistaken for bilateral trade which,

in the final analysis, is direct barter trade denominated in currencies. Counter trade carries an obligation to receive part or whole of the price of an export in kind rather than cash but the products offered in payment may or may not be required by the exporting country. Some developing countries suffering from chronic balance of payments deficits have started offering some of their products in lieu of payment in foreign exchange for goods imported by them. With the spectre of global recession, the number of proposals involving counter trade is likely to increase in the years to come. India is also likely to receive more and more such offers in future and need is felt for a general policy framework to deal with such proposals.

9.8 There would be no difficulty in finalising such deals, if the country accepting the products offered by its trading partners can absorb them domestically. Whenever this is not possible, it has to find alternate buyer/s for such products. This often necessitates engagement of the services of an intermediary to locate buyers for the goods. Counter trade carries various types of risks such as price risk, credit risk and even country risk. It may involve payment of commission twice in connection with one and the same transaction: once for securing the original

export order and again for disposal of the goods accepted in lieu of **payment towards the value** of goods exported. If the terms of payment in respect of sale of goods accepted in lieu of payment involve deferred credit, with little or nothing by way of advance/down payment, commission payment to two agents at the initial stage can result in a heavy outflow of foreign exchange.

9.9 As in the case of intermediary trade, the Committee discussed the issues relating to counter trade internally and with representatives of different organisations but found virtual absence of any concrete proposals/recommendations and hard data a handicap. In the Committee's view, this is essentially a problem on which Government of India would have to adopt a general policy before RBI can frame exchange control regulations to deal with the applications. Only when Government of India (Ministries of Finance and Commerce) lay down the broad guidelines, would it be possible for RBI to deal with specific proposals for grant of exchange control approvals. The Committee, therefore, suggests that RBI may deal with individual proposals, on their merits, in the light of broad guidelines which Government of India **are** understood to be finalising. RBI may continue to

9.10

consult Government before granting approvals for specific proposals till a standard set of rules is evolved out of experience.

C H A P T E R X

Miscellaneous Remittances

*Remittances of legal expenses - Non-export transactions

10.1 The question of remittances to meet legal expenses abroad in connection with export transactions has been dealt with by the Committee in paragraphs 3.49 to 3.52 of the Report. No powers have been delegated to authorised dealers to make remittances towards expenses in respect of legal disputes not connected with exports. In such cases applications have to be made to Offices of ECD which are permitted to allow remittances to the extent of US \$ 1000/-. Applications involving remittances in excess of US \$ 1000/- are considered in the Central Office of ECD. Cases where the amounts involved are large, are considered by the Central Office of ECD in consultation with the Legal Department of RBI. Concurrence of Government is also sought, if considered necessary.

10.2 Having regard to the cost of litigation abroad, the Committee is of the view that the limit of US \$ 1000/- upto which Offices of ECD can allow remittances to meet legal expenses abroad in connection with non-export transactions, is low and needs an

upward revision.

10.3 The Committee, accordingly, recommends that Offices of ECD may be permitted to allow remittances upto US \$ 10,000/- to meet legal expenses abroad in connection with transactions not related to exports. Cases where the amounts involved are in excess of US \$ 10,000/- may continue to be dealt with in Central Office of ECD, in consultation with the Legal Department of RBI.

*Remittances towards advertising abroad
(Paragraph 11H.17 of ECM)

10.4 At present, authorised dealers are permitted to release exchange upto US \$ 3000/- per annum towards advertisement expenses of their exporter-constituents. Offices of ECD are empowered to allow remittances towards advertisement abroad (including advertisement on the radio except on Radio Sri Lanka) upto the equivalent of rupees one lakh per company/firm per annum, depending on the export performance of the applicant, and provided the nature of the business of the applicant justifies such expenditure in foreign exchange. As far as advertising on Radio Sri Lanka is concerned, the applications are considered in the Central Office of ECD. In such cases, remittances not

exceeding 25 per cent of the foreign exchange realised in respect of exports to the countries covered by the Asian Beam of Radio Sri Lanka are permitted by RBI. Blanket Permit holders can also utilise their Blanket Permits for remittances towards advertising abroad. Requests for advertising in special issues/supplements published abroad are considered by the Central Office of ECD in consultation with Government of India.

10.5 The Committee is satisfied that an upward revision of the present limit of US \$ 3000/- per annum upto which authorised dealers are permitted to release exchange for advertisement abroad by their exporter-constituents is not called for at this stage as this limit was raised from US \$ 1000/- quite recently. As regards powers delegated in favour of Offices of ECD, the Committee feels that there is need for an upward revision in view of the high cost of advertising abroad.

10.6 The Committee, accordingly, recommends that Offices of ECD may be permitted to allow remittances towards advertisement expenses abroad upto the equivalent of Rupees five lakhs per company/firm per annum, as against the present limit of Rupees one lakh, on the merits of each application.

Remittances towards Royalty and Technical Know-how Fees (Paragraph 24A.11 of ECM)

10.7 Prior to 1960, Indian companies/firms wishing to enter into collaboration agreements with foreign companies had to apply to RBI. RBI referred the applications to Ministry of Finance, who had to consult the concerned administrative Ministry before granting approval. Since this was a time consuming procedure, Government of India set up a Secretariat for Industrial Approvals (SIA) to co-ordinate the work relating to foreign investment in India. The proposals for foreign collaboration are now considered by the Foreign Investment Board (FIB) and in approved cases, letters of intent are issued by SIA to the applicants who are required to finalise the agreements in accordance with the terms approved by FIB and to submit copies thereof to Government within six months from the date of letter of intent. If the agreement is strictly in accordance with the terms approved by FIB, it is taken on record by Government. Copies of the agreement are then sent by Government to RBI (both Central Office and concerned Office of ECD). RBI then conveys to the applicant its formal approval under FERA for the collaboration agreement. The approval letter of RBI also conveys, inter alia, its

approval to the foreign collaborator under Section 28 of FERA 1973 to make available technical know-how to the Indian company.

10.8 Remittances of royalty/technical know-how fees are approved by Offices of ECD in accordance with the provisions of agreements approved by Government of India. Along with such applications, applicants are required to furnish, among other things, a no-objection/tax clearance certificate from Income-tax authorities.

10.9 It was represented to the Committee that one of the major irritants in regard to remittance of royalty/technical know-how fees has been the requirement of production of 'no-objection certificate' from Income-tax authorities. Normally it takes quite some time to obtain such certificates. As regards the suggestion whether RBI could accept an auditor's certificate regarding adequacy of tax provision, the Committee feels that auditors can certify the adequacy of tax provision relating to the particular payment but they cannot be expected to certify the position regarding other outstanding tax liabilities in India, if any, of the foreign collaborators, or whether in a particular case, the payment of royalty/technical

know-how fee attracts or does not attract Indian taxes. A view was expressed that, wherever possible, FIB should clearly indicate that the royalty/technical know-how fee is payable on a 'net of tax' basis. The Committee was given to understand that there were practical difficulties in taking a final view on the applicability of taxes at the time of approval of the foreign collaboration arrangements by FIB. Reference to the Central Board of Direct Taxes (CBDT) for prior clearance would unavoidably lead to delay in granting approvals for collaboration agreements. Letters of approval agreeing, inter alia, to payment of royalty/technical know-how fees are, therefore, issued by Government subject to applicable taxes.

10.10 It has been brought to the Committee's notice that while there is no specific provision under the Income-tax Act for issuance of no objection certificates/tax clearance certificates by Income-tax authorities, in October 1977, CBDT had issued circular instructions to Income-tax Offices to issue no objection certificates/tax clearance certificates in a standard form, the proforma of which was also circulated by CBDT. The Committee is, however, aware that in practice applicants sometimes experience

difficulties in obtaining such certificates expeditiously. Taking all these factors into account, the Committee is of the view that since RBI requires the applicant to produce an auditor's certificate indicating, inter alia, the details of gross amount of royalty/technical know-how fees, amount of tax payable thereon and the net amount remittable to the overseas collaborators, it should clear the application after satisfying itself that the amount of tax due has been deducted from the remittable amount and paid to Government of India, without going into the overall tax liability of the overseas beneficiary of the remittance.

10.11 The Committee is also of the view that only the first application for remittance of royalty/technical know-how fees need be referred to RBI for approval and powers could be delegated to authorised dealers to allow remittances of subsequent instalments subject to fulfilment of the same terms and conditions under which remittance of the first instalment was approved by RBI.

10.12 The Committee, accordingly, recommends that RBI may allow remittances of royalty/technical know-how fees on the basis of certificates **issued to the applicant companies/firms by their auditors**

regarding adequacy of tax provision, after satisfying themselves about payment of taxes. RBI need not, in such cases, insist on production of a no objection/ tax clearance certificate from Income-tax authorities. The Committee notes that this matter is under correspondence between RBI and Government of India. RBI may follow it up with Government for a satisfactory long term solution to the problem.

10.13 The Committee also recommends that only the first application for remittance of royalty/ technical know-how fees should be referred to RBI for approval. As regards remittances of subsequent instalments, RBI may delegate powers to the branch of authorised dealer designated by the applicant company/firm, to allow the remittances subject to fulfilment of the same terms and conditions under which remittance of the first instalment had been approved by RBI. RBI may also evolve a suitable procedure for the authorised dealers to report to it details of such approvals granted by them for post-facto scrutiny.

Delegation of powers to authorised dealers to allow remittances of instalments of foreign currency loans

10.14 Under the existing procedure, authorised

dealers are allowed to effect remittances of instalments and to book forward contracts in respect of deferred credit imports on the basis of the package approval granted by RBI for the deferred credit arrangement. This procedure, however, covers only deferred credits availed of by Indian importers from overseas suppliers of goods. In the case of foreign currency loans obtained by Indian companies/firms, authorised dealers are at present required to approach RBI for prior approval for remittance of each instalment as also for booking forward sale contracts covering such instalments. The Committee is of the view that the principle followed in the case of applications for remittances of instalments due in respect of imports under deferred payment terms should also be extended to remittances towards repayment of instalments of foreign currency loans.

10.15 The Committee, accordingly, recommends that RBI may, while approving the foreign currency loans obtained by Indian companies/firms, grant a package approval to the authorised dealer designated by the applicant to allow remittances of instalments of the foreign currency loans falling due and also to book forward contracts. RBI may also evolve

a suitable system for authorised dealers to report the details of such remittances towards repayment of instalments of foreign currency loans to enable it to build a complete profile of the country's external debt.

Grant of Foreign Currency Loans to Indian companies by Indian Financial Institutions viz. ICICI, IFCI & IDBI

10.16 Under the present procedure, Industrial Credit and Investment Corporation of India (ICICI), Industrial Finance Corporation of India (IFCI) and Industrial Development Bank of India (IDBI) obtain lines of credit from overseas financial institutions like IBRD, KFI, etc. These Indian financial institutions grant foreign currency loans to Indian sub-borrowers for financing the latter's imports out of such lines of credit. For obtaining lines of credit from overseas financial institutions, ICICI, IFCI and IDBI have to obtain prior approval of Government of India and RBI. In addition, Indian companies/firms availing of sub-loans from Indian financial institutions for financing their imports against import licences specifically issued for imports against foreign currency loans obtained from the Indian financial institutions, have also to obtain formal approval of RBI for their sub-borrowings.

10.17 The Committee is informed that although the amount of foreign currency loans granted to sub-borrowers is to be repaid to the financial institutions in Indian rupees, the sub-borrowers have to obtain RBI's approval, as the agreements between the financial institutions and sub-borrowers are for foreign currency loans. The Committee feels that in view of the various in-built safeguards, once the proposals of ICICI, IFCI and IDBI for obtaining foreign currency lines of credit are approved by Government of India and RBI, there should be no need for individual companies/firms to obtain separate approvals from RBI for availing of foreign currency sub-loans out of such lines of credit.

10.18 The Committee, accordingly, recommends that once RBI grants its approval to ICICI, IFCI and IDBI for obtaining lines of credit from overseas financial institutions, there should be no need for the individual companies/firms to obtain prior approval of RBI for availing of foreign currency sub-loans out of such lines of credit. Instead, RBI should insert a suitable clause in its letter of approval to the principal borrower to the effect that the approval may also be deemed to be its formal collective approval under FERA for the sub-borrowers

10.12

for availing of sub-loans from the principal borrower out of the line of credit or foreign currency loan in question. RBI may also devise a suitable reporting system under which the principal borrowers should periodically furnish to it details of sub-loans granted, disbursements made, etc. This procedure would also apply, pari passu, to foreign currency lines of credit raised by commercial banks.

CHAPTER XIStudy Groups on Export Procedure and
Forward FacilitiesWorking Group on Export Procedure

11.1 RBI has introduced, with effect from 1st October 1983, a simplified and rationalised export procedure. The revised procedure is based on the recommendations of the Inter-departmental Working Group set up by RBI under the Chairmanship of the then Controller which had submitted its Report in 1979. RBI had accepted the Working Group's recommendations but for a variety of reasons implementation of the recommendations had to be held in abeyance. The modified export procedure, which envisages stronger computer back up, has been introduced after obtaining necessary clearance from Government of India (Ministry of Finance - Department of Economic Affairs and Central Board of Excise and Customs) and prior consultations with authorised dealers and Customs Offices at important centres like Bombay, Calcutta, Madras, etc. The revised procedure has the following salient features:-

- i) The existing export declaration forms (GR and PP forms) have been completely revised and the new forms are to be submitted in sets of only two copies (original and duplicate) instead of three copies as hitherto.

Elimination of one copy from each set of export forms would reduce by one third the number of forms required to be handled at a number of stages.

- ii) The procedure of physically matching copies in each set of lakhs of GR/PP forms on the basis of pre-printed numbers denoting the domicile of each Office of ECD has been abolished. As the two copies in the revised set of export forms are not to be 'matched' physically, there would be no need for movement of forms between different Offices of ECD. Even within the same Office of ECD, originals and duplicates of GR/PP forms in each set are not required to be matched physically. This matching exercise is to be done on the computer. Removal of a number of bottlenecks inherent in physical matching of a large volume of forms is expected to help Offices of ECD to ensure that the work does not fall in arrears as in earlier years.
- iii) Under the old procedure, authorised dealers were required to certify the middle or duplicate copy in each set of forms and send it to RBI to signify acceptance of relative shipping documents for negotiation/ collection. Under the new procedure, this function would be performed by a single consolidated 10-day statement to be sent to RBI by authorised dealers.
- iv) For the purpose of compilation of balance of payments statistics, RBI would need to code data mainly from the originals received from Customs. The statement furnished by authorised dealers would not need much coding. The work of preparation of statistical tables after coding of export data would thus be speeded up.

11.2. Under the revised procedure, the activities like sorting, sequencing, merging etc. of lakhs of GR/PP forms which were performed manually by

subordinate staff of RBI and which had a tendency to fall in heavy arrears, thereby putting in jeopardy subsequent stages of work, are completely eliminated. Consequently, it should be possible for ECD to take up the export follow-up work more expeditiously. As the flow of originals from Customs would be faster as compared to the flow of certified duplicates from authorised dealers under the old procedure, RBI is also expected to be able to code the data more expeditiously and compile the balance of payments statistics with a shorter time lag as compared to earlier years.

11.3 As the details of the revised procedure were finalised before the Committee commenced its work, it did not consider it necessary to study the problem independently. As the revised procedure has introduced several far reaching changes, it would be some time before its full impact is felt. The Committee hopes that with greater resort to computer support, RBI would succeed in its twin objective of making the export follow-up work of ECD more effective and reducing significantly the time lag in compilation of the balance of payments statistics for use by RBI and Government as an important input for policy formulation.

Study Group on Forward Facilities

11.4 RBI had set up, in January 1983, an Inter-Departmental Study Group under the Chairmanship of the Controller (Member-Secretary of this Committee) to review the entire range of exchange control regulations relating to forward exchange cover facilities. The appointment of the internal Study Group came soon after the appointment of this Committee and its work has progressed apace with the work of the Committee. Consequently, although the terms of reference of the Committee also included the subject of forward facilities for importers and exporters, the Committee did not consider it necessary to duplicate the effort on studying the same issue through two different channels. Instead, it was decided to refer to the Study Group for expert examination, all important suggestions on the subject made to the Committee by different organisations, either in writing or in their oral submissions. Members of the Committee also had an opportunity to see the draft of the Study Group's report and make certain suggestions for changes in it.

11.5 The following were some important suggestions regarding forward facilities received from different organisations, which were referred to the Study Group for detailed examination:-

- i) Manufacturer-exporters may be allowed to book block forward cover, upto say, 10 per cent of their previous year's export turnover, in anticipation of firm export orders.
- ii) The rules governing substitution of orders and cancellation of forward contracts should be further liberalised.
- iii) Authorised dealers may be permitted to extend forward cover between the base currency and the option currency to Indian borrowers raising foreign currency loans with a multi-currency option.
- iv) The spread between buying and selling rates for foreign currencies should be narrowed down so that finer rates are available to exporters and importers.
- v) Forward cover facilities may be extended to Indian project exporters who bring into India their project earnings rendered temporarily surplus abroad with the intention to remit back the funds, when needed by the overseas projects.

11.6 The Study Group has since completed its deliberations and is expected to submit its report to the RBI Governor shortly. It has done a commendable job of analysing methodically a highly technical and complex subject. The Committee hopes that the major recommendations of the Study Group, which are expected to include introduction of a few entirely new forward cover facilities, would go a long way in meeting the demand of the trade for liberalisation of the existing forward facilities.

C H A P T E R X I I

Customer Service

Functional set up of ECD

12.1 The Central Office of ECD is located at Bombay.

 The Department has 17 full-fledged offices (the latest addition being Panaji in Goa) and one Exchange Control Cell at Nagpur. Each office has jurisdiction over a notified geographical area. The Exchange Control Cell at Nagpur has only limited powers to deal with applications for release of exchange for travel abroad and for taking personal jewellery abroad by outgoing travellers. The 17 full-fledged offices can be grouped in three categories as under on the basis of the volume of work handled by them:

- (I) Major Offices - Bombay, Calcutta, Madras and New Delhi.
- (II) Medium-size Offices - Ahmedabad, Bangalore, Chandigarh, Cochin, Hyderabad and Kanpur.
- (III) Small-size Offices - Bhopal, Bhubaneswar, Gauhati, Jaipur, Panaji (Goa), Patna and Srinagar.

The major offices are under the charge of Joint Controllers (Officers in Grade E), medium-size Offices under the charge of Deputy Controllers (Officers in Grade D) and small-size Offices under the charge of Assistant Controllers (Officers in Grade C). The Office at Panaji

is, however, headed by a Deputy Controller.

12.2 The Committee is given to understand that RBI has followed a policy of providing one full-fledged Office of ECD in each State, generally at the state capital. Occasionally, representations are received from various organisations for opening offices at other places of commercial importance like Lucknow, Pune, Trivandrum, etc. but RBI has not accepted such demands.

12.3 The Committee is of the view that in the case of a service-oriented department like ECD, the concept of one office for one State is not so relevant as it perhaps is for other departments of RBI like Public Debt Office, Public Accounts Department, etc. which provide necessary service to State Governments by virtue of the standing agreements signed by RBI with them. As far as new Offices of ECD are concerned, RBI should have a more pragmatic, flexible and need-oriented approach. As the volume of India's exports grows, companies/firms functioning from smaller commercial centres would get involved in foreign trade. Since it should be the endeavour of RBI to render prompt and efficient service to exporters and importers from places as near to them as possible, it might be necessary for RBI to create a broad based organisational structure of its own rather than increase the dependence on authorised

dealers for rendering customer service. The Committee is of the view that RBI should have an open mind on the question of opening new offices of ECD and the decisions to open new offices should be guided, in the main, by considerations of existing or potential volume of export-import trade.

12.4 The Committee, accordingly, recommends that RBI should not be guided by the principle of one office of ECD for each State. It should adopt a more flexible and need-oriented approach in the matter of opening of new office of ECD. Decisions to open offices at new centres should be guided by considerations of existing or potential volume of export-import trade and the size of the geographical area to be served by the new office. From this angle, RBI may consider representations from centres like Baroda, Lucknow, Ludhiana, Pune, etc. for opening of new offices and the case of Nagpur for upgradation of the existing Exchange Control Cell into a full-fledged office.

Training

12.5 RBI has different training establishments for imparting institutional training to its officer as well as non-officer staff. At the apex level is the Bankers Training College at Bombay which is run

by RBI but primarily caters to the training needs of officers of commercial banks. The College runs, among others, courses on foreign exchange (orientation as well as advanced programmes), inspection of authorised dealers, conduct of dealing room operations and audit thereof, etc. but RBI can depute only a few officers from ECD to attend such courses. RBI runs a Staff College at Madras exclusively to cater to the training needs of its junior level officers. This College too conducts specialised programmes on foreign exchange and exchange control but the number of such programmes is limited. For imparting training to its clerical staff, RBI runs Zonal Training Centres at 4 major centres viz., Bombay, Calcutta, New Delhi and Madras. Recently the Zonal Training Centres have also introduced a short duration course on foreign exchange and exchange control.

12.6 RBI also deposes its middle level officers, for specialised training in foreign exchange in outside training institutions, both within the country and abroad. Such deputation is, however, on a limited scale.

12.7 The Committee is advised that RBI has accepted the principle of inter-departmental mobility of staff at all levels. Consequently, a large number of officers and employees are regularly transferred to ECD

from other Departments of RBI and vice versa. They are given induction training of varying duration depending upon the exigencies of services. While the present institutional and in-house arrangements for training are of considerable benefit to the ECD staff, increase in inter-departmental mobility has heightened the need for and importance of proper training facilities.

12.8 The work of ECD is of highly specialised nature. New developments are constantly taking place in the area of foreign exchange banking which have a close bearing on the work of ECD. The staff working in this Department have, therefore, to be properly trained and should also have adequate experience in foreign exchange business. The Committee is of the view that it is necessary to give to officers attached to ECD much greater exposure to international banking practices and procedures by deputing them to overseas banks/central banks, since a variety of new and sophisticated types of business is being introduced in India progressively, and the central bank of the Country should have the skills to handle these sophisticated and complicated areas competently. Its personnel should also have the requisite professional competence to guide authorised dealers in their new activities.

12.9 In regard to the training facilities for the personnel of authorised dealers, the Committee is given to understand that, in addition to the Bankers Training College run by RBI, most of the large commercial banks have their own training colleges for imparting training in different fields of banking. A few small banks have come together to set up joint training colleges such as the Northern India Banks Staff Training College at New Delhi and Southern India Banks Staff Training College at Coimbatore. These institutions cater to the training needs of the officers and staff of the banks which have established them. The Committee, however, feels that there is considerable scope for exchange of training programmes amongst the training institutions sponsored by different banks, which would facilitate pooling and sharing of the expertise and experience of different training institutions. This will also facilitate exchange of ideas and dissemination of the results of successful experiments and innovations tried out by various institutions in different fields. Since foreign exchange and international banking are complex and developing subjects, pooling of the efforts of different training institutions and sharing of training material would be beneficial to all. There is also need to review the training programmes regularly to keep pace with the changing needs.

12.10 The Committee also suggests that both RBI and commercial banks should make greater use of modern training techniques such as self teaching programmes and programmed learning material, audio visual aids like slide projectors, video cassette recorders, etc. for imparting training to their personnel. If necessary, RBI and commercial banks could engage the services of specialists/consultants for preparation of suitable training material for their staff.

12.11 The institutional training provided by regular training establishments through a variety of courses should also be supplemented by adequate on-the-job training and informal in-house training programmes run departmentally. The Committee is given to understand that ECD has prepared material like job cards and check lists to serve as training aids for new entrants. This experiment could be emulated by authorised dealers. The job cards and check lists should, however, be updated from time to time to ensure that they do not become obsolete.

12.12 The Committee should like to stress that training, as an integral part of personnel development, should receive careful and regular attention of RBI as well as authorised dealers. If given systematic training, new staff entering ECD and Foreign Exchange Departments of

commercial banks would learn the basic skills and develop necessary confidence to handle their new assignments with relative ease.

RBI Faculty Support for Workshops/Seminars
organised by recognised trade bodies

12.13 The Committee is informed that in 1982 RBI had organised Workshops on "Compilation of R>Returns" in collaboration with leading commercial banks, at a number of important centres throughout India for the benefit of officials working in the Foreign Exchange Departments of branches of authorised dealers. RBI is also understood to have decided recently to conduct Workshops at a number of centres all over the country, with the assistance of FEDAI, IBA and major commercial banks, to cover mainly the following topics:

- i) Letters of Credit
- ii) Export and Import bills
- iii) Exchange Cover and Risk Management
- iv) 'R' Returns.

The Committee is of the view that besides providing training facilities to the officials of RBI and commercial banks, there is greater need to educate the members of various trade organisations regarding the procedural formalities required to be complied with by them while submitting

applications to ECD as well as to authorised dealers. Various recognised trade bodies like FICCI, ASSOCHAM, FIEO, AIEI, Export Promotion Councils and Chambers of Commerce have been organising workshops/seminars on specific topics for the benefit of their members. The Committee feels that RBI should continue to extend, on request, necessary faculty support for such workshops/seminars.

12.14 The Committee, accordingly, recommends that RBI may extend necessary faculty support to the recognised trade bodies for the workshops/seminars conducted by the latter on topics relating to exchange control and exchange management for the benefit of their members.

Placement of Staff

12.15 The Committee is given to understand that since 1978, RBI has accepted full inter-departmental mobility of staff at all levels (except in a few Departments such as Department of Economic Analysis and Policy and Department of Statistical Analysis and Computer Services). In line with this policy, the officer and non-officer staff attached to ECD are required to be rotated regularly with the result that a large number of officers and employees now enter the Department

without any previous experience in a similar line of work. In view of the diverse and specialised nature of activities performed by ECD, frequent changes in staff, particularly at the officer level, carry the risk of adversely affecting the efficiency as well as quality of work of the Department. The Committee feels that this can be mitigated to some extent by giving careful theoretical as well as practical training to new entrants in the Department before they are placed on regular desks. It is the Committee's considered view that, while RBI's overall policy about inter-departmental mobility must cover ECD, having regard to the fact that it takes a relatively longer time for personnel to learn the specialised work of this Department and settle down properly in their jobs, it would be desirable to avoid frequent transfers of personnel attached to ECD. The Department should also be permitted to maintain a core staff with reasonably long periods of service so that continuity is maintained and important policy issues are not decided without proper knowledge and appreciation of past developments. What applies to ECD of RBI, would also hold good, mutatis mutandis, in the case of the Foreign Exchange Departments of commercial banks.

12.16 The Committee concedes that the inherent conflict between overall needs of human resources development, career planning and job rotation on

the one hand and the need for specialisation on the other is not peculiar to RBI. While the Committee appreciates the need and desirability of inter-departmental mobility, it feels that the value of specialisation should also be properly recognised. In a specialised department like ECD, therefore, there should be a judicious mix of staff with sufficient experience and new entrants, especially at the officer level, so that the efficiency and quality of work of the Department are maintained at a high level.

12.17 As far as authorised dealers are concerned, they should ensure that the staff posted to handle foreign exchange work have reasonable experience as well as adequate training in foreign exchange and frequent transfers of the personnel are avoided. They should also aim at having a judicious mix of trained staff with sufficient experience and new entrants in every branch handling foreign exchange business.

Review of branch set up
of authorised dealers

12.18 Branches of authorised dealers permitted to handle foreign exchange business are divided into 3 categories - A, B and C. Wide powers have been delegated by RBI to authorised dealers in the matter of allowing remittances, etc. These powers can be

exercised by all branches in categories A and B. Category C branches have to handle their foreign exchange business through link branches in category A or category B. In this Report, the Committee has recommended delegation of more powers to authorised dealers. Authorised dealers would thus continue to play a very crucial role in the administration of exchange control.

12.19 From its discussions with representatives of authorised dealers, the Committee observed that some of them had reservations about delegation of additional powers to all branches of authorised dealers. It was also the general view that work relating to exchange control called for well-trained and experienced staff but it is very difficult for authorised dealers to provide trained and experienced staff to all branches in categories A and B. Many branches thus experience considerable difficulty in rendering prompt customer service and also furnishing prescribed returns to RBI in time.

12.20 The Committee is given to understand that RBI had advised authorised dealers sometime ago to undertake a thorough review of their branch set up to see whether all their branches in category B were properly equipped to discharge their responsibilities or whether it was necessary to reduce the number of such branches to a

more realistic level. The Committee feels that this is an appropriate step. Unless a branch has the requisite complement of trained and experienced staff and other essential infrastructural facilities, it would not be desirable to allow it to be designated as a category B branch. The Committee, therefore, recommends that RBI should continue its efforts to persuade authorised dealers to reduce the number of their category B branches to make the network functionally viable and more effective.

Introduction of computerisation/
mechanisation in RBI and branches of
authorised dealers -----

12.21 The Committee notes that RBI has introduced, with effect from 1st October 1983, a completely revised export procedure (commonly known as GR procedure) which envisages a higher degree of computer support both for follow up of realisation of export value and preparation of the Balance of Payments data. The Committee feels that this is a step in the right direction as the export follow up procedures based on 100 per cent manual work had inevitably led to piling up of heavy arrears in many Offices of ECD. The work of compilation of the Balance of Payments data was also getting unduly delayed. The Committee believes that the new partially computerised procedure

introduced by RBI after obtaining the concurrence of Customs, authorised dealers and Ministry of Finance of Government of India is more suited to cope with the increased volume of work and ever changing requirements.

12.22 The Committee also believes that even authorised dealers would have to gradually introduce mechanisation and computerisation in operations where time consuming manual processes cannot produce the required results in time. There is also need for a degree of compatibility between the systems and procedures followed by ECD and those followed by authorised dealers. In particular, the compilation of data relating to imports, exports and inward and outward remittances by RBI is largely dependent on the flow of returns from authorised dealers. If these returns continue to be received late and if they are found to contain a large number of errors, the subsequent compilation of data by RBI can neither be timely nor accurate. If only ECD acquires modern tools of work and rationalises its systems and procedures but authorised dealers continue to follow outmoded procedures, the overall results are unlikely to show significant improvement.

12.23 The Committee, recommends that large authorised dealers may be asked to undertake a thorough review of their systems and procedures. They should also be

encouraged to introduce gradually mechanisation and computerisation in important areas such as compilation of import-export data, reconciliation of foreign currency balances with overseas branches/correspondents, etc. where manual procedures tend to be a handicap in timely compilation of data.

12.24 A number of returns, statements and forms pertaining to foreign exchange transactions are received periodically in ECD from authorised dealers, airline and shipping companies, etc. These periodical returns, statements and forms contain a fund of statistical information required not only for compilation of Balance of Payments data but also for providing a data base for taking important decisions in RBI and Government. Despite the fact that RBI has sophisticated computer facilities at its disposal, computer support is mainly confined to compilation of Balance of Payments data and a small beginning has been made recently to process data relating to India's foreign currency borrowings with the help of the computer. In other areas of exchange control and exchange management, data is either not compiled systematically and comprehensively or the work is done manually. Manual compilation of data being time consuming, the

information can only be furnished with a long time lag.

12.25 There are a number of economic indicators in respect of which RBI, as the central banking authority, is called upon to furnish information to Government of India, Parliament and international organisations like IMF and World Bank. The top management of RBI themselves regularly require statistical data for taking policy decisions on various matters relating to exchange control and exchange management. The Committee is, therefore, of the view that RBI should take full advantage of technological developments and create a proper Data Base and Management Information System for timely processing, efficient storage and quick retrieval of the data required by it for its own use as well as for supply to Government, Parliament, various international agencies, etc. With the growing volume of foreign exchange transactions, particularly in the field of export and import trade, the Committee feels that only a sophisticated computerised system can promptly and efficiently cater to the complex requirements of information processing, storage and retrieval. There are a number of areas like Non-resident (External) Rupee Accounts and FCNR accounts, investments by

non-residents of Indian nationality/origin, returns of airline and shipping companies, dividend remittances of foreign controlled rupee companies, technical collaborations and remittances in foreign exchange towards payment of royalty and technical know-how fees, etc. in respect of which a proper data base can be developed by greater resort to mechanisation and computerisation.

12.26 In the Committee's view, the question of identification of areas in ECD in respect of which greater computer support is necessary and practical deserves a detailed study. It, therefore, recommends that RBI may set up a Special Cell to identify areas in respect of which programmes could be developed for processing of data on the computer and its storage for easy retrieval. The statistical data could be used by ECD not only for regulatory functions but also for promotional and analytical functions. The data which is not of confidential nature could be regularly published so that other agencies like Export Promotion Councils, Chambers of Commerce, etc. have easy access to it.

Form simplification

12.27 In Volume II of ECM, ECD has prescribed a large number of forms of applications to be submitted to it for a variety of purposes. Owing to

the changing needs, it would be necessary to amend some of the existing forms and to ensure that obsolete details contained therein are deleted and/or additional information required to take quicker decisions is incorporated. It may also be necessary to introduce a few new forms. The objective should be that the forms are simple to fill up and whatever documentary evidence is required to be produced in support of any application is clearly indicated in the form itself, preferably at the top, to obviate any omissions on the part of the applicant which lead to avoidable correspondence later. This calls for a detailed exercise.

12.28 The Committee is given to understand that ECD has internally taken this work in hand. The Committee suggests that while revising the proformae of applications, ECD may take into consideration the various recommendations made by the Committee on individual topics in this Report. (e.g. introduction of a common proforma for furnishing progress reports on overseas projects to various member institutions of the Working Group). For advice on form designing, ECD could approach the Management Services Department of RBI, if necessary.

Need to bring out a revised edition of ECM

12.29 The current edition of ECM was brought out in June 1978. Since then, the book has undergone extensive amendments. In particular, the

procedures relating to export of goods on deferred payment terms/turnkey contracts/civil construction contracts, non-resident investment in India, transactions falling within the purview of the Asian Clearing Union, etc. have undergone major changes calling for complete revision of the relative provisions in the Manual.

The changes introduced in the export procedures with effect from 1st October 1983 and in the procedure for non-resident investment in India have yet to be incorporated in the Manual. As a result of the Committee's recommendations contained in this Report, many more provisions in the Manual would need further amendment.

12.30 Having regard to the need for introducing these changes **within** in a relatively short time as also the fact that more than 5 years have passed since the Manual was revised last, the Committee is of the view that a thorough revision of the Manual should now be taken in hand. Since this is a time consuming but important project, a new edition of the Manual can be brought out in 1984 provided the work on its preparation is taken in hand immediately. The Committee notes in this connection that copies of the current edition of the Manual are not available for sale to the

public and authorised dealers at many centres. Even if copies are available at some centres, they are without amendments introduced by ECD over the past five years and, therefore, liable to mislead the users.

12.31 The Committee, accordingly, recommends that RBI may bring out, as early as possible, a completely revised Edition of the Manual for use of authorised dealers and the general public. The Committee would like to stress that the Manual is an important reference book consulted regularly by authorised dealers as well as companies/firms engaged in the import and export business who have a right to expect that upto date procedures are readily available to them.

Formation of Facilitation Units in Offices of ECD

12.32 The Committee understands that in four major Offices of ECD at Bombay, Calcutta, Madras and New Delhi, a separate section called 'Enquiry and Personal Section' has been set up to deal with urgent cases of various types submitted by individuals. In other Offices of ECD also, there is an Enquiry Section to provide necessary guidance to the members of public calling at those offices. The Committee is of the view that there is need to strengthen the

12.21

existing arrangements to enhance their utility in providing proper assistance to the members of public. The Committee feels that the Enquiry and Personal Sections in the major offices of ECD can be converted into Facilitation Units to provide proper guidance to the applicants calling at those offices about procedural requirements, completion of applications, documentation and the like, somewhat on the lines of guidance provided by Facilitation Units attached to the Offices of the Income-tax Department.

12.33 The Committee, accordingly recommends that

RBI may create suitably reorganised Facilitation Units at least in four major Offices of ECD to begin with, to provide assistance to the members of public calling at those offices. Such Units should be manned by experienced staff who can properly guide the applicants in regard to procedural requirements, proper completion of applications, documentation, etc. Similar Facilitation Units may be gradually set up in other offices of ECD.

C H A P T E R XIIIOther RecommendationsInspection of authorised dealers
and other licensed agencies

13.1 Under Section 43 of FERA 1973 powers have been conferred on RBI and the Central Government to conduct inspections of various agencies licensed by RBI viz. authorised dealers, authorised money changers, travel agents and shipping and airline companies. While DBOD has overall responsibility for conducting full fledged inspections of banks (including inspection of their foreign exchange operations) under the Banking Regulation Act, 1949, ECD has found it necessary to undertake independent inspection of the foreign exchange operations of banks and other licensed agencies in view of the specialised nature of this work. ECD inspections are mainly intended to ensure that the foreign exchange operations of the various licenced agencies in general and authorised dealers in particular are conducted in accordance with the relevant exchange control regulations and procedures, and corrective action is initiated quickly to set right the irregularities, if any, noticed during the course of the inspections. These inspections serve as a healthy external check on the activities of the licenced agencies and supplement the work of the internal

audit and inspection departments of authorised dealers. The findings of the inspections also provide an opportunity to the operational wings of ECD to review existing policies and procedures and to remove the lacunae in them.

13.2 The major and medium-size Offices of ECD have separate inspection units. The small offices have only a skeleton staff to undertake inspections. Offices of ECD have been undertaking inspections of licensed agencies other than authorised dealers, on a regular basis. This cannot, however, be said about inspection of branches of authorised dealers. The branches of authorised dealers in category A are expected to be inspected once a year from the angle of inter-bank dealings and cover operations. In addition, snap inspections of authorised dealers are also expected to be conducted on certain specific aspects such as rupee trading, conduct of non-resident accounts, etc. This is not being done in a planned and systematic manner since on the one hand, the number of branches of authorised dealers required to be inspected is large and on the other, there are practical difficulties faced by ECD in providing the required complement of experienced personnel to conduct the inspections in an effective manner.

13.3 The Committee is of the view that there is need to strengthen the inspection machinery in ECD, particularly in major offices such as Bombay, Calcutta, New Delhi and Madras, in the context of wide delegation of powers already enjoyed by the banks as also delegation of more powers recommended by the Committee in this Report in a variety of areas. Regular inspection of dealing room operations of authorised dealers has assumed particular urgency and greater importance in view of the fact that some authorised dealers are known to have incurred losses on account of inadequate internal checks and controls on their trading operations. Inspection of dealing room operations is, however, a highly specialised skill which has to be developed with systematic efforts. RBI should be able to guide banks in their efforts to take corrective steps wherever necessary. The Committee feels that the inspection units of ECD Offices should be manned by sufficiently experienced and well trained officers who have developed adequate expertise in scrutiny of inter-bank dealings and cover operations of authorised dealers, apart from the scrutiny of normal foreign exchange business of commercial banks. If RBI intends to rely more and more on authorised dealers to render

direct services to importers, exporters and travellers going abroad so that it can concentrate on more important policy areas, there must be a strong machinery to conduct regular inspections of authorised dealers' branches.

13.4 The Committee, accordingly, recommends that the strength of personnel in the inspection units of the Central Office and major Offices of ECD should be critically examined in the light of the need for conducting inspections of category A branches of authorised dealers in particular and inspection of all licenced agencies in general, according to the normal schedule and the units should be properly strengthened by providing additional staff, wherever necessary. Care should also be taken to ensure that the staff, especially Officers, attached to the Inspection Units have sufficient experience and sound training to undertake scrutiny of specialised foreign exchange operations such as inter-bank dealings, cover operations, etc.

*Association of RBI officials with Foreign Investment Board (FIB), etc.

13.5 RBI is the statutory authority for granting approvals under provisions of FERA 1973 for foreign investment in India as well as technical collaboration arrangements involving payment of royalty, technical know-how fees, etc. to overseas collaborators. RBI is, however, not represented on FIB, which clears all applica-

tions for foreign investment/technical collaborations in India. Thus, RBI has to implement decisions taken under the provisions of FERA but without prior consultation with it, which sometimes leads to practical difficulties. In some cases, it becomes necessary for RBI to seek clarifications from Government about certain provisions in the collaboration agreements or the terms and conditions subject to which such agreements were approved by FIB, before conveying its formal approval for such agreements under FERA. The Committee feels that these practical difficulties could be minimised, if not completely eliminated, if RBI is represented at a sufficiently senior level on FIB, so that various aspects of the foreign collaborations having a bearing on exchange control could be examined more critically at the stage of granting approvals.

13.6 RBI is also not represented on the Inter-Ministerial Working Group constituted by Government to finalise the annual Import-Export Policy although many of the provisions of the Policy relate to exchange control and are required to be implemented by RBI. This also occasionally creates practical difficulties for RBI in interpretation of the policy provisions and/or implementation thereof. The Committee feels that these difficulties could be

avoided if a representative of RBI at a sufficiently senior level is associated with the Inter-Ministerial Working Group. The Committee has had the opportunity to discuss this issue with the Finance Secretary and the Commerce Secretary after submission of its Interim Report and to explain to them the relationale behind the recommendation.

13.7 The Committee, accordingly, recommends that RBI should be represented on FIB and also on the Inter-Ministerial Working Group constituted to finalise the annual Import-Export Policy, in the interest of better co-ordination between the organs responsible for laying down the policy guidelines and those responsible for implementation of those guidelines.

Setting up of standing Consultative Committee

13.8 The establishment of this Expert Committee by RBI to review exchange control regulations relating to exports and imports seems to have met a long felt need as is evident from the tremendous response it received from all quarters. Its specific terms of reference do not allow the Committee to deal with all the issues that were raised before it or the written submissions made to it. The Committee is, however, convinced that there is need for

a regular forum for exchange of ideas between RBI and trade and industry on matters of mutual concern falling within the purview of exchange control. By their very nature, exchange control policies have to be responsive to external factors and regular feedback from the users of the services of ECD is necessary to help the Department's endeavour to improve the quality of its customer service through simplification and rationalisation of procedures. The Committee is, therefore, of the view that there is need to create a machinery for review of the exchange control policies and procedures on an on-going basis. This objective could be achieved by setting up a broad based permanent Consultative Committee with members drawn from Government, RBI, commercial banks (authorised dealers) and industry, trade and commerce, which would play the role of an informal adviser to RBI on matters relating to the administration of exchange control. The Committee could meet at quarterly intervals and discuss various issues raised with RBI by representative bodies such as Export Promotion Councils, Chambers of Commerce and Industry, FIEO, AIEI, etc. The Committee could also be charged with the responsibility of undertaking at regular intervals a review of the monetary thresholds laid down by RBI for release of exchange for a variety of purposes.

13.9 The Committee, accordingly, recommends that RBI may set up a permanent Consultative Committee on the above lines. The forum should give sufficient representation to various interest groups which have to deal with ECD regularly.

13.i0 The Committee is given to understand that RBI has already taken a decision to constitute two Inter-institutional Committees, viz. (i) Personal Issues Committee to deal with exchange control matters concerning individuals and (ii) Corporate Issues Committee to deal with matters concerning the corporate sector. The two Committees would comprise members drawn from RBI, concerned ministries of Government of India, ECGC, Exim Bank, FEDAI, IBA, etc. RBI may like to associate members from representative trade bodies like FICCI, ASSOCHAM, FIEO, AIEI, etc. with these Committees. If the two Committees constituted by RBI are made sufficiently broad-based, it would meet the objective behind the Committee's recommendation regarding the setting up of a standing consultative machinery.

Co-ordination between RBI, Government Ministries and Government agencies like Enforcement Directorate, CCI&E, etc.

13.11 At present, RBI and the Enforcement Directorate (ED) work in close co-ordination. Issues of mutual interest are discussed in the meetings of Officers

in charge of Offices of ECD and ED at periodic intervals. The Committee is of the view that there is need to strengthen this co-ordination machinery by bringing within its ambit the office of the Chief Controller of Imports & Exports (CCI&E) and Customs Offices. Senior Officials of RBI, ED, CCI&E and Customs at all major centres should be able to meet periodically to discuss and sort out problems concerning more than one agency. The arrangement is expected to expedite the process of decision making on issues calling for advice/approvals from different agencies.

13.12 The Committee believes that this is a good idea. It, accordingly, recommends that RBI may, in consultation with Government, take steps to set up Consultative Committees on the above lines at all major centres such as Bombay, Calcutta, Madras and New Delhi.

Association of ECD Officers
with Export Promotion Councils

13.13 At present, Officers-in-charge of Offices of ECD attend the meetings of a few important Export Promotion Councils as invitees or observers. During these meetings, RBI's policy and procedures in regard to exchange control matters are clarified by them. The Committee feels that officials of ECD should

be familiarised with the functioning of major Export Promotion Councils like the Engineering Export Promotion Council as well as other important bodies like AIEI serving the interests of exporters. The Committee is of the view that RBI Officials at the junior and middle levels could be seconded to major Export Promotion Councils for a short duration to enable them to acquire proper insight into the functioning of the Export Promotion Councils and the problems brought to them by their members. The Committee had occasion to discuss this issue with representatives of Overseas Construction Council, Engineering Export Promotion Council and Gem and Jewellery Export Promotion Council, who were receptive to the idea.

13.14 The Committee, accordingly, recommends that RBI may formulate a scheme in consultation with important Export Promotion Councils, under which officers of RBI could be seconded to the Councils for short duration to enable them to get an insight into the working of the Export Promotion Councils.

Review of monetary thresholds

13.15 ECD has laid down certain monetary limits in the Manual for authorised dealers and in the Book of Instructions for its Offices, upto which they can allow remittances in foreign exchange. At present, there is no

system of review of these monetary thresholds at regular intervals.

13.16 The Committee recommends that RBI may undertake a review of various monetary thresholds at least once in two years. As suggested in paragraph 13.9 of this Report, RBI may seek the advice of the Consultative Committee~~s~~ set up by RBI, for conducting such periodic reviews.

Programme for implementation of the Report

13.17 A majority of the recommendations in this Report are such as can be implemented by RBI on its own. The Committee is happy to note that the process of implementation has already started in respect of recommendations included in its Interim Report.

13.18 Some recommendations in this Report would, however, need the concurrence of Government of India before their implementation. For example, the recommendations about increase in the prescribed period for realisation of value of exports made to Pakistan and Afghanistan and grant of general permission to authorised dealers to allow extension of time for realisation of export value subject to certain conditions would involve amendments to the statutory provisions. In certain other

cases, RBI may wish to consult with Government of India before introducing changes recommended by the Committee in the existing guidelines which were laid down in consultation with the Government. The Committee hopes that all such recommendations would also be implemented expeditiously by RBI.

13.19 Some recommendations in this Report call for co-ordination between RBI, Government Ministries such as Finance and Commerce and Government departments/agencies like Customs, DGTD, TFAI, etc. The Committee hopes that arrangements will be made for speedy implementation of all such recommendations under a time bound programme.

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CHAPTER XIVSUMMARY OF RECOMMENDATIONS

Sr. No.	Chapter & Paragraph number containing recommendation	Corresponding paragraphs in Exchange Control Manual containing relevant provisions	Gist of recommendation
(1)	(2)	(3)	(4)
<u>Export on 'Cash' Terms</u>			
1.	<u>Time limit for realisation of export proceeds</u>		
	3.2	11 A.9	The period for realisation of proceeds in respect of exports to Pakistan and Afghanistan may be raised from three months to six months to bring these two countries on par with others.
2.	<u>Extension of time</u>		
	3.6	11 C.28	Authorised dealers may be permitted to allow extension of time for realisation of export proceeds where the amounts have been paid by importers in local currencies but externalisation of funds is delayed due to domestic exchange control restrictions.
3.	<u>Reduction in Invoice Value</u>		
	3.10	11 C.23	<p>i) Exporters enjoying blanket permit facility may be allowed to accept, on their own, overseas importers' demands for reduction in invoice value upto 10 per cent of the value of shipments subject to a ceiling of Rs.10,000/- and compliance with floor price requirements, if any. Such cases should be reported to RBI for post-facto scrutiny.</p> <p>ii) Export of readymade garments and leather goods, which is subject to allocation of quotas by Government of India, may remain outside the scope of this facility.</p>

(1)	(2)	(3)	(4)
4.	<u>Quality Claims</u>	11 H.10	Powers may be delegated to authorised dealers to allow remittances towards small value claims on exports upto 10 per cent of the invoice value or Rs.20,000/- whichever is less.
	3.13		
5.	<u>Gifts to non-residents</u>	11 I.2	<p>i) The existing limit of Rs.50/- upto which gifts are allowed to be sent by residents to their non-resident relatives/friends on the strength of the senders' personal declarations and without compliance with GR etc.formalities may be raised to Rs.200/- and may cover all modes of despatch.</p> <p>ii) The existing limit of Rs.500/- upto which authorised dealers are permitted to issue certificates in favour of their regular constituents for sending gift articles to relatives/friends abroad may be raised to Rs.2000/- per capita per annum.</p>
	3.17		
6.	<u>Replacement of defective parts</u>	-	RBI may evolve a procedure to allow Indian exporters to reimburse overseas buyers the expenses towards cost of spares in replacement of defective parts, during the warranty period.
	3.19		
7.	<u>Undrawn Balances</u>	11 C.12 and 11 C.13	<p>i) RBI may, in consultation with Government of India, prepare a list of export commodities in respect of which exporters could be allowed to draw bills leaving undrawn balances upto specified percentage.</p> <p>ii) In respect of commodities included in the approved list, powers may be delegated to authorised dealers to accept export bills in cases where the balance left undrawn does not exceed 5 per cent of invoice value, even if the shipments are not covered by letters of credit.</p>
	3.22 and 3.25		

(2)	(3)	(4)
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<u>Undrawn Balances (Contd.)</u>	iii)	In respect of commodities included in the approved list, Offices of ECD may be permitted to approve applications to leave balances undrawn upto the percentages specified by Central Office of ECD.
	iv)	Pending combination of the RBI and ITC Blanket Permit Schemes as recommended by the Committee, exporters of cashew nuts holding blanket permits under the RBI Scheme may be allowed the facility to settle, on their own, small export claims upto 10 per cent of FOB value or Rs.10,000/-, whichever is less, as in the case of holders of blanket permits under the ITC Scheme.
	v)	Cochin Office of ECD may call up from authorised dealers all triplicate GR forms relating to export of cashew nuts outstanding for more than one year from the relative dates of shipments and close such cases on merits, provided the amount outstanding is less than 2.5 per cent of invoice value or Rs.5,000/-, whichever is less, and chances of realisation are rated poor.
<u>Exports to Overseas Warehouses of Indian companies/firms</u>	i)	In case of goods sent by exporters to their own warehouses abroad on consignment basis, RBI may evolve a special follow up procedure under which the GR forms relating to each shipment will be submitted by exporters to RBI for prior clearance and on their being passed by Customs, both copies of the forms will be sent directly to the
3.29 and 3.31	11 C.15	

(1)	(2)	(3)	(4)
8.	<u>Exports to Overseas Warehouses of Indian Companies/firms (Contd.)</u>		concerned offices of ECD instead of to authorised dealers. Subsequent follow up for realisation of export proceeds in such cases may be directly undertaken by RBI.
	<u>Exports on Consignment basis</u>	ii)	Inter-departmental Working Group may consider proposals for extension of time beyond 180 days at pre-shipment stage itself, in the case of exports of non-engineering goods on consignment basis made in favour of overseas parties other than the concerned exporters' own warehouses.
9.	<u>Agency Commission</u>	i)	The period of validity of registration certificates issued by RBI in respect of commission agency agreements may be raised to 5 years or till the validity of the relative agreements, whichever is earlier.
	3.43 and 3.45	11 H.1 to 11 H.8	
		ii)	Powers may be delegated to authorised dealers to allow remittances of agency commission upto 5 per cent of invoice value in respect of exports of 'non-select' list items and upto 10 per cent of invoice value in respect of exports of 'select' list items subject to overriding ceilings of Rs.25,000/- and Rs.50,000/- respectively. If lower percentages of commission are applicable in respect of any commodities, full details of the sub-ceilings may be furnished to authorised dealers.

(1)	(2)	(3)	(4)
9. <u>Agency Commission (Contd.)</u>			<p>iii) RBI may accept for registration, agency agreements providing for payment of commission at graded rates and upto a maximum percentage of value of export, (subject to maximum rates allowed by RBI for various commodities) instead of insisting on agency agreements providing for only fixed rates of commission.</p> <p>iv) RBI may allow sharing of commission by more than one agent within the maximum permissible rate of commission.</p> <p>v) Indian exporters may be allowed to pay agency commission in respect of shipments made to their own joint ventures abroad provided such exports are made on normal terms and not against equity participation of the Indian partners.</p> <p>vi) RBI may allow payment of agency commission by way of deduction from the invoice value of each shipment in respect of exports financed under rupee lines of credit extended by financial institutions/commercial banks in India. No agency commission should, however, be allowed to be paid in respect of exports financed under rupee lines of credit extended by Government of India.</p> <p>vii) RBI may selectively agree for payment of commission by exporters to their regular overseas agents in respect of exports made in favour of agents themselves on principal to principal basis.</p>

(1)	(2)	(3)	(4)
10.	<u>Testing Charges</u>		
	3.48	11 H.14	<p>i) Powers may be delegated to authorised dealers to allow remittances upto US dollars 1,000/- on account of charges for testing of products/equipment abroad, subject to the same conditions under which offices of RBI currently clear the applications.</p> <p>ii) Offices of ECD may be permitted to allow remittances on account of charges for testing products/equipment abroad upto US dollars 5,000/- subject to the same norms as are now applied by Central Office of ECD.</p> <p>iii) RBI may take up with Government of India, Ministry of Finance, the question of revision of the existing guidelines so that the responsibility for certification about non-availability of comparable testing facilities in India could be vested in a single nodal agency like DGTD.</p>
11.	<u>Legal Expenses</u>		
	3.52	11 H.13	<p>i) Powers may be delegated to authorised dealers to allow remittances upto US \$ 1,000/- per bill towards legal expenses in connection with dishonoured export bills.</p> <p>ii) Powers may be delegated to Offices of ECD to allow remittances towards legal expenses connected with export transactions to the extent of 25 per cent of the value of the shipment in question or US \$ 10,000/- whichever is less.</p>

(1)	(2)	(3)	(4)
12.	<u>Methods of payment for realisation of export value</u>	Chapter 4 and 11.A.10	<p>i) RBI may permit exporters of gem and jewellery, handicrafts, artware, etc. to accept direct from overseas buyers payment of export proceeds upto US dollars 10,000/- or its equivalent by means of bank drafts drawn in their favour.</p> <p>ii) RBI may selectively allow exporters of gem & jewellery, handicrafts, artware, etc. to accept direct from overseas buyers personal cheques for amounts upto US \$ 500/- or equivalent in payment of value of exports.</p>
13.	<u>Trade fairs/exhibitions abroad</u>	3.63 11 A.11	<p>i) TFAI may selectively delegate powers to well-organised Export Promotion Councils/Trade bodies to sponsor participation of Indian firms/companies in specialised trade fairs/exhibitions and to recommend to RBI release of exchange to the participants in cases where TFAI does not intend organising Indian participation.</p> <p>ii) Whenever pavilion space is booked by TFAI itself or the Indian firms/companies participate in any trade fair/exhibition on their own, they may obtain TFAI's clearance as hitherto.</p> <p>iii) TFAI may set up a formal Consultative Committee to obtain necessary feed-back from Trade and Industry. Such a Consultative Committee should be sufficiently broad-based so as to provide adequate representation to various trade bodies like Export Promotion Councils, Chambers of Commerce, etc.</p>

(1)	(2)	(3)	(4)
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Project Exports

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|-----|--|-------------|---|
| 14. | <u>Pre-bid Clearance - Powers of authorised dealers and Exim Bank.</u> | i) | The value limit of Rs.one crore upto which authorised dealers are empowered to clear, at the pre-bid stage, export proposals for supply contracts on deferred payment terms, turnkey contracts and civil construction contracts may be raised to Rs.two crores. |
| | 4.10 | D.7 and E.2 | |
| | | | ii) Powers may be delegated to Exim Bank to clear, at the pre-bid stage, export proposals for supply contracts on deferred payment terms, turnkey contracts and civil construction contracts upto the value of Rupees five crores subject to the same terms and conditions as are presently observed by authorised dealers while giving pre-bid clearance for proposals of a value upto Rupees one crore. Such proposals should be sponsored by authorised dealers (i.e. project exporters' bankers). |
| 15. | <u>Post-contract clearance by Working Group</u> | | All proposals for deferred credit exports and turnkey/ civil construction projects cleared by the Working Group at the pre-bid stage which fructify into contracts should again be referred to the Working Group for a post-contract package clearance. The formal approvals for various facilities should be issued by individual member-institutions to the exporters within a week on the basis of commitments made at the Working Group meetings convened for giving post-contract clearance. |
| | 4.14 | - | |

(1)	(2)	(3)	(4)
16.	<u>Inter-Project transfer of funds</u>	4.17 -	Requests for permission to effect inter-project transfers of funds upto US \$ 1 lakh may be dealt with by RBI, as hitherto. Proposals involving transfers in excess of US \$ 1 lakh may be placed before the Working Group for consideration.
17.	<u>Import/re-import of used machinery/equipment into India.</u>	4.18 -	ITC authorities may not insist on production of a certificate either from RBI or Exim Bank in support of applications for CCPs for import of used equipment/machinery/vehicles purchased from third country in connection with execution of overseas projects. They may obtain an affidavit from the project exporters themselves.
18.	<u>Review of on-going projects:</u>	4.20 -	The Working Group should conduct reviews of on-going overseas projects of large value, to begin with those exceeding, say, Rs.25 crores in value, at regular intervals. The representation of various member-institutions at such review meetings should be at a senior level.
19.	<u>Consortium of banks</u>	4.22 -	Where a consortium of banks undertakes the responsibility of providing a package of financial facilities for a contract abroad, the bank taking the largest share should assume the role of the consortium leader. The contractor should be required to apply only to the consortium leader for all financial facilities.
20.	<u>Overseas service contracts</u> i)	4.25 Part F Chapter 11	Service contracts requiring financial facilities involving foreign exchange liability should be treated on par with turnkey/civil construction contracts and should be subjected to pre-bid clearance of the Working Group.

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(3)

(4)

ii) As in case of turnkey and civil construction contracts, service contracts of all types may be cleared at the pre-bid stage by authorised dealers/Exim Bank subject to the value limits of Rs.two crores and Rs.five crores respectively.

21. Bridge-Finance

4.29 11 E.4

i) The working capital requirement of an overseas project at the peak point may be reckoned at 25 per cent of the contract value. The Working Group should insist on a minimum advance/down payment of 10 per cent, which may be lowered to 5 per cent in exceptional cases, while giving package clearance. The Working Group may grant approval for raising bridge finance for overseas projects upto a maximum of 20 per cent of the contract value.

ii). Applications for raising bridge finance even in excess of 20 per cent of contract value for overseas projects under execution should also be considered by the Working Group instead of being referred to Government of India (Ministry of Finance).

22. GR waivers for consumables

4.32 11 D.23

Authorised dealers may be permitted to issue GR waivers for export of consumable items by Indian companies/firms executing turnkey/civil construction contracts abroad on the basis of approvals in principle granted by the Working Group/RBJ.

(1)	(2)	(3)	(4)
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Imports23. Documentary evidence of
Import - follow up

5.4	13 A.35 to 13 A.37
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Authorised dealers should follow up all cases of imports with their customers for submission of documentary evidence. To enable RBI to initiate action against defaulters, authorised dealers may submit to it a quarterly statement giving details of cases where importers have failed to submit bills of entry or postal wrappers/certificates despite reminders.

24.	5.6	-
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In the case of imports by post, the postal authorities may issue certificates (in the prescribed form and in duplicate), at the time of clearance of goods, giving full particulars of imports, to enable importers to produce the certificates to authorised dealers as evidence of import.

25. Third party guarantees/
margins.

5.8	13 B.4
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Authorised dealers may be permitted to accept at their discretion, guarantees/margins from third parties while opening import letters of credit.

26. Issue of Import Licences
expressed in US dollars
and Indian Rupees.

5.17	-
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Import Trade Control authorities may express the value of all import licences in US dollars and its rupee equivalent at designated rate of exchange.

27. Authorised dealers' title
to import shipments

5.20	-
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In the case of dishonour by importers of import bills drawn under letters of credit, the opening banks, as joint legal holders of title to the goods, may be permitted to clear and store the goods without obtaining prior approval of ITC/Customs authorities, but subject to

(1)	(2)	(3)	(4)
			submission of a detailed report to them, ITC/Customs authorities may, in such cases, also permit the banks to sell the goods to recover their funds:-
28.	<u>Imports by post</u>		The limit of US \$ 1,000/- on import of goods by post, without prior permission of RBI, may be raised to US \$ 2,000/- per parcel subject to its being in conformity with ITC Regulations.
	5.23	13 C.2	
29.	<u>Import of instruments/gadgets</u>		Authorised dealers may be permitted to allow remittances towards import of complete instruments/gadgets as well as spares upto the value of Rs.1,000/- without prior permission of RBI, provided import of the item is permitted under the prevailing Import Policy.
	5.25	13 E.2	
30.	<u>Private imports</u>		The limit for advance remittance by authorised dealers on account of private imports may be raised from US \$ 200/- to US \$ 500/- in case of individuals and from US \$ 1,000/- to US \$ 2,000/- in case of institutions, subject to compliance with ITC regulation
	5.27	13 E.4	
31.	<u>Advance remittances</u>		In view of the disproportionately high foreign exchange cost involved in opening letters of credit, importers should be discouraged from opening Letters of Credit for small value imports. Instead powers may be delegated to authorised dealers to allow advance remittances against commercial imports upto a maximum of US \$ 1,000/- per shipment.
	5.29	13 E.4	

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Business Travel

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|-----|--|---------------|----------------------|---|
| 32. | <u>Composite Allocation of Foreign Exchange (CAFEX) scheme for travel abroad</u> | 6.5 to
6.8 | Chapter
15 | In order to obviate the need for companies/firms which are not eligible for issue of blanket permits but whose representatives have nevertheless to undertake frequent visits abroad, to approach RBI on individual occasions for release of exchange for business visits abroad, RBI may introduce a new scheme named 'Composite Allocation of Foreign Exchange (CAFEX) Scheme' under which block allocation of foreign exchange may be made by RBI in favour of the applicant company to enable its representatives to draw exchange through a designated authorised dealer, during the whole year. |
| 33. | <u>Extension of CAFEX Scheme to financial institutions</u> | 6.10 | - | The CAFEX Scheme may be extended to Indian financial institutions, e.g. IDBI, Exim Bank, ECGC, etc. and to commercial banks authorised to deal in foreign exchange. |
| 34. | <u>Per-diem rates of allowance- Review of</u> | 6.12 | - | RBI should undertake a review of the per diem rates for release of exchange for business travel abroad, once a year. RBI should enlarge the sources of information for such reviews. |
| 35. | <u>Medical Insurance cover</u> | 6.15 | - | RBI may pursue with General Insurance Corporation the question of early introduction of a scheme of insurance cover for Indian travellers against possible sickness overseas. |
| 36. | <u>Merger of Blanket Permit schemes</u> | 6.23 | Part C
Chapter 15 | The two blanket permit schemes viz. RBI Scheme and ITC Scheme may be merged into a single unified blanket permit scheme which should incorporate the best features of both the Schemes. |

(1)	(2)	(3)	(4)
37.	<u>Blanket Permit facility to shipping companies</u> 6.26 Part C Chapter 15		The blanket permit facility may be extended to Indian shipping companies.
38.	<u>Blanket Permits - No. of representatives</u> 6.29 -		The number of persons who can draw exchange against a Blanket Permit for business visits to the same country/ies at the same time (as a team) may be raised from two to three.
39.	<u>Expenses towards telex/telephone charges, etc.</u> 6.31 -		RBI may permit drawal of a reasonable amount of exchange against Blanket Permits for meeting expenses on telex/telephone and secretarial/interpreter's services within the overall limit stipulated by it.
40.	<u>Entertainment expenses</u> 6.33 -		RBI may permit drawal of additional exchange upto a reasonable extent under Blanket Permits for meeting entertainment expenses on special occasions, such as signing of collaboration agreements, inauguration of completed overseas projects, etc.
41.	<u>Issue of Certificates of export realisation</u> 6.35 -		RBI may issue fresh instructions to authorised dealers to ensure that while issuing certificates of realisation of export proceeds, the figures of realisations under 'select' list of export products and 'non-select' products are furnished separately.
42.	<u>US dollar accounts abroad</u> 7.2 -		In order to minimise the loss sustained by large exporters, who are also large importers, on account of two-way conversion of currencies on a regular basis, RBI may introduce a scheme under which such exporter-importers may be granted the facility of maintaining US dollar accounts abroad, on an experimental basis. The facility may be restricted

(1)	(2)	(3)	(4)
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to the following categories:

- a. Large exporter-importers with a minimum export turnover of Rs.10 crores coupled with a minimum import turnover of Rs.2.5 crores per annum.
- b. All units in Free Trade Zones (FTZs).
- c. 100 per cent Export-Oriented Units (EOUs).

43. Overseas Offices/
Representatives

8.8 Chapter
21

In regard to opening of offices and posting of representatives abroad, the Committee, recommends as under:-

- i) In respect of exporters desiring to open trading branches abroad, the existing eligibility criterion of annual export turnover may be raised from Rs.25 lakhs to Rs.50 lakhs for "Select" list goods and from Rs.50 lakhs to Rs.75 lakhs for "Non-select" list goods.
- ii) The facility of opening of offices/posting of representatives abroad may be extended to the following categories of exporters on merits, without insisting on the requirement of minimum export earnings -
 - a. 100 per cent Export Oriented Units;
 - b. Well established consultancy organisations in India with a potential for export of consultancy services of various kinds;

(1)	(2)	(3)	(4)
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c. Exporters of computer software with a potential to improve their export performance.

iii) RBI may make the initial exchange permits for remittance of maintenance expenses of overseas **offices/representatives** valid for 18 months. While conveying approvals for opening of offices abroad, RBI should convey an assurance that exchange facilities for a minimum period of 3 years or till the offices become self-supporting, whichever is earlier, will be granted.

44. Intermediary Trade and Counter-trade

9.6 Chapter
12

RBI and Government may examine the feasibility of granting following facilities for merchant exporters:-

i) Applications from merchant traders with an annual turnover of atleast Rs.10 crores to maintain dollar accounts abroad to finance their operations may be considered favourably. If the applicant companies also qualify for maintenance of US dollar accounts abroad as large exporter-importers (cf. Chapter VII of this Report), the two dollar accounts should be maintained separately and the transactions in the two should not be mixed up.

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- ii) Some merchant exporters may find it more convenient to operate through subsidiaries established abroad. If applications are received from any merchants with a minimum annual export turnover of Rs.10 crores to establish wholly owned subsidiaries abroad, the Inter-Ministerial Committee on Subsidiaries, functioning under the aegis of Ministry of Finance, may consider such applications favourably, under the overall Government policy.
- iii) RBI may consider, on a very selective basis, applications of Indian merchant-traders for the facility of stocking goods purchased by them pending their disposal after finding buyers ready to purchase the goods at profitable prices.
- iv) RBI may selectively waive the condition that both legs of a merchanting transaction should be on matching terms or terms favourable to the Indian merchant.
- v) In respect of the merchant - traders who are permitted to set up subsidiaries at important trading centres abroad for undertaking intermediary trade, RBI may consider applications of the Indian parent companies for extension of bank guarantees from India to cover the overseas

(1)	(2)	(3)	(4)
			<p>subsidiaries' bank borrowings to meet their working capital requirements.</p> <p>vi) RBI may also allow, on a limited scale, the facility of borrowing abroad (against guarantees to be issued from India) to the merchant-traders operating from India to meet their need for finance abroad.</p>
<u>Miscellaneous remittances</u>			ECD Offices may be permitted to allow remittances upto US \$ 10,000/- towards legal expenses in case of transactions not related to exports.
45.	<u>Legal expenses - Non-export transactions</u>	10.3	-
46.	<u>Advertising expenses</u>	10.6	11 H.17
47.	<u>Royalty/technical know-how fees</u>	10.12 and 10.13	24 A.11
			<p>RBI may allow remittances of royalty/technical know how fees on the basis of auditor's certificate produced by the applicant company/firm regarding adequacy of tax provision and after being satisfied about payment of taxes. In such cases, RBI should not insist on production of NOC/Tax Clearance Certificate from Income-tax authorities.</p>

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The first application for remittance of royalty/technical know-how fees may be dealt with by RBI and powers may be delegated to authorised dealers to allow remittances of subsequent instalments.

48. Foreign Currency loans.

10.15 -
and
10.18

RBI may, while approving foreign currency loans obtained by Indian firms/companies, grant a package approval to the designated authorised dealer to allow remittance of loan instalments falling due for repayment, as also to grant forward cover for each such instalment.

There should be no need for individual sub-borrowers to obtain approval of RBI for obtaining sub-loans from financial institutions like ICICI, IFCI, IDBI and commercial banks out of lines of credit/foreign currency loans raised by these financial institutions, once the proposal of the principal borrowers is approved by RBI.

Customer Service

49. Opening of new Offices of ECD

12.4

RBI should adopt a flexible, pragmatic and need-oriented approach towards the question of opening new offices of ECD. Decisions to open new offices should be guided by considerations of existing as well as potential volume of export-import trade and optimum size of geographical area to be served by each office.

50. Training

12.8 -

A fair number of officers attached to ECD should be afforded the opportunity to study new developments in international banking and

(1)	(2)	(3)	(4)
			acquire new skills by deputing them to overseas commercial banks and Central banks.
51.	12.9	-	<p>i) There should be regular exchange of training programme amongst the training institutions run by different commercial banks.</p> <p>ii) The training programmes conducted by the training establishments of commercial banks and RBI should be reviewed periodically.</p>
52.	12.10	-	RBI and commercial banks should make greater use of modern training techniques such as self teaching programmes, audio visual aids like slide projectors, VCR, etc. If necessary, RBI and commercial banks should engage the services of consultants/ specialists for preparation of training material.
53.	12.14	-	RBI may extend necessary faculty support to the recognised trade bodies for the Workshops/Seminars conducted by the latter on topics related to exchange control and exchange management.
54.	<u>Placement of staff in RBI</u>		i) In a specialised Department like ECD, there should be a judicious mix of staff with sufficient experience and new entrants, especially at the officer level.
	12.16	-	<p>ii) Frequent transfers of personnel attached to ECD may be avoided.</p> <p>iii) In the interest of continuity, ECD may be permitted to maintain a core officer-staff with reasonably long periods of service.</p>

(1)	(2)	(3)	(4)
55. <u>Placement of staff in commercial banks</u>	12.17	-	<p>Authorised dealers should ensure that the staff posted to Foreign Exchange Departments have reasonable experience and sound training in foreign exchange. Frequent transfers of staff to and from the Foreign Exchange Department should be avoided. There should also be a judicious mix of experienced personnel and new entrants in the Foreign Exchange Departments.</p>
56. <u>Review of branch set up of commercial banks</u>	12.20	-	<p>RBI should persuade authorised dealers to reduce the number of category 'B' branches, to make their network functionally viable and more effective.</p>
57. <u>Mechanisation in commercial banks</u>	12.23	-	<p>Large authorised dealers should undertake a thorough review of their systems and procedures with a view to examining the feasibility of gradual introduction of mechanisation and computerisation in important areas of their foreign exchange operations.</p>
58. <u>Creation of proper Data Base</u>	12.26	-	<p>RBI should create a proper Data Base and Management Information System for timely processing, storage and retrieval of data with the help of the sophisticated computer facility at its disposal.</p>
59. <u>Simplification of forms</u>	12.28	-	<p>ECD may undertake a thorough review of existing application forms, taking into consideration the recommendations made by the Committee on individual topics in this Report. If necessary, they may take the assistance of their Management Services Department.</p>

(1)	(2)	(3)	(4)
60.	<u>Revised Edition of ECM</u>		RBI may bring out, as early as possible, a completely revised Edition of the Exchange Control Manual
	12.31	-	
61.	<u>Creation of Facilitation Units</u>		RBI may create Facilitation Units at least in 4 major Offices of ECD to provide assistance to the members of public calling at those offices. Similar Units may gradually be opened in other offices also.
	12.33	-	
<u>Other recommendations</u>			
62.	<u>Inspection machinery of ECD</u>		The strength of the personnel in the Inspection Units of Central ECD and Offices of ECD should be critically examined in the light of need for conducting inspection of category 'A' branches of authorised dealers in particular and inspection of all licensed agencies in general, and these units should be properly strengthened by providing additional staff. The staff attached to Inspection Units should be well trained and sufficiently experienced.
	13.4	-	
63.	<u>RBI representation on FIB and Working Group on Import-Export Policy</u>		In the interest of better co-ordination between the Government organs responsible for laying down the policy and those responsible for its implementation, RBI should be represented on the Foreign Investment Board and the Inter-ministerial Working Group constituted by Government of India to finalise the annual Import-Export Policy.
	13.7	-	
64.	<u>Standing Consultative Machinery</u>		RBI may set up a permanent consultative machinery to serve as a forum for exchange of ideas between ECD and trade and industry on matters of mutual concern. The Committee
	13.9 and 13.10	-	

(1)	(2)	(3)	(4)
			should be sufficiently broad based and include representatives of RBI, Government of India, Commercial Banks, ECGC and trade bodies like Export Promotion Councils, Chambers of Commerce, FIEO, AIEI, etc.
65.	<u>Regional Consultative Committees: Government agencies.</u>	13.12 -	RBI may set up Consultative Committees comprising representatives of RBI, CCI&E, Customs and Enforcement Directorate, at all major centres like Bombay, Calcutta, Madras and New Delhi to deal with problems concerning more than one agency.
66.	<u>Secondment of RBI officials to Export Promotion Councils</u>	13.14 -	RBI may formulate a scheme in consultation with important Export Promotion Councils, under which a few RBI Officers could be seconded to such Councils for short duration, to familiarise themselves with the working thereof.
67	<u>Review of monetary thresholds</u>	13.16 -	RBI may undertake review of various monetary thresholds at least once in two years.

APPENDIX 'A'

RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
BOMBAY 400 023

EC.C.O.EXCOM. / -82. 198

December , 1982

To

Dear Sir,

Expert Committee on Exchange
Control Regulations relating
to Exports & Imports

You may have come to know through press reports that Reserve Bank of India has set up an Expert Committee under the Chairmanship of Shri M.S.Patwardhan, Managing Director, NOCIL to review the current Exchange Control regulations relating to export and import of goods and services and to suggest measures for simplifying and rationalising the procedures to achieve improvement in customer service. The composition of the Expert Committee and its broad terms of reference are set out in Annexure I.

2. The broad topics which have been identified for a critical examination by the Committee are given in the enclosure. The list is, however, illustrative and not exhaustive. Having regard to the high priority accorded to export promotion by the Government of India, the emphasis of the Committee's study will be on Exchange Control regulations, procedures and documentation relating to exports. This will cover export of commodities on normal or 'cash' terms, export of engineering goods under deferred payment arrangements, export of turn-key and civil construction projects ("Project Exports") and export of consultancy services. The Committee will also examine exchange control regulations and procedures relating to imports. It will also review procedures relating to payment of commission on exports to agents abroad, remittances towards royalties, licence fees and technical know-how fees; opening of offices and stationing of representatives abroad, travel abroad for export promotion and other business purposes such as negotiating large value imports/collaboration arrangements, etc.

3. The main focus of the Committee's study is on simplification and rationalisation of Exchange Control procedures and documentation with a view to removing irritants and mitigating the rigours in

complying with the procedural formalities. In that context, it would also examine the scope for further decentralisation of work between the Central Office and the regional offices of Exchange Control Department and for delegation of powers to authorised dealers in foreign exchange to deal with various types of applications. The terms of reference of the Committee however, do not envisage examination of problems relating to export credit. This also holds good for matters relating to taxation. The Committee is also not expected to go into problems connected with the Import and Export Trade Policy, the structure and quantum of various export incentives and such other issues which are not directly connected with Exchange Control.

4. As an important organisation interested in healthy and sound development of the country's external trade, you may have valuable suggestions to make to the Committee in the light of your own or your members' dealings with the Exchange Control Department. We would greatly welcome any such suggestions which you believe would help solve the problems encountered by you or your members as users of the services of the Exchange Control Department. To facilitate a quick examination, the suggestions

A.4

should be related to specific areas (covered by the Committee's terms of reference and any other related matter) and should be explained briefly and clearly, preferably in a tabular form. It would be useful if the suggestions are ranked broadly in order of their importance. If the suggestions can also be grouped into three categories (short term, medium term and long term), it will be helpful.

5. The Committee has to submit its report within a short period of six months. It would, therefore, be greatly appreciated if your suggestions are sent to us in duplicate before the 31st January 1983 positively.

Yours faithfully,

Sd/-
(S.S.Thakur)
Controller
Member-Secretary

Illustrative list of Topics in respect
of which suggestions can be sent to the
Expert Committee on Exchange Control
Regulations relating to Exports & Imports

(Note : References to the Exchange Control
Manual - 1978 Edition are given
in brackets)

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1. Export of goods and services (Chapter 11):

(A) Export of goods on cash terms:

- i) Time limit for realisation of export proceeds -
procedure for obtaining extension of time
from Exchange Control.
Problems relating to realisation of export
outstandings.
- ii) GR procedure - Compliance with various
Customs formalities - Short-shipment and
shut-out cases.
- iii) Quality claims on account of inferior quality
of goods supplied, late shipment penalties,
shortage in quantity supplied etc. - Settlement
of small value claims through blanket permits.
- iv) Reduction in invoice value demanded by overseas
consignees on various grounds at the time of
retirement of shipping documents.
- v) Problems relating to export of goods on
consignment basis.
- vi) Problems relating to export of goods by post.

- vii) Exports towards equity participation in joint ventures abroad.
- viii) Payment of agency commission
 - Procedure for registration of selling agency agreements.
 - Procedure for remittance of commission on ad-hoc basis.
- ix) Part drawings
 - Procedure for follow-up of undrawn balances.
 - Parameters for closure of cases on adjustment of undrawn balances.
- x) GR Waivers for free supply of spares, replacement of defective goods free of charge during warranty period.
- xi) Remittances towards -
 - a) Testing charges for testing of products/equipment abroad.
 - b) Legal expenses connected with exports.
 - c) Advertising abroad
- xii) Surrender of cash incentives/REP Licences in case of reimport of goods
- xiii) Participation of Indian exporters in Trade Fairs abroad
 - Role of Trade Fair Authority
 - Role of Export Promotion Councils
 - Export of samples under GR waivers
 - Reimport of samples or repatriation of sale proceeds if samples are sold abroad after exhibition
- xiv) Forward exchange facilities (Chapter 7)
 - Booking, extension and cancellation of forward contracts.

- xv) Delegation of powers to authorised dealers and their responsibilities regarding exports.
- xvi) Problems relating to Free Trade Zones (Santa Cruz Electronic Export Processing Zone and Kandla Free Trade Zone) and 100 per cent Export-Oriented Units.

B) Project Exports (Turnkey & Civil Construction Contracts) :

Problems connected with project exports -

- i) Working Group mechanism
- ii) Timely realisation of export value of goods exported from India for projects.
- iii) Inter-project transfer of funds.
- iv) Bridge finance for working capital
- v) Extension of guarantees.
- vi) Problems relating to quarterly statements to be sent to Exchange Control Department in respect of overseas bank accounts and expenditure on maintenance of site offices.
- vii) Third-country imports (Procurement from countries other than India and the project employer's country) of materials, machinery/equipment and motor vehicles.

C) Export of Services (Part 'F' of Chapter 11) :

Problems - procedural or otherwise - relating to consultancy/technical service contracts, management contracts and other service contracts including those for erection and maintenance of plants abroad.

D) Export of engineering goods under deferred credit arrangements :

Problems faced by exporters.

2. Imports :

A) Import of goods (Chapter 13) :

- i) Imports under OGL and specific import licences - Rules and procedures for opening letters of credit, effecting remittances against imports and production of evidence of import such as Exchange Control copies of Bills of Entry, Postal wrappers, etc.
- ii) Imports on deferred payment terms - advance payments against imports.
- iii) Imports through canalizing agencies.
- iv) Excess payments against import licences.
- v) Imports by post.
- vi) Private imports.
- vii) Forward exchange facilities (Chapter 7)
- Booking, extension and cancellation of forward contracts.
- viii) Delegation of powers to authorised dealers and their responsibilities relating to import transactions.

B) Import on Services :

Import of technical know-how, engagement of expatriates, etc.

3. Merchanting trade (Chapter 12):

- i) Authorised dealers' powers and responsibilities
- ii) Documentation and procedural formalities
- iii) Forward exchange facilities.

4. Other items relating to Exports & Imports :

A) Travel abroad for export promotion -

i) Blanket permit facility - RBI Scheme and ITC Scheme.

ii) Ad hoc applications for travel abroad for export promotion and other business purposes such as negotiation of large imports/collaboration arrangements, etc. (Chapter 15).

B) Overseas representations (Chapter 21) -

i) Opening of liaison offices or trading branches abroad.

ii) Posting of representatives abroad - Procedure for remittance of maintenance expenses - Renewal of exchange permits.

C) Procedure for remittances towards payment of

royalty, licence fee, technical know-how

fees (with or without collaboration

arrangements) (Chapter 24, Part A).

List of organisations which sent delegations
to meet the Committee at different centres

Bombay

1. Federation of Indian Export Organisations.
2. Authorised Dealers.
3. All India Manufacturers' Organisation.
4. Foreign Exchange Dealers' Association of India.
5. Engineering Export Promotion Council.
6. Overseas Construction Council.
7. Indian National Shipowners' Association.
8. Basic Chemicals, Pharmaceuticals and Cosmetics Export Promotion Council.
9. Gem & Jewellery Export Promotion Council.

Calcutta

10. Bengal Chamber of Commerce.
11. Indian Chamber of Commerce.
12. Merchant's Chamber of Commerce.
13. Bharat Chamber of Commerce.
14. Calcutta Chamber of Commerce.
15. Tea Board and Tea Trade.
16. Indian Jute Mills Association.

Cochin

17. Coir Board.
18. Indian Coir Association.
19. Marine Products Export Development Authority.

21. Authorised Dealers.
 22. Cashew Export Promotion Council.
 23. Indian Cashew Exporters Association.
 24. Cochin Chamber of Commerce.
 25. Ernakulam Chamber of Commerce.
- Madras
26. Collector of Customs.
 27. Engineering Export Promotion Council (Southern Zone).
 28. Federation of Indian Export Organisations (Southern Region).
 29. Leather Export Promotion Council.
 30. Handloom Export Promotion Council.
 31. Export Promotion Council for Finished Leather & Leather Manufactures.
 32. Chemical and Allied Products Export Promotion Council.
 33. Andhra Chamber of Commerce.
 34. Hindustan Chamber of Commerce.
 35. Madras Chamber of Commerce & Industry.
 36. Southern Indian Chamber of Commerce & Industry.
 37. Association of Indian Engineering Industry (Southern Region).
 38. Association of Indian Automobile Manufacturers.
 39. All India Ancillary & Automobile Industries Association.
 40. Institute of Company Secretaries (Southern Region).

New Delhi

41. Federation of Indian Chambers of Commerce & Industry.
42. Associated Chambers of Commerce & Industry.
43. Chief Controller of Imports & Exports.
44. Enforcement Directorate.
45. Trade Fair Authority of India.

Appendix CList of abbreviations used
in the Report

1. AIEI Association of Indian Engineering Industry.
2. ASSOCHAM Associated Chambers of Commerce & Industry.
3. CAFEX Scheme Composit Allocation of Foreign Exchange Scheme.
4. CBDT Central Board of Direct Taxes.
5. CCI&E Chief Controller of Imports & Exports.
6. CCP Customs Clearance Permit.
7. DBOD Department of Banking Operations and Development.
8. DGTD Directorate General of Technical Development.
9. ECD Exchange Control Department.
10. ECGC Export Credit & Guarantee Corporation.
11. ECM Exchange Control Manual.
12. ED Enforcement Directorate.
13. EEPC Engineering Export Promotion Council.
14. EOU Export Oriented Unit.
15. Exim Bank Export Import Bank of India.
16. FEDAI Foreign Exchange Dealers' Association of India.
17. FERA Foreign Exchange Regulation Act.
18. FIB Foreign Investment Board.
19. FICCI Federation of Indian Chambers of Commerce & Industry.

20. FIEO Federation of Indian Export Organisations.
21. FTS Foreign Travel Scheme.
22. GIC General Insurance Corporation of India.
23. IBA Indian Banks' Association.
24. IBRD International Bank for Reconstruction & Development (World Bank).
25. ICICI Industrial Credit & Investment Corporation of India.
26. IDBI Industrial Development Bank of India.
27. IECD Industrial & Export Credit Department.
28. IFCI Industrial Finance Corporation of India.
29. IMF International Monetary Fund.
30. ITC Import Trade Control.
31. KFW Kreditanstalt Für Weideraufbau.
32. MDAF Market Development Assistance Fund.
33. NTS Neighbourhood Travel Scheme.
34. OGL Open General Licence.
35. OPDC Overseas Project Development Council.
36. RBI Reserve Bank of India.
37. SIA Secretariat For Industrial Approvals.
38. TFAI Trade Fair Authority of India.