BLOCK II:
Laws relating to Economic Practices

Unit-1
Laws Relating to Economic Practices: IDRA 1951, FEMA 1999

Unit Structure:

1.1 Introduction

Economic practices in India are regulated with various laws which ensure that the various economic practices are free from monopoly, maximize societal well-being and provide an environment for the overall economic development of the country. These regulations safeguard interests of different groups of the stakeholders and enables implementation of industrial, fiscal and monetary policies of the Government. The industrial policies of the government are implemented with the help of the Industrial (Development and Regulation) Act, 1951. This Act regulates the development and activities various Industries which are set up in India. The fiscal and monetary policies are implemented with the help of the, not exclusively, Foreign Exchange Management Act, 1999.

1.2 Objectives

This unit shall familiarize students with the regulatory laws relating to economic practices. After completion of the unit the students shall be able to-

- comprehend the various definitions under the act.,
- discuss the features and objectives of the acts.,
- comprehend the various provisions of the IDRA, 1951 and FEMA, 1999.

1.3 IDRA 1951: Introduction

The Industries Development and Regulation Act (IDRA), 1951 was enacted and came in to force on 8th May, 1952 under a notification from the Central Government of India published in the Gazette of India. It was originally divided into four (04) chapter, three (03) schedules and thirty two (32) sections upon its inception.

1.3.1 Scope of the IDRA 1951

The IDRA 1951 is applicable to the whole of India including the state of Jammu and Kashmir. This act is applicable only to Industrial undertaking, which engage in manufacture of any of the articles mentioned in the first schedule of the act.

According to the section 3 (d) an "industrial undertaking" means any undertaking pertaining to a scheduled industry carried on in one or more factories by any person or authority including Government.

Therefore the act is applicable to all the industries whose factories are engaged in manufacturing of the articles/goods mentioned in the first schedule of the act. It was applicable to all such existing industries at the point of the inception of the act as well as new industries set up in India.

Stop to Consider

A factory, according to section 3 (c) "factory" means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on-

i) with the aid of power, provided that fifty or more workers are working or were working thereon on any day of the preceding twelve months; or

ii) without the aid of power, provided that one hundred or more workers are working or were working thereon on any day of the preceding twelve months and provided further that in no part of such premises any manufacturing process is being carried on with the aid of power.

1.3.2 Exemptions from the IDRA 1951

The industries exempt from the act are not specifically mentioned in the act itself. However industries which are not engaged in the manufacturing of scheduled articles are exempt. And if any of the acts supersedes the IDRA 1951 and as such an industrial undertaking or class of industries becomes exempt from IDRA 1951 by the virtue of that act.

Furthermore sec 29B empowers the central government that if it is of the opinion that an industrial undertaking or a class of industrial undertaking has small number of workforce or is at an early stage of development and any or all of the provisions of the act are not in the public interest then it may exempt the same from any or all of the provisions of the act through a gazette notification.

Self Assessment Question

1. Will a service industry fall under the purview of the IDRA 1951?

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1.3.3 Objectives of IDRA 1951

The main objectives of the IDRA 1951 are as follows:

i) **Empower the Government with regulatory powers:** the act enables the government to regulate the existing and new industries which engage in manufacturing of the articles outlined in the first schedule of the act.

ii) **Implementation of Industrial Policies:** The government has dynamic industrial policies and the act provides a medium to implement those policies. The government has the power to amend the act to align it with its current industrial policies.

iii) **Promotion of Industrial Development:** The act empowers the government to exempt certain industrial undertakings or class of industrial undertakings from its provisions which in turn help in development of those industries. The regulatory powers bestowed by this act enable the government to restrict entry in to manufacturing of scheduled articles through licensing which was very nurturing for the domestic industries post liberalisation. Thus it prevented monopoly and regional imbalance in development of industries.

Self Assessment Question

1. Why was the IDRA 1951 enacted?

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1.4 Important Definitions According to the Act

Some important definitions given under the section 3 of the act are as follows:

i) **Advisory Council [Sec 3(a)]:** means the Central Advisory Council established under section 5

ii) **Current Assets [Sec 3 (ab)]:** means bank balances and cash and includes such other assets or reserves as are expected to be realised in cash or sold or consumed within a period of not more than twelve months in the ordinary course of business, such as, stock-in-trade, amounts due from sundry debtors for sale of goods and for services rendered, advance tax payments and bills receivable, but does not include sums credited to a provident fund, a pension fund, a gratuity fund or any other fund for the welfare of the employees, maintained by a company owning an industrial undertaking.

iii) **Current Liabilities [Sec 3 (ac)]:** means liabilities which must be met on demand or within a period of twelve months from the date they are incurred; and includes any current liability which is suspended under section 18FB.

iv) **Development Council [Sec 3 (b)]:** means a Development Council established under section 6.

v) **Factory [Sec 3 (c)]:** means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on-

(1) with the aid of power, provided that fifty or more workers are working or were working thereon on any day of the preceding twelve months; or

(2) without the aid of power, provided that one hundred or more workers are working or were working thereon on any day of the preceding twelve months and provided further that in no part of such premises any manufacturing process is being carried on with the aid of power.

vi) **Industrial Undertaking [Sec 3 (d)]:** means any undertaking pertaining to a scheduled industry carried on in one or more factories by any person or authority including Government.

vii) **Notified Order [Sec 3 (e)]:**means an order notified in the Official Gazette.

viii) **Owner [Sec 3 (f)]:** in relation to an industrial undertaking means the person who, or the authority which, has the ultimate control over the affairs of the undertaking, and, where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the undertaking.

ix) **Scheduled Industry [Sec 3 (i)]:** means any of the industries specified in the First Schedule.

Self Assessment Question

1. What constitutes current account transactions?

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1.5 IDRA 1951: Provisions of the Act

The provisions of the act can be classified into three (03) broad categories:

1. Preventive/Restrictive Provisions:

a) **Registration (Sec 10) and Licensing (Sec 11):** Every owner of existing industrial undertaking as well as industrial undertakings of which the central government is an owner must register the undertaking within a period specified by the central government in the official gazette in a prescribed manner [Sec 10].

And in case of new industrial undertaking cannot be established without obtaining a license under this Act which may contain conditions such as the location of the undertaking and the minimum standards in respect of size [Sec 11].

Post liberalization most of the articles mentioned in the first schedule have been omitted and as such no licensing is required for industries manufacturing those articles.

b) **Enquiry/Investigation into Industrial Undertaking (Sec 14, sec 15 and Sec 16):** Before granting of license to any industrial undertaking under sec 11 of the act, sec 14 grants the central government the power to make an investigation and prepare a report thereof.

Sec 15 of the act empowers the central government to cause investigation into scheduled industries if there is a fall or likely fall in the production of the articles, deterioration or a likely deterioration in the quality of such articles, an unjustifiable rise or likely rise in the prices of such articles. The investigation may be caused if it becomes necessary to conserve a resource of national importance which is utilized by such industrial undertaking or if any industrial undertaking is being managed in a manner highly detrimental to the scheduled industry or to public interest.

Sec 16 of the act empowers the government, after the completion of the investigation/enquiry in pursuance of sec 15, to issue such directions to the industrial undertaking or undertakings concerned as may be appropriate such as regulating the production of any article and fixing standards for production, requiring them to take appropriate steps to stimulate development, prohibition from any practice/act which might reduce its or their production, capacity or economic value and controlling the prices, or regulating the distribution, of any article or class of articles which have been the subject-matter of investigation.

c) **Cancellation/Revocation and amendment of License/ Registration [Sec 10A and Sec 12 respectively]:** Sec 10A empowers the central government with revocation of license if the registration was obtained by misrepresentation of an essential fact, that any industrial undertaking has ceased to be registerable under this Act by reason of any exemption granted under this Act or that for any other reason the registration has become useless or ineffective and therefore requires to be revoked.

Sec 12 of the act empowers the central government to either revoke or amend the license issued for establishment of new undertaking in case of failure to establish or to take effective steps to establish the new industrial undertaking in respect of which the license has been issued within the time specified.

2. Reformative/Curative Provisions

a) Acquire control over management (Sec 18A): This section empowers the central government to take over the management or control of any industrial undertaking by appointing an authorized person or a body of person through a notified order if it is of the opinion that the industrial undertaking has failed to comply with the directions issued by it in pursuance of sec 16 or if in pursuance of sec 15 it was found that the industrial undertaking is being managed in a manner highly detrimental to the industry concerned or to the public interest.

b) Revival or running of Units undergoing Liquidation (Sec 18FA): It empowers the central government, if in its opinion that an industrial undertaking going through liquidationshould be run or re-started, as the case may be, for maintaining or increasing the production, supply or distribution of articles or class of articles relatable to the scheduled industry, needed by the general public, that Government may make an application to the High Court praying for permission to appoint any person or body of persons to take over the management of the industrial undertaking or to exercise in respect of the whole or any part of the industrial undertaking such functions of control as may be specified in the application.

c) Provide relief to certain industrial undertakings (Sec 18FB): This section empowers the central government in relation to an industrial undertaking, management/control of which has been taken over under sec 18A, sec 18AA or sec 18FA that it is necessary so to do in the interests of the general public with a view to preventing fall in the volume of production of any scheduled industry, it may, by notified order, declare that:

- all or any of the enactments specified in the Third Schedule [The Industrial Employment (Standing Orders) Act, 1946 (20 of 1946),The Industrial Disputes Act, 1947 (14 of 1947)&The Minimum Wages Act, 1948 (11 of 1948)] shall not apply or shall apply with such adaptations, whether by way of modification, addition or omission (which does not, however, affect the policy of the said enactments) to such industrial undertaking, as may be specified in such notified order.

- the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force immediately before the date of issue of such notified order shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified in the notified order.

d) **Power to control supply, distribution, price, etc., of certain articles (Sec 18G):** This section empowers the central government to control prices at which any articles may be bought or sold, regulate the distribution, transport, disposal, acquisition, possession, use or consumption of any such article, prohibit or withhold from sale any such article, regulate stocks, regulate or prohibit commercial or financial transactions relating to such article etc.

3. Development/Constructive Provisions

a) **Establishment of Central Advisory Council (Sec 5):** This section empowers the central government through a notified order to form a Central Advisory Committee which shall advise on matters regarding the development and regulation of scheduled industries as well as any other matters regarding the administration of IDRA 1951.

It shall consist of a Chairman and other members not exceeding thirty (30) in number, all appointed by the central government . The members shall be the representatives of owners of industrial undertakings, employees, consumers and any other such person who in the opinion of the central government ought to be represented.

b) **Establishment of Development Councils (Sec 6):** The central government is empowered to form Development Councils for any scheduled industry or group of industries.

The Development Council shall consist of representative of interest of owners of industrial undertaking or group of industries, its employees, its consumers and people possessing special knowledge/ skill in technical or other aspect of the concerned industrial undertaking or group of industries.

Its functions according to the act are toperform such functions of a kind specified in the Second Schedule as may be assigned to it by the Central Government[Sec 6 (4)]. The functions mentioned in the second schedule are given below:

- Recommending targets for production, co-ordinating production programmes and reviewing progress from time to time.
- Suggesting norms of efficiency with a view to eliminating waste, obtaining maximum production, improving quality and reducing costs.
- Recommending measures for securing the fuller utilisation of the installed capacity and for improving the working of the industry, particularly of the less efficient units.
- Promoting arrangements for better marketing and helping in the devising of a system of distribution and sale of the produce of the industry which would be satisfactory to the consumer.
- Promoting standardisation of products.
- Assisting in the distribution of controlled materials and promoting arrangements for obtaining materials for the industry.
- Promoting or undertaking inquiry as to materials and equipment and as to methods of production, management and labourutilisation, including the discovery and development of new materials, equipment and methods and of improvements in those already in use, the assessment of the advantages of

different alternatives and the conduct of experimental establishments and of tests on a commercial scale.

- Promoting the training of persons engaged or proposing engagement in the industry and their education in technical or artistic subjects relevant thereto.
- Promoting the retaining in alternative occupations of personnel engaged in or retrenched from the industry.
- Promoting or undertaking scientific and industrial research, research into matters affecting industrial psychology and research into matters relating to production and to the consumption or use of goods and services supplied by the industry.
- Promoting, improvements and standardisation of accounting and costing methods and practice.
- Promoting or undertaking the collection and formation of statistics.
- Investigating possibilities of decentralising stages and processes of production with a view to encouraging the growth of allied small scale and cottage industries.
- Promoting the adoption of measures for increasing the productivity of labour, including measures for securing safer and better working conditions and the provision and improvement of amenities and incentives for workers.
- Advising on any matters relating to the industry (other than remuneration and conditions of employment) as to which the Central Government may request the Development Council to advise and undertaking inquiries for the purpose of enabling the Development Council so to advise, and
- Undertaking arrangements for making available to the industry information obtained and for advising on matters with which the Development Councils are concerned in the exercise of any of their functions.

Self Assessment Question

1. Are the provisions of IDRA 1951 relevant to the industries post liberalization?

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1.6 IDRA 1951: Contravention and Penalties

Sec 24 of the act states that if any person contravenes provisions of this act then they shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and, in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Sec 24A states that if any person makes false statement when prompted or in the books to be maintained by them under any provision of this act then they shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

Check Your Progress

1. What industries fall under the purview of the IDRA 1951? Which class of industries are exempt from the act?
2. What is an industrial undertaking according to IDRA 1951?
3. Explain the provisions of the IDRA 1951.

1.7 FEMA 1999: Scope and Objectives of the Act

After the LPG policy was adopted in the year 1991 the Foreign Exchange Regulation Act (FERA), 1973 had become obsolete. It was imperative to repeal and replace the act to accommodate for the changes that the globalization brought. Thus Foreign Exchange Management Act (FEMA), 1999 came into force from 1st June 2000 to consolidate and amend the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India. The bare act consisted of seven (07) chapters and forty nine (49) sections upon its inception.

1.7.1 FEMA 1999 Scope

According to sec 1 (2) and (3) it extends to the whole of India and applicable to all branches, offices and agencies outside India owned or controlled by a person resident in India and also to any contravention there under committed outside India by any person to whom this Act applies.

1.7.2 FEMA 1999 Objectives

- Amendment of obsolete FERA, 1973
- Simplification of foreign exchange law to facilitate external trade and payments.
- Implementation of foreign trade policy in India by the RBI and Central Government through rules passed under the act.
- Free reign over current account transactions.
- Promotion of overall economic development and management of foreign exchange in India.

Stop to Consider

Some differences between FERA 1973 and FEMA 1999

FERA 1973	FEMA 1999
Treated foreign exchange as a scarce resource.	Treated foreign exchange as an asset.
It was to regulate the transactions involving foreign exchange.	It is related to management of foreign exchange
It was restrictive in nature.	It is less restrictive in nature.
Contraventions were treated as a criminal offence.	Contraventions are treated as a civil offence.
Appeals were made to High Court.	Appeals are made to Special Director (Appeals) or designated Tribunal.
Citizenship was the basis to determine residential status of a person.	Residential status of the person is dependent on whether the person stayed 182 days or more in the previous financial year.

1.8 FEMA 1999: Important Definitions According to the Act

i. Authorised Person: It means an authorised dealer, money changer, off-shore banking unit or any other person for the time being authorised under sub-section (1) of section 10 to deal in foreign exchange or foreign securities.

ii. Capital Account Transaction: It means a transaction which alters the assets or liabilities, including contingent liabilities, outside India of persons resident in India or assets or liabilities in India of persons resident outside India, and includes transactions referred to in sub-section (3) of section 6.

iii. Currency: It includes all currency notes, postal notes, postal orders, money orders, cheques, drafts, travellers cheques, letters of credit, bills of exchange and promissory notes, credit cards or such other similar instruments, as may be notified by the Reserve Bank.

iv. Current Account Transaction: It means a transaction other than a capital account transaction and without prejudice to the generality of the foregoing such transaction includes-

- payments due in connection with foreign trade, other current business, services, and short-term banking and credit facilities in the ordinary course of business,
- payments due as interest on loans and as net income from investments,
- remittances for living expenses of parents, spouse and children residing abroad, and
- expenses in connection with foreign travel, education and medical care of parents, spouse and children.

v. Export: with its grammatical variations and cognate expressions, means-

- the taking out of India to a place outside India any goods,
- provision of services from India to any person outside India.

vi. Foreign Currency: It means any currency other than Indian currency.

vii. Foreign Exchange: It means foreign currency and includes-

- deposits, credits and balances payable in any foreign currency,
- drafts, travellerscheques, letters of credit or bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency,

- drafts, travellerscheques, letters of credit or bills of exchange drawn by banks, institutions or persons outside India, but payable in Indian currency.

viii. Foreign Security: It means any security, in the form of shares, stocks, bonds, debentures or any other instrument denominated or expressed in foreign currency and includes securities expressed in foreign currency, but where redemption or any form of return such as interest or dividends is payable in Indian currency.

ix. Import: with its grammatical variations and cognate expressions, means bringing into India any goods or services.

x. Indian Currency: It means currency which is expressed or drawn in Indian rupees but does not include special bank notes and special one rupee notes issued under section 28A of the Reserve Bank of India Act, 1934 (2 of 1934).

xi. Person: It includes-

- an individual,
- a Hindu undivided family,
- a company,
- a firm,
- an association of persons or a body of individuals, whether incorporated or not,
- every artificial juridical person, not falling within any of the preceding sub-clauses, and
- any agency, office or branch owned or controlled by such person.

xii. Person resident in India: It means-

- a person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include-

  (a) a person who has gone out of India or who stays outside India, in either case-

  (i) for or on taking up employment outside India, or

(ii) for carrying on outside India a business or vocation outside India, or

(iii) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period

(b) a person who has come to or stays in India, in either case, otherwise than-

(i) for or on taking up employment in India, or

(ii) for carrying on in India a business or vocation in India, or

(iii) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period.

- any person or body corporate registered or incorporated in India.
- an office, branch or agency in India owned or controlled by a person resident outside India.
- an office, branch or agency outside India owned or controlled by a person resident in India.

xiii. Repatriate To India: It means bringing into India the realised foreign exchange and-

- the selling of such foreign exchange to an authorised person in India in exchange for rupees, or
- the holding of realised amount in an account with an authorised person in India to the extent notified by the Reserve Bank.

and includes use of the realised amount for discharge of a debt or liability denominated in foreign exchange and the expression "repatriation" shall be construed accordingly.

xiv. Security: It means shares, stocks, bonds and debentures, Government securities as defined in the Public Debt Act, 1944 (18 of 1944), savings certificates to which the Government Savings Certificates Act, 1959 (46 of 1959) applies, deposit receipts in respect of deposits of securities and units of the Unit Trust of India established under sub-section (1) of section 3 of the Unit Trust of India Act, 1963 (52 of 1963) or of any mutual fund and includes certificates of title to securities, but does not include bills of exchange or promissory notes other than Government promissory notes or any other instruments which may be notified by the Reserve Bank as security for the purposes of this Act.

xv. Service: It means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, medical assistance, legal assistance, chit fund, real estate, transport, processing, supply of electrical or other energy, boarding or lodging or both, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service.

xvi. Transfer: includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien.

1.9 FEMA 1999: Provisions of the Act

The provisions of the Act can be divided into two groups:

Regulatory/Management Provisions

A. Dealing in Foreign Exchange (Sec. 3)

Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall-

(a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person;

(b) make any payment to or for the credit of any person resident outside India in any manner;

(c) receive otherwise through an authorised person, any payment by order or on behalf of any person resident outside India in any manner.

Explanation.—For the purpose of this clause, where any person in, or resident in, India receives any payment by order or on behalf of any person resident outside India through any other person (including an authorised person) without a corresponding inward remittance from any place outside

India, then, such person shall be deemed to have received such payment otherwise than through an authorised person.

(d) enter into any financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, any asset outside India by any person.

Explanation.—For the purpose of this clause, "financial transaction" means making any payment to, or for the credit of any person, or receiving any payment for, by order or on behalf of any person, or drawing, issuing or negotiating any bill of exchange or promissory note, or transferring any security or acknowledging any debt.

B. Holding of foreign exchange, etc (Sec. 4)

Save as otherwise provided in this Act, no person resident in India shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India.

C. Current account transactions (Sec. 5)

Any person may sell or draw foreign exchange to or from an authorised person if such sale or drawal is a current account transaction:

Provided that the Central Government may, in public interest and in consultation with the Reserve Bank, impose such reasonable restrictions for current account transactions as may be prescribed.

Stop to Consider

All current transactions are permitted if the sale or drawl of foreign exchange is done to or from an authorized person, unless specified by the RBI or the Central Governmentas per section 6(4) of the Foreign Exchange Management Act, 1999 and Foreign Exchange Management (Current Account Transactions) Rules, 2000. Some examples of current account transaction are given below (sale or drawl of foreign exchange for the purpose of):

1) Gift or donation
2) Maintenance of close relatives abroad
3) Expenses in connection with medical treatment abroad
4) Studies abroad

The following current account transactions are prohibited:

i. Remittances out of lottery winnings

ii. Remittance of income from racing/ riding etc. or any other hobby
iii. Remittance for purchase of lottery tickets, banned/ prescribed magazines, football pools, sweepstakes, etc.
iv. Payment of commission on exports made towards equity investment in Joint Ventures/ Wholly Owned Subsidiaries abroad of Indian companies
v. Remittance of dividend by any company to which the requirement of dividend balancing is applicable
vi. Payment of commission on exports under Rupee State Credit Route, except commission up to 10% of invoice value of exports of tea and tobacco
vii. Payment related to "Call Back Services" of telephones
viii. Remittance of interest income on funds held in Non-Resident Special Rupee (Account) Scheme

Drawal of foreign exchange by any person is prohibited for travel to Nepal and/ or Bhutan and/ or a transaction with a person resident in Nepal or Bhutan.

D. Capital account transactions (Sec. 6)

(1) Subject to the provisions of sub-section (2), any person may sell or draw foreign exchange to or from an authorised person for a capital account transaction.

(2) The Reserve Bank may, in consultation with the Central Government, specify-

(a) any class or classes of capital account transactions, involving debt instruments, which are permissible.

(b) the limit up to which foreign exchange shall be admissible for such transactions.

(c) any conditions which may be placed on such transactions.

Provided that the Reserve Bank or the Central Government shall not impose any restrictions on the drawal of foreign exchange for payment due on account of amortisation of loans or for depreciation of direct investments in the ordinary course of business.

(3) *This sub section has been omitted*

(4) A person resident in India may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

(5) A person resident outside India may hold, own, transfer or invest in Indian currency, security or any immovable property situated in India if such currency, security or property was acquired, held or owned by such person when he was resident in India or inherited from a person who was resident in India.

(6) Without prejudice to the provisions of this section, the Reserve Bank may, by regulation, prohibit, restrict, or regulate establishment in India of a branch, office or other place of business by a person resident outside India, for carrying on any activity relating to such branch, office or other place of business.

(7) For the purposes of this section, the term "debt instruments" shall mean, such instruments as may be determined by the Central Government in consultation with the Reserve Bank.

Stop to Consider

Permissible Capital Account Transactions (Notification No. FEMA 20 /2000-RB dated 3rd May 2000)

Subject to the provisions of the Act or the rules or regulations or direction or orders made or issued thereunder, any person may sell or draw foreign exchange to or from an authorized person for a capital account transaction specified in the Schedules:

I. Schedule I: **Classes of capital account transactions of persons resident in India-**

a) Investment by a person resident in India in foreign securities.
b) Foreign currency loans raised in India and abroad by a person resident in India.
c) Transfer of immovable property outside India by a person resident in India.
d) Guarantees issued by a person resident in India in favour of a person resident outside India.
e) Export, import and holding of currency/currency notes.

f) Loans and overdrafts (borrowings) by a person resident in India from a person resident outside India.
g) Maintenance of foreign currency accounts in India and outside India by a person resident in India.
h) Taking out of insurance policy by a person resident in India from an insurance company outside India.
i) Loans and overdrafts by a person resident in India to a person resident outside India.
j) Remittance outside India of capital assets of a person resident in India.
k) Sale and purchase of foreign exchange derivatives in India and abroad and commodity derivatives abroad by a person resident in India.

Provided that the transaction is within the limit, if any, specified in the regulations relevant to the transaction.

II. Schedule II: **Classes of capital account transactions of persons resident outside India-**

a) Investment in India by a person resident outside India, that is to say,
   i) issue of security by a body corporate or an entity in India and investment therein by a person resident outside India; and
   ii) investment by way of contribution by a person resident outside India to the capital of a firm or a proprietorship concern or an association of persons in India.
b) Acquisition and transfer of immovable property in India by a person resident outside India.
c) Guarantee by a person resident outside India in favour of, or on behalf of, a person resident in India.
d) Import and export of currency/currency notes into/from India by a person resident outside India.
e) Deposits between a person resident in India and a person resident outside India.
f) Foreign currency accounts in India of a person resident outside India.
g) Remittance outside India of capital assets in India of a person resident outside India.

Provided that the transaction is within the limit, if any, specified in the regulations relevant to the transaction.

ProhibitedCapital Account Transactions (Notification No. FEMA 20 /2000-RB dated 3rd May 2000)

Save as otherwise provided in the Act, rules or regulations made thereunder-

a) no person shall undertake or sell or draw foreign exchange to or from an authorised person for any capital account transaction.

b) no person resident outside India shall make investment in India, in any form, in any company or partnership firm or proprietary concern or any entity, whether incorporated or not, which is engaged or proposes to engage—

   i) in the business of chit fund, or

   ii) as Nidhi Company, or

   iii) in agricultural or plantation activities, or

   iv) in real estate business, or construction of farm houses, or

   v) in trading in Transferable Development Rights (TDRs).

E. Export of goods and services (Sec. 7)

1) Every exporter of goods shall-

(a) furnish to the Reserve Bank or to such other authority a declaration in such form and in such manner as may be specified, containing true and correct material particulars, including the amount representing the full export value or, if the full export value of the goods is not ascertainable at the time of export, the value which the exporter, having regard to the prevailing market conditions, expects to receive on the sale of the goods in a market outside India,

(b) furnish to the Reserve Bank such other information as may be required by the Reserve Bank for the purpose of ensuring the realisation of the export proceeds by such exporter.

(2) The Reserve Bank may, for the purpose of ensuring that the full export value of the goods or such reduced value of the goods as the Reserve Bank determines, having regard to the prevailing market conditions, is received without any delay, direct any exporter to comply with such requirements as it deems fit.

(3) Every exporter of services shall furnish to the Reserve Bank or to such other authorities a declaration in such form and in such manner as may be specified, containing the true and correct material particulars in relation to payment for such services.

F. Realisation and repatriation of foreign exchange (Sec. 8)

Save as otherwise provided in this Act, where any amount of foreign exchange is due or has accrued to any person resident in India, such person shall take all reasonable steps to realise and repatriate to India such foreign exchange within such period and in such manner as may be specified by the Reserve Bank.

G. Exemption from realisation and repatriation in certain cases (Sec. 9)

(a) possession of foreign currency or foreign coins by any person up to such limit as the Reserve Bank may specify;

(b) foreign currency account held or operated by such person or class of persons and the limit up to which the Reserve Bank may specify;

(c) foreign exchange acquired or received before the 8th day of July, 1947 or any income arising or accruing thereon which is held outside India by any person in pursuance of a general or special permission granted by the Reserve Bank;

(d) foreign exchange held by a person resident in India up to such limit as the Reserve Bank may specify, if such foreign exchange was acquired by way of gift or inheritance from a person referred to in clause (c), including any income arising there from;

(e) foreign exchange acquired from employment, business, trade, vocation, services, honorarium, gifts, inheritance or any other legitimate means up to such limit as the Reserve Bank may specify; and

(f) such other receipts in foreign exchange as the Reserve Bank may specify.

H. Authorised person (Sec. 10)

(1) The Reserve Bank may, on an application made to it in this behalf, authorise any person to be known as authorised person to deal in foreign exchange or in foreign securities, as an authorised dealer, money changer or off-shore banking unit or in any other manner as it deems fit.

Duties of an authorized person [Sec. 10 (4) & (5)]

A. An authorised person shall, in all his dealings in foreign exchange or foreign security, comply with such general or special directions or orders as the Reserve Bank may, from time to time, think fit to give, and, except with the previous permission of the Reserve Bank, an authorised person shall not engage in any transaction involving any foreign exchange or foreign security which is not in conformity with the terms of his authorisation under this section.

An authorised person shall, before undertaking any transaction in foreign exchange on behalf of any person, require that person to make such declaration and to give such information as will reasonably satisfy him that the transaction will not involve, and is not designed for the purpose of any contravention or evasion of the provisions of this Act or of any rule, regulation, notification, direction or order made thereunder, and where the said person refuses to comply with any such requirement or makes only unsatisfactory compliance therewith, the authorised person shall refuse in writing to undertake the transaction and shall, if he has reason to believe that any such contravention or evasion as aforesaid is contemplated by the person, report the matter to the Reserve Bank.

Enforcement Provisions

A. Directorate of Enforcement (Sec. 36)

(1) The Central Government shall establish a Directorate of Enforcement with a Director and such other officers or class of officers as it thinks fit, who shall be called officers of Enforcement, for the purposes of this Act.

(2) Without prejudice to the provisions of sub-section (1), the Central Government may authorise the Director of Enforcement or an Additional Director of Enforcement or a Special Director of Enforcement or a Deputy Director of Enforcement to appoint officers of Enforcement below the rank of an Assistant Director of Enforcement.

(3) Subject to such conditions and limitations as the Central Government may impose, an officer of Enforcement may exercise the powers and discharge the duties conferred or imposed on him under this Act.

B. Appointment of Adjudicating Authority (Sec. 16)

(1) For the purpose of adjudication under section 13, the Central Government may, by an order published in the Official Gazette,

appoint as many officers of the Central Government as it may think fit, as the Adjudicating Authorities for holding an inquiry in the manner prescribed after giving the person alleged to have committed contravention under section 13, against whom a complaint has been made under sub-section (3) (hereinafter in this section referred to as the said person) a reasonable opportunity of being heard for the purpose of imposing any penalty.

C. Appellate Tribunal (Sec. 18)

The Appellate Tribunal constituted under sub-section (1) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976), shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017 (7 of 2017), be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.[2]

D. Appeal to Special Director (Appeals) (Sec. 17)

(1) The Central Government shall, by notification, appoint one or more Special Directors (Appeals) to hear appeals against the orders of the Adjudicating Authorities under this section and shall also specify in the said notification the matter and places in relation to which the Special Director (Appeals) may exercise jurisdiction.

(2) Any person aggrieved by an order made by the Adjudicating Authority, being an Assistant Director of Enforcement or a Deputy Director of Enforcement, may prefer an appeal to the Special Director (Appeals).

(3) Every appeal under sub-section (1) shall be filed within forty-five days from the date on which the copy of the order made by the Adjudicating Authority is received by the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed.

Provided that the Special Director (Appeals) may entertain an appeal after the expiry of the said period of forty-five days, if he is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Special Director (Appeals) may after giving the parties to the appeal an opportunity

of being heard, pass such order thereon as he thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Special Director (Appeals) shall send a copy of every order made by him to the parties to appeal and to the concerned Adjudicating Authority.

(6) The Special Director (Appeals) shall have the same powers of a civil court which are conferred on the Appellate Tribunal under sub-section (2) of section 28 and-

(a) all proceedings before him shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860);

(b) shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

E. Powers of Central Government

1. Suspension of operation of this Act (Sec. 40)

(1) If the Central Government is satisfied that circumstances have arisen rendering it necessary that any permission granted or restriction imposed by this Act should cease to be granted or imposed, or if it considers necessary or expedient so to do in public 18 interest, the Central Government may, by notification, suspend or relax to such extent either indefinitely or for such period as may be notified, the operation of all or any of the provisions of this Act.

(2) Where the operation of any provision of this Act has under sub-section (1) been suspended or relaxed indefinitely, such suspension or relaxation may, at any time while this Act remains in force, be removed by the Central Government by notification.

(3) Every notification issued under this section shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the

notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

2. Power of Central Government to give directions (Sec. 41)

For the purposes of this Act, the Central Government may, from time to time, give to the Reserve Bank such general or special directions as it thinks fit, and the Reserve Bank shall, in the discharge of its functions under this Act, comply with any such directions.

3. Removal of difficulties (Sec. 45)

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything not inconsistent with the provisions of this Act for the purpose of removing the difficulty: 19 Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

4. Power to make rules (Sec. 46)

(1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for,-

(a) the imposition of reasonable restrictions on current account transactions under section 5;

(aa) the instruments which are determined to be debt instruments under sub-section (7) of section 6;

(ab) the permissible classes of capital account transactions in accordance with sub-section (2A) of section 6, the limits of admissibility of foreign exchange, and the prohibition, restriction or regulation of such transactions.

F. Powers of RBI (Sec. 47)

1) The Reserve Bank may, by notification, make regulations to carry out the provisions of this Act and the rules made thereunder.

2) Without prejudice to the generality of the foregoing power, such regulations may provide for-

a) the permissible classes of capital account transactions, the limits of admissibility of foreign exchange for such transactions, and the prohibition, restriction or regulation of certain capital account transactions under section 6;

b) the manner and the form in which the declaration is to be furnished under clause (a) of sub-section (1) of section 7;

c) the period within which and the manner of repatriation of foreign exchange under section 8;

d) the limit up to which any person may possess foreign currency or foreign coins under clause (a) of section 9;

e) the class of persons and the limit up to which foreign currency account may be held or operated under clause (b) of section 9;

f) the limit up to which foreign exchange acquired may be exempted under clause (d) of section 9;

g) the limit up to which foreign exchange acquired may be retained under clause (e) of section 9;

h) export, import or holding of currency or currency notes;

i) any other matter which is required to be, or may be, specified.

Stop to Consider

All regulations made by the Reserve Bank before the date on which the provisions of this section are notified under section 6 and section 47 of this Act on capital account transactions, the regulation making power in respect of which now vests with the Central Government, shall continue to be valid, until amended or rescinded by the Central Government.

1.10 FEMA 1999: Contraventions and Penalties

Section 13 (1) states that if any person contravenes any provision of this Act, or contravenes any rule, regulation, notification, direction or order issued in exercise of the powers under this Act, or contravenes any condition subject to which an authorisation is issued by the Reserve Bank, he shall, upon adjudication, be liable to a penalty up to thrice the sum involved in such contravention where such amount is quantifiable, or up to two lakh rupees where the amount is not quantifiable, and where such contravention is a continuing one, further penalty which may extend to five thousand rupees for every day after the first day during which the contravention continues.

According to sec. 13 (1A) if any person is found to have acquired any foreign exchange, foreign security or immovable property, situated outside India, of the aggregate value exceeding the threshold prescribed under the proviso to sub-section (1) of section 37A, he shall be liable to a penalty up to three times the sum involved in such contravention and confiscation of the value equivalent, situated in India, the Foreign exchange, foreign security or immovable property. Furthermore sec. 13 (1C) states that in addition to the penalty imposed under sub-section (1A), an imprisonment for a term which may extend to five years and with fine may be imposed.

Check Your Progress

1. What is current account transaction?
2. Who is an authorized person?
3. What are the powers of the Directorate of Enforcement?

1.11 Summing Up

The Indian economy has undergone numerous changes over the decades after the attainment of its independence. After the independence the Indian economy was socialistic and hence efforts were made to have public ownership by regulating private industries as well as make the conditions conducive for the Domestic Industries to grow. This was achieved through Industrial (Development and Regulation) Act, 1951 which also facilitated in implementation of industrial policies from time to time. Post liberalisation most of the scheduled industries were deregularised barring a few. Around the same time it was imperative to repeal the now obsolete Foreign Exchange Regulation Act, 1973 and introduce a new act which would cater to the globalization policies of 1991. Hence Foreign Exchange Management Act, 1999 was introduced which facilitated in easier Foreign Exchange transactions as restrictions were lifted on current account transactions. FEMA, 1999 also facilitates in implementing monetary policies put forward by the RBI and the Central Government.

1.12 Model Questions

1. What are the objectives of IRDA 1957?
2. Define the following according to IRDA Act.
   (a) Current Asset (b) Current liabilities
   (c) Industrial Undertaking (d) Schedule Industry
3. What are the objectives and scope of FEMA 1999
4. Who is a person resident in India According to FEMA 1999?
5. What are the most important regulatory provision of FEMA 1999.
6. What is the scope of the powers of the central government under FEMA 1999?
7. Is FEMA 1999 unrestrictive in nature? Put your views.

1.13 References and Suggested Readings

FEMA 1991, its subsequent amendments and RBI circulars.
IDRA 1951 and its subsequent amendments.
Francis Cherunilam, *Business Environmet.* New Delhi:Himalya Publishing House

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Unit-2
Foreign Trade (Development and Regulation) Act 1992

Unit Structure:

2.1 Introduction

Foreign trade or International trade is the exchange of capital, goods, and services across international borders or territories. As we know international trade has been present throughout much of history, it's economic, social, and political importance has been on the rise in recent times. Countries all over the world require goods and services to satisfy wants of their people.

Production of goods and services requires resources. Every country has only limited resources. No country can produce all the goods and provide all the services that it requires. It has to buy some of them from other countries what it cannot produce or can produce less than its requirements. Simultaneously, it also sells to other countries the goods which it has in surplus quantities. International/ Foreign trade permits countries to expand their markets and access goods and services that otherwise may not have been available domestically. As a result of international trade, the market is more competitive. This eventually results in more competitive pricing and brings a cheaper product home to the ultimate consumer. The five main causes of foreign trade are differences in technology, differences in resource endowments, differences in demand, the presence of economies of scale, and the presence of government policies. India too is indulged in buying and selling of different types of goods and services from and to other countries.

2.2 Objectives

After completing this unit you will be able to–

- understand foreign Trade and its Importance,
- understand foreign Trade Policy/ Exim Policy,
- point out objectives of Foreign Trade Policy,
- discuss foreign Trade (Development and Regulation) Act, 1992,
- explain various export Promotion Measures.

2.3 *Need and Importance of Foreign Trade*

Foreign Trade Policy of any nation is very crucial for the free flow of economy and the overall economic development of the country. This policy helps in accelerating the financial growth, facilitating a free trade and liberalization as well as improving the overall standard of living of its people. The points given below elucidate the need and importance of foreign trade to a country.

1. *Division of Labour and Specialisation*

Foreign trade leads to division of labour and specialisation worldwide. Some countries have abundant natural resources as compared to others. They should export raw materials and import finished goods from those countries which are advanced in skilled manpower and technology. This gives an advantage to all the countries and thereby leading to division of labour and specialisation.

2. *Optimum Allocation and Utilisation of Resources*

Due to specialisation, unproductive lines can be eliminated and wastage of resources is avoided. In other words, resources are channelised for the production of only those goods which would offer highest returns. Thus, there is reasonable allocation and utilization of resources at the international level with the help of foreign trade.

3. Parity of Prices

Prices can be controlled with the help of foreign trade. It helps to keep the demand and supply position stable, which in turn stabilises the prices of products in the market, making allowances for transport and other marketing expenses.

4. Availability of Choices

Foreign trade helps in providing a healthier choice to the consumers. It assists in making available new varieties to consumers all over the world.

5. Ensures Quality and Standard Goods

Now days foreign trade is highly competitive, to maintain and increase the demand for goods the exporting countries have to keep on improving the quality of goods. Thus, quality and standardised products are produced.

6. Raises Standard of Living

Imports can assist in raising the standard of living of the people. This is because people can have an alternative of new and better varieties of goods and services. By consuming new and better varieties of goods, people can increase their standard of living.

7. Generate Employment Opportunities

Foreign trade helps in creating employment opportunities, by increasing the mobility of labour and resources. It generates direct employment in import and export sector and indirect employment in other sector of the economy such as Industry, Service Sector (insurance, banking, transport, and communication) etc.

8. Economic Development

Foreign Trade facilitate economic development of a nation. This is because with the import of capital goods and technology, a nation can grow in all sectors of the economy, i.e. agriculture, industry and service sector. With the help of exports a country can generate foreign exchange and helps in overall economic development.

9. Assistance during Natural Calamities

At the time of natural calamities such as earthquakes, floods, famines, etc., the affected countries face the crisis of shortage of necessary goods. Foreign trade relations with other countries facilitate import of food grains and medicines to help the affected people.

10. Promotes World Peace

Foreign trade facilitates transfer of technology and other assistance from developed countries to developing countries. It brings different countries closer as a result of economic relations arising out of trade agreements. Thus, foreign trade creates a friendly atmosphere and promotes world peace as such countries try to uphold gracious relations among themselves.

2.4 Foreign Trade Policy

The Foreign Trade Policy (FTP) was introduced by the Government of India to extend the export of goods and services, generating employment and increasing value addition in the country. Foreign Trade Policy is a set of guidelines and instructions established by the Directorate General of Foreign Trade (DGFT) in matters connected to the import and export of goods in India. The Government of India, Ministry of Commerce and Industry announces Foreign Trade Policy every five years. The Government, through the implementation of this policy, seeks to nurture the manufacturing and service sectors. With the help of this policy the Government primarily focuses on adopting a twin strategy of promoting traditional and sunrise sectors of exports including services. Further, it aims to simplify the process of doing business. The new Foreign Trade Policy (2015-20) came into force on April 1, 2015. The policy is updated every year on the 31st of March and the modifications, improvements and new schemes are effective from 1st April of every year. On April 1,2021 India was to unveil the Foreign Trade Policy 2021-2026. The existing policy was extended by a year due to Covid-19, which was to end on March 31. At present the Government decided to further extend it for Six more months. The current Foreign Trade Policy will now be valid upto September 30, 2022. Amidst global pressure, Covid-19, and the vision of a self-reliant India, the task of formulating and implementing the policy will be far more daunting.

2.5 Export Import Policy (EXIM) Policy

Indian EXIM Policy contains various policy related to decisions taken by the Government in the area of Foreign Trade, i.e. regarding imports and exports of the country and more especially export promotion measures, policies and procedures related thereto. Trade Policy of the nation is prepared and announced by the Central Government (Ministry of Commerce and Industry). India's Export Import Policy also known as Foreign Trade Policy, in general, and aims at developing export potential, improving export performance, encouraging foreign trade and creating positive balance of payments position.

2.6 India's EXIM Policy/ Foreign Trade Policy 2015 - 2020.

The Government of India, Ministry of Commerce and Industry announced New Foreign Trade Policy on 01st April 2015 for the period 2015-2020, earlier this policy known as Export Import (Exim) Policy. After every five years foreign trade policy needs amendments in general and aims at improving export potential and creates positive BOP position of the country. The Export Import Policy (EXIM Policy) or Foreign Trade Policy (FTP) is revised every year on the 31st of March and the modifications, alterations, improvements and new schemes become effective from April month of each year.

2.7 Objectives of Foreign Trade Policy (2015-20)

The Foreign Trade Policy for 2015-20 seeks to achieve the following objectives:

i) To provide a stable and sustainable policy environment for foreign trade in goods and services;

ii) To link the rules, procedures and incentives for exports and imports with other initiatives such as Digital India, Make in India and Skill India to create an Export Promotion Mission for India;

iii) To encourage the diversification of India's export by helping various sectors of the economy to gain global competitiveness with a view to promote exports;

iv) To create an architecture for India's global trade engagement with a vision to expanding its markets and better integrating with major regions, thereby increasing the demand for India's product and contributing to the government's flagship Make in India programme;

v) To provide a mechanism for regular assessment in order to rationalise imports and reduce the trade imbalances.

With the implementation of Foreign Trade Policy 2015-2020, the India's share in world trade is expected to be double from the present level of 3% by the year 2020. By taking measures for import substitution on one side, Foreign Trade Policy 2015-2020 focuses on increasing exports at the present scenario of increasing current account deficit. It is expected that the new Foreign Trade Policy comprises necessary measures to boost productivity and earn exportable surplus at competitive rates in exports.

Foreign Trade is the important factor in economic development of any nation. International trade is a crucial part of development strategy and it can be an effective mechanism of financial growth, job opportunities and poverty reduction in an economy. Foreign trade in India encompasses all imports and exports to and from India. India has prepared strong foreign trade policies and reformed these as and when required with the process of globalisation and liberalization. The Ministry of Commerce and Industry at the level of Central Government has the responsibility to administer such operations. India's foreign trade considerably transformed since 1991. India has good trading relations with all developed and developing countries in the world. Approximately more than fifty percent of India's total export trade is with Asia and ASEAN region and about sixty percent of India's total imports are with the same countries. The composition of India's import goods comprises mineral fuels including oil, electrical machinery and equipment, etc which are required to meet the developmental requirements of country. In the composition of export; country sells as petroleum products, jewellery, automobiles etc.

Stop to Consider

There is not much difference between Foreign Trade Policy and Exim Policy. They are basically two names for the same policy. It was in 2004 that Commerce and Industry Minister Kamal Nath decided it would be more appropriate to call the policy the foreign trade policy. Currently, foreign trade policy (FTP) also known as EXIM (export-import) policy is regulated by the Foreign Trade Development and Regulation Act, 1992. It lays down the ground rules and also modifies them for carrying out the country's exports and imports.

2.8 Regulation of Foreign Trade

Control of foreign trade in India dates back to the early years of the Second World War. Import Control was introduced in 1940 as a war time measure under the Defence of India Rules with the primary objective of conserving the foreign exchange resources and restricting physical imports so as to reduce the pressure on the limited available shipping space. Initially the import of only 68 commodities mainly consumer goods, were brought under control. Subsequently, with the increasing pressure on foreign exchange resources, import control was extended to other commodities as well.

After the end of the war, the Defence of India Rules lapsed and hence in September 1946, the Emergency Provision (Continuance) Ordinance, 1946 was promulgated to continue the import trade control. This was ultimately replaced by the Imports and Exports (Control) Act 1947, which came into force with effect from 25th March 1947. This Act gave the Government enormous powers of control over the foreign trade of India. This imports and exports were controlled by the Government under the Imports (Control) Order and Exports (Control) Order issued under this Act. The Imports and Exports (Control) Act 1947, was replaced by the Foreign Trade Development and Regulation Act 1992 (FTDRA).

Besides the FTDR Act, there are some laws which control the trade in certain items. For instance the export of antiquities is regulated under the Antiquities and Art Treasures Act 1972, export of coffee is regulated by the Coffee Board under the Indian Coffee Act 1942, export of tea is regulated under the Tea Act 1953, etc. The export and import of currency notes, banknotes and coins have been controlled by the Reserve Bank of India under the Foreign Exchange Regulation Act 1973. The major concern of Government in the past was restriction of imports with a view of controlling the trade deficit and protection of domestic industries against foreign competition. Imports were therefore, very much restricted by prohibition of imports of many items, import licensing, very high import duties and foreign exchange restrictions. The foreign trade policy was characterised by the overtone of negativism.

2.9 The Foreign Trade (Development and Regulation) Act, 1992

The foreign policy of India is governed and regulated by the Foreign Trade (Development and Regulation) Act, 1992. This Act was established on the 7th of August in the year 1992. The Act hasn't been originated as a separate act to regulate the foreign policy, but the same came into existence as a replacement to the Import and Exports (Control) Act, 1947. Today, the entire scenario of imports and exports in India is regulated and managed by the Foreign Trade (Development and Regulation) Act, 1992. This act has eliminated all the existing nuances of the previously introduced act and has given the Government of India some of the most enormous powers to control it. This act is considered to be a supreme legislation in accomplishment of the foreign trade taking place in the country. The Act has been incorporated with a major intention to provide a proper framework as to the development as well as standardization of the foreign trade by the way of facilitating imports and enhancing the exports in the country and all the other matters related to the same.

Under this Act, various powers have been bestowed upon the Central Government. According to the provisions of this act, the Central Government has all the power to make any provisions that are related to foreign trade in order to fulfill the objectives of the act. This Act also empowers the government to make any provisions in tandem to the formulations of import as well as export policies governing throughout the country. The Act further provides for the appointment of the Director General by the Central Government by notifying this appointment in the Official Gazette for carrying out all the foreign trade policies as per the provisions provided.

2.10 Salient Features of The Foreign Trade (Development and Regulation) Act 1992

The following are considered to be the salient features of the act:

- This Act replaced the earlier Act used to be called as Import and Export (Control) Act 1947.
- It has empowered the Central Government to make provisions for development and regulation of Foreign trade by facilitating imports into, and augmenting exports from India and for all matters connected therewith or incidental there to.
- The Central Government can prohibit, restrict and regulate exports and imports, in all or specified cases as well as subject them to exemptions.
- It authorizes the Central Government to formulate and announce an Export and Import policy and also amend the same from time to time, by notification in the Official Gazette.

- It provides for the appointment of a Director General of Foreign trade by the Central Government for the purpose of the Act. He shall advise Central Government in formulating export and import policy and implementing the policy.
- Under the Act, every importer and exporter must obtain an Importer Exporter code number (IEC) from Director General of Foreign trade or from the authorized officer.
- The Director General or any other officer so authorized can suspend or cancel a licence issued for export or import of goods in accordance with the Act. But he does it after giving the licence holder a reasonable opportunity of being heard.
- As per the provisions of the Act, the Government of India formulates and announces an Export and Import policy (EXIM policy) and amends it from time to time. EXIM policy refers to the policy measures adopted by a country with reference to its exports and imports. Such a policy become particularly important in a country like India, where the import and export of items plays a crucial role not just in balancing budgetary targets, but also in the overall economic development of the country.

Check Your Progress

1. What is Foreign Trade Policy? Why is it important for any nation?
2. State the objectives of foreign trade policy.
3. How Foreign Trade is regulated? Discuss in brief.

2.11 Highlights of Exim Policy or Foreign Trade Policy 2015 - 2020.

A. SIMPLIFICATION & MERGER OF REWARD SCHEMES

- Five different schemes (Focus Product Scheme, Market Linked Focus Product Scheme, Focus Market Scheme, Agri Infrastructure Incentive Scrip, VKGUY) merged into single unconditional scheme named as Merchandise Export from India Scheme (**"MEIS"**). Further, Rewards for export of notified goods to notified markets under MEIS shall be payable as percentage of realized FOB value (in free foreign exchange). The debits towards Basic Customs duty along with existing additional duty of customs/ excise duty/ service tax is also allowed adjustment as duty drawback;

- Serve from India Scheme (SFIS) has been replaced by Service Exports from India Scheme (**"SEIS"**) so as to allow benefits to all services providers located in India, instead of Indian Service Providers. Further, the rate of reward under SEIS would be based on net foreign exchange earned.
- For grant of rewards under MEIS, the countries have been categorized into 3 Groups, whereas the rates of rewards under MEIS range from 2% to 5%. Under SEIS the selected services would be rewarded at the rates of 3% and 5%;
- There would be no conditionality attached to any scrips issued under these schemes. Duty credit scrips issued under MEIS and SEIS and the goods imported against these scrips are fully transferable and usable for payment of Custom duty, Excise duty and Service tax.
- In order to give a boost to exports from Special Economic Zones (SEZs), Government has now decided to extend benefits of both the reward schemes (MEIS and SEIS) to units located in SEZs;
- Business leaders who have excelled in international trade and have successfully contributed to country's foreign trade are proposed to be recognized as *'Status Holders'* and given special treatment and privileges to facilitate their trade transactions, in order to reduce their transaction costs and time.
- The nomenclature of Export House, Star Export House, Trading House, Star Trading House, Premier Trading House certificate has been changed to One, Two, Three, Four, Five Star Export House. Further, the criteria for export performance for recognition of status holder have been changed from Rupees to US dollar earnings.

B. BOOST TO "MAKE IN INDIA"

- To incentivise 'Make in India' theme, the FTP proposes to reduce export obligations if Capital goods under Export Promotion Capital Goods (EPCG) Scheme are procured from indigenous manufacturers (only 75% in place of 90%);
- Higher level of rewards under MEIS for export items with high domestic content and value addition.

C. TRADE FACILITATION & EASE OF DOING BUSINESS

1. Online filing of documents/ applications and Paperless trade in 24×7 environment:

- It has been decided to develop an online procedure to upload digitally signed documents by Chartered Accountant/ Company Secretary/ Cost Accountant to do away with present physical forms like annexure attached to (Aaayat Niryat Form) ANF 3B, ANF 3C and ANF 3D etc;
- Hardcopies of certain applications and specified documents would not be required to be submitted to Regional Authorities, saving paper as well as cost and time for the exporters;
- Landing documents of export consignment as proofs for notified market will be digitally uploaded;
- Online inter-ministerial consultations for approval of export of SCOMET items (Special Chemicals, Organism, Materials, Equipment and Technologies), Norms fixation, Import Authorisations, Export Authorisation, in a phased manner are proposed.
- Simplification of procedures/processes, digitisation and e-governance:
- Under EPCG scheme, obtaining and submitting a certificate from an independent Chartered Engineer, confirming the use of spares, tools, refractory and catalysts imported for final redemption of EPCG authorizations has been dispensed with;
- EPCG Authorisation holders are required to maintain records for 2 years rather than 3 years after redemption of Authorisations;
- Facility has been created to upload documents in Exporter/Importer Profile, Online applications for refunds, online message exchange with CBDT and MCA etc.,

2. Forthcoming e-Governance Initiatives:

- In this context, Directorate General of Foreign Trade (DGFT) is currently working on various Electronic Data Interchange initiatives like Message exchange with CBDT (Central Board of Direct Taxes) for PAN, Message exchange with Ministry of Corporate Affairs for CIN & DIN (Corporate Identification Number & Director Identification Number) etc,.

D. OTHER NEW INITIATIVES

1. Some of the new initiatives for EOUs, EHTPs and STPs (Export Oriented Units, Electronics Hardware Technology Parks & Software Technology Parks (STP) Schemes are:

   - EOUs, EHTPs, STPs have been allowed to share infrastructural facilities among themselves;
   - Inter unit transfer of goods and services have been allowed among EOUs, EHTPs, STPs, and BTPs;
   - Time period for validity of Letter of Permission (LOP) for EOUs/ EHTP/ STPI/BTP Units has been revised for faster implementation and monitoring of projects;
   - EOUs have been allowed facility to set up Warehouses near the port of export;
   - STP units, EHTP units, software EOUs have been allowed the facility to use all duty free equipment/goods for training purposes;
   - 100% EOU units have been allowed facility of supply of spares/ components up to 2% of the value of the manufactured articles to a buyer in domestic market for the purpose of after sale services;
   - Export obligation period for export items falling in the category of defence, military store, aerospace and nuclear energy shall be 24 months from the date of issue of authorization or co-terminus with contracted duration of the export order, whichever is later;
   - Simplified procedure will be provided to fast track the de-bonding/ exit of the STP/ EHTP units;
   - EOUs having physical export turnover of ₹ 10 crore and above, have been allowed the facility of fast track clearances of import and domestic procurement.

2. Facilitating & Encouraging Export of dual use items (SCOMET):

   - Validity of SCOMET export authorisation has been extended from the present 12 months to 24 months;
   - Verification of End User Certificate (EUC) is being simplified if SCOMET item is being exported under Defence Export Offset Policy;

- Outreach programmes will be conducted at different locations to raise awareness among various stakeholders.

3. E-Commerce Exports: E-Commerce exports of handloom products, books/periodicals, leather footwear, toys and customized fashion garments through courier or foreign post office would also be able to get benefit of MEIS (for values upto 25,000 INR). These measures would not only capitalize on India's strength in these areas and increase exports but also provide employment.
4. Duty Exemption- Imports against Advance Authorization shall be eligible for exemption from Transitional Product Specific Safeguard Duty.
5. Calicut Airport, Kerala and Arakonam ICD, Tamil Nadu have been notified as registered ports for import and export.
6. Duty Free Tariff Preference (DFTP) Scheme- FTP has notified already extended duty free tariff preference to 33 Least Developed Countries (LDCs) across the globe
7. Quality complaints and Trade Disputes- A Chapter on Quality Complaints and Trade Disputes has been incorporated in the FTP and a Committee on Quality Complaints and Trade Disputes (CQCTD) is being constituted in 22 offices.

Stop to Consider

A meeting was held on 12th January 2021 on the subject of "New Foreign Trade Policy for the year 2021-26" and the main mission for the policy would be **to make India a leader in International Trade in the next 5 years** as per the committee.

2.12 Export Promotion Measures

Exports are regarded as an engine of economic growth in the light of liberalization and structural reforms in the economy. In recent times our country is witnessing slowdown in exports with its traditional partners. Under these circumstances, the Government has adopted different strategies and policy measures which catalyze growth of exports in different sectors as well as in newer markets. These policy measures and schemes are discussed hereunder:

1. Export Promotion Schemes

Foreign Trade Policy 2015-20 and other schemes provide promotional measures to boost India's exports with the objective to offset infrastructural inefficiencies and associated costs involved to provide exporters a level playing field. Brief of these measures are as under:

1.1 Exports from India Scheme

i. Merchandise Exports from India Scheme (MEIS)

Under this scheme, exports of notified goods/ products to notified markets as listed in Appendix 3B of Handbook of Procedures, are granted freely transferable duty credit scrips on realized FOB value of exports in free foreign exchange at specified rate (2-5%). Such duty credit scrips can be used for payment of custom duties for import of inputs or goods, payment of excise duty on domestic procurement, payment of service tax and payment of custom duties in case of EO default.

Exports of notified goods of FOB value upto Rs 25, 000 per consignment, through courier or foreign post office using e-commerce shall be entitled for MEIS benefit.

ii. Service Exports from India Scheme (SEIS)

Service providers of notified services as per Appendix 3E are eligible for freely transferable duty credit scrip @ 5% of net foreign exchange earned.

2. Duty Exemption & Remission Schemes

These schemes enable duty free import of inputs for export production with export obligation. These schemes consist of:

2.1 Advance Authorization Scheme

Under this scheme, duty free import of inputs are allowed, that are physically incorporated in the export product (after making normal allowance for wastage) with minimum 15% value addition. Advance Authorization (AA) is issued for inputs in relation to resultant products as per SION or on the basis of self declaration, as per procedures of FTP. AA normally has a validity period of 12 months for the purpose of making imports and a period of 18 months for fulfilment of Export Obligation (EO) from the date of issue. AA is issued either to a manufacturer exporter or merchant exporter tied to a supporting manufacturer(s).

2.2 Advance Authorization for annual requirement

Exporters having past export performance (in at least preceding two financial years) shall be entitled for Advance Authorization for Annual requirement. This shall only be issued for items having SION.

2.3 Duty Free Import Authorization (DFIA) Scheme

DFIA is issued to allow duty free import of inputs, with a minimum value addition requirement of 20%. DFIA shall be exempted only from the payment of basic customs duty. DFIA shall be issued on post export basis for products for which SION has been notified. Separate schemes exist for gems and jewellery sector for which FTP may be referred.

2.4 Duty Drawback of Customs/Central Excise Duties/Service Tax

The scheme is administered by Department of Revenue. Under this scheme products made out of duty paid inputs are first exported and thereafter refund of duty is claimed in two ways:

i) All Industry Rates	: As per Schedule
ii) Brand Rate	: As per application on the basis of data/documents

2.5 Rebate of Service tax through all industry rates

Refund of service tax paid on specified output services used for export of goods is available at specified all industry rates.

3. EPCG Scheme

3.1 Zero duty Export Promotion Capital Goods (EPCG) Scheme

Under this scheme import of capital goods at zero custom duty is allowed for producing quality goods and services to enhance India's export competitiveness. Import under EPCG shall be subject to export obligation equivalent to six times of duty saved in six years. Scheme also allows indigenous sourcing of capital goods with 25% less export obligation.

3.2 Post Export EPCG Duty Credit Scrip Scheme

A Post Export EPCG Duty Credit Scrip Scheme shall be available for exporters who intend to import capital goods on full payment of applicable duty in cash.

4. EOU/EHTP/STP/BTP

4.1 Export Oriented Units (EOU)/ Electronics Hardware Technology Parks (EHTP)/ Software Technology Parks (STP) & Bio- Technology Parks (BTP) Schemes

Units undertaking to export their entire production of goods and services may be set up under this scheme for import/ procurement domestically without payment of duties.

4.2 Special Economic Zone (SEZ)

A Special Economic Zone (SEZ) is a geographically distributed area or zone where the economic laws are more liberal as compared to other parts of the nation. SEZs are recommended to be specially delineated duty free enclaves for the purpose of trade, operations, duty and tariffs. SEZs are self-reliant and integrated having their own infrastructure and support services.

The area under 'SEZ' covers a broad range of zone types, including Export Processing Zones (EPZ), Free Zones (FZ), Industrial Estates (IE), Free Trade Zones (FTZ), Free Ports, Urban Enterprise Zone and others. At present in India, there are eight functional Special Economic Zones located at Santa Cruz (Maharashtra), Cochin (Kerala), Kandla and Surat (Gujarat), Chennai (Tamil Nadu), Visakhapatnam (Andhra Pradesh), Falta (West Bengal) and Noida (Uttar Pradesh). Further a Special Economic Zone at Indore (Madhya Pradesh) is also ready for operation shortly.

5. Other Schemes

5.1 Towns of Export Excellence (TEE)

Selected towns producing goods of Rs. 750 crores or more are notified as TEE on potential for growth in exports and provide financial assistance under MAI Scheme to recognized Associations.

5.2 Rebate of Duty on "Export Goods" and "Material" Used in Manufacture of Such Goods

Rebate of duty paid on excisable goods exported or duty paid on the material used in manufacture of such export goods may be claimed under Rule of 18 of Central Excise Rules, 2002.

5.3 Export of Goods Under Bond i.e. Without Payment of Excise Duty

Rule 19 of Central Excise Rules 2002 provides clearance of excisable goods for exports without payment of central excise duty from the approved factory, warehouse and other premises.

5.4 Market Access Initiative (MAI) Scheme

Under the Scheme, financial assistance is provided for export promotion activities on focus country, focus product basis to EPCs, Industry & Trade Associations, etc. The activities are like market studies/ surveys, setting up showroom/warehouse, participation in international trade fairs, publicity campaigns, brand promotion, reimbursement of registration charges for pharmaceuticals, testing charges for engineering products abroad, etc.

5.5 Marketing Development Assistance (MDA) Scheme

Financial assistance is available for exporters having an annual export turnover upto Rs. 30 crores for trade fairs, buyer seller meets organized by EPC's/ Trade promotion organizations.

5.6 Status Holder Scheme

Upon achieving prescribed export performance, status recognition as one star Export House, two Star Export House, three star export house, four star export house and five star export house is accorded to the eligible applicants as per their export performance. Such Status Holders are eligible for various non-fiscal privileges as prescribed in the Foreign Trade Policy**.**

In addition to the above schemes, facilities like 24X7 customs clearance, single window in customs, self assessment of customs duty, prior filing facility of shipping bills etc are available to facilitate exports.

Stop to Consider

During the period of planning, new industries have been setup in India. In order to increase the sale of the products of these industries, their export is to be promoted. It becomes easy to increase exports under export promotion program.

Check Your Progress

1. Highlights the features of New FTP/ Exim Policy?
2. What measures are adopted by the GOI to promote exports from our country?
3. Discuss the EPCG and SEZs.

2.13 Summing Up

- **Foreign Trade Policy:** The Foreign Trade Policy (FTP) was introduced by the Government of India. With the help of this policy the Government primarily focuses on adopting a twin strategy of promoting traditional and sunrise sectors of exports including services.

- ***The Foreign Trade (Development and Regulation) Act, 1992:*** *This Act was passed on the 7th August 1992. This act is considered to be a supreme legislation in accomplishment of the foreign trade taking place in the country. This act has eliminated all the existing nuances of the previously introduced act and has given the Government of India some of the most enormous powers to control it.*

- **Exim Policy:** India's Export Import Policy also known as Foreign Trade Policy, in general, and aims at developing export potential, improving export performance, encouraging foreign trade and creating positive balance of payments position.

- **Export Promotion Measures:** In recent times our country is witnessing decelerate in exports with its traditional partners. Under these circumstances, the Government has adopted different export promotion measures which catalyze growth of exports in different sectors as well as in newer markets. These include MEIS, SEIS, Duty Exemption and Remission Scheme, EPCG, SEZs among others.

2.14 Model Questions

1. What do you understand by Foreign Trade? Hoe it is regulated in India.
2. Discuss in brief Foreign Trade Act
3. Write a brief note on SEZs and EPCG
4. What do you mean by EXIM policy of India? State the objectives of EXIM policy 2015- 2020.
5. Describe the Export promotional measures/schemes adopted by GOI for accelerating the growth of Export of the country.

2.15 References and Suggested Readings

Book

Cherunilm Francis (2012), "Business and Government", Himalaya Publishing House.

Websites

http://www.shareyouressays.com/knowledge/free-essay-on-the-foreign-trade-policy-of-india/105562
http://dgft.gov.in/ForeignTradePolicy
http://business.gov.in/legal_aspects/import_export.php
http://www.eximguru.com/exim/dgft/exim-policy/2015-2020/default.aspx
http://www.eximin.net/NewsDetails.aspx?name=33646
http://pib.nic.in/newsite/PrintRelease.aspx?relid=183469
https://commerce.gov.in/trade-statistics/latest-trade-figures

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Unit-3
Industry Policy Resolutions and Statements

Unit Structure:

3.1. Introduction

After getting independence from British colonial rule, the government of India thought of eliminating all uncertainties that could have acted as barriers to the industrialization of the economy. The Industrial Policy Resolution, 1948 (IPR, 1948) was announced immediately to promote industrialisation and subsequently four industrial policies were announced between 1948 to 1991. However, all those industrial policies were within the parameters of the Industrial Policy Resolution of (IPR, 1956). On 23rd July 1991, a New Industrial Policy which was based on liberalisation, privatisation and globalisation (which is known as LPG) was announced by the Government of India; the policy laid out a plan for a liberalized system that focused on attracting foreign investment and reducing regulations. The policy has brought a paradigm shift in the industrial environment of the country. Considering the need of the transformation of industrial policy in the post 2020, a new industrial policy that aims to boost companies' access to finance for rapid industrialisation was developed and circulated by the Government of India in the name of the Draft Industrial Policy 2022.

The progress of industrialisation of any country is highly depended upon the nature of industrial policy. Because, any industrial policy gives a detailed outline of procedures, principles, rule and regulations of industrial set up and operation. The industrial policy also clearly indicates the government's attitude towards the type industrial development that a government wishes to have. Hence, industrial policy is a plan that shows the guiding principles of industrialization of a country. Any industrial policy also incorporates fiscal, monetary, labour, innovation policies as well as the government's view on external funding. In other words, industrial policy is an important strategic effort to shape the pattern of industrialisation of a country.

In the light of this, it is important to examine the development of Indian industrial policies to determine how well the industrial policies has served as a vehicle of industrial development in the country. In this unit, various industrial policies that had been formulated by the Government of India are discussed.

3.2 Objectives

The main attempt of this unit is to highlight the industrial policies of the Government of India. After going through the unit, you will be able to–

- understand the background of industrial policies of India
- identify features of the industrial policies of India
- analyse the various provisions of industrial policies of India

3.3 Industrial Policy 1948

On 6th April 1948, the Government of India adopted the Industrial Policy Resolution 1948 with the objective of accelerating industrialization in the country. The Policy envisaged a mixed economy reserving a separate space for private and another for public sector industries. According to the policy, the industries were divided into four broad categories. They were:

(i) The first category: the basic and strategic industries that included manufacture of arms and ammunition, the production and control of atomic energy, the ownership and management of railway transport; these industries were kept under the exclusive monopoly of the state.

(ii) The second category: New undertakings which state was given exclusive right to set up; it included coal, iron and steel, aircraft manufacture, ship-building, manufacture of telephone, telegraph and wireless sets, and mineral oils. State was given exclusive right to set up new units in those industries.

(iii) In the third category, the industries of basic importance; it included 20 large scale and basic industries which were kept reserved to the private sector. They were salt, automobiles, tractors, prime movers, electric engineering, heavy machinery, machine tools, heavy chemicals, fertilizers, electro chemical industries, non-ferrous metals, rubber manufactures, power and industrial alcohol, cotton and woolen textiles, cement, sugar, paper and newsprint, air and sea transport, mineral and industries related to defense

(iv) The fourth category comprised of the ' remainder of the industrial field' which was left upon to private sector that included individuals and co-operatives.

The policy recognized the need for foreign capital in the industrialization and moving hand in hand by both public and private sector enterprises to accelerate economic growth. The policy also put on stress on the right of state to own industrial units in public interest and kept reserved an appropriate space for private sector too…

Stop to Consider

Basic and strategic industries : those industries that a government considers to be very important for the country's economy or safety

Monopoly of the state: Government is the sole provider of a particular good or services and competition is prohibited by law.

Check Your Progress

1. What were the industries that kept under the exclusive monopoly of the state?
2. According to the Industrial Policy Resolution 1948 , what type of role would be played by the state to accelerate industrialization?
3. What were those large scale and basic industries which were kept reserved to the private sector?

3.4. Industrial Policy -1956

On 30th April, 1956, the 2nd Industrial Policy Resolution was adopted replacing the 1st Industrial policy Resolution. The policy clearly stated the inherent right of the state to acquire any industrial undertaking. However, the private sector was also given a permanent space in the economy. Some of the important provisions of the policy were mentioned below:

(i) Classification of industries: The industries were classified under three Schedules.

   (a) Schedule A: Those industries which were to be an exclusive responsibility of the state. 17 industries were listed under Schedule A. They were: arms and ammunition, atomic energy, iron and steel; heavy castings and forgings of iron and steel; heavy machinery required for iron and steel production, mining and machine tool manufactures; heavy electrical industries; coal; mineral oils; mining; iron ore; , aircraft; air transport; railway transport; shipbuilding, ship-building, manufacture of telephone, telegraph and wireless sets, generation and distribution of electricity.

   (b) Schedule B: 12 industries were listed under this Schedule. These industries were stated owned, but, allowing private sector to supplement the effort of the state. The industries were: mining, aluminium and other non-ferrous metals which were not included in Schedule A, machine tools; ferro-alloys and tool steels, chemical; antibiotic and other essential drugs; fertilizers; synthetic rubber; carbonization of coal; chemical pulp; road transport; sea transport.

   (c) Schedule C: The remaining industries which were not included in Schedule A and B were included in this Schedule and their future development would be left to the initiatives and enterprise of private sector. These industries consisted of those which fit into the framework of social and economic policy of the state and subject to control in terms of Industries (development and Regulation) Act, 1951 and other relevant regulations.

(ii) Fair and non-discriminatory treatment for the private sector: The private sector was encouraged by developing transport, power and other services by the state and by providing appropriate fiscal and other measures.

(iii) Encouraging Village and Small-Scale Industries: The state's support would continue in Village and Small-Scale Industries by restricting volume of production by large scale industries, by imposing different taxation and by providing subsidies.

(iv) Removing Regional disparities: The policy emphasized to removed regional disparities in industrial development and supported the idea of balanced regional development to attain higher standard of living.

(v) Provision of appropriate amenities for industrial labour: The policy stressed the importance of improving the living and working condition of industrial labours as well as improving their efficiency. Labours' (Workers') participation in the management was also suggested.

(vi) Attitude towards foreign capital: The state's policy towards foreign capital was to be the same as enunciated in the policy of 1948

The Industrial Policy Resolution 1958, though provided greater importance to public sector, private sector had also been given an ample scope for development. The Policy clearly indicated that developing public sector was not for creating rival for private sector, instead for creating a cordial environment, and, in the planned economy, the state had to play the role of senior partner to accelerate the pace of industrial development.

Check Your Progress

1. What were the main provisions of Industrial Policy Resolution 1956?
2. What types of industries were included in Schedule A?
3. According to the Industrial Policy Resolution 1956, what type of roles would be played by the government to promote private sector ?

Stop to Consider

The Industrial Policy Resolution 1956 replaced the Industrial policy Resolution 1948.

Foreign Capital: the inflow of capital from international sources into domestic economy

Planned economy: A type of economic system consisting of a mixture of public ownership of the means of production and the coordination of production and distribution through state planning.

Self Asking Question

1. What would be the main objectives of Industrial Policy Resolution 1956 ?

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2. To what extent, the Industrial Policy Resolution 1956 would help industrialization in India?

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3. Why was more emphasis given to public sector in the Industrial Policy Resolution 1956?

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3.5 Industrial Policy -1977

On 23rd December 1977, a new Industrial Policy Resolution was announced by the Government of India. The main features of the policy were:

(i) Target on development of small scale industries:

The policy emphasized to develop small scale and cottage industries which were widely dispersed in rural areas. The policy categorised small scale industries into three groups ; they were: (a) Household and cottage industries for self employment (b) Tiny sector investment upto 1 Lakh and (c) Small scale industries for investment upto 1 to 15 lakhs. To promote the small scale and cottage industries, the policy suggested measures including, (a) expanding list of reserved items from 180 to 187, (b) establishment of District Industrial Centres (DIC) in each district to provide services to small scale and cottage industries, (c) Revamping of Khadi and Village Industries Commission and expansion of its operation to the production of more products like footwear and soaps. (d) A separate wing of the IDBI to coordinate, guide and monitor credit facilities to small scale and cottage industries.

(ii) Areas of Large scale sector: The following areas were fixed for large scale sector.. (a) Basic industries: to meet the infrastructure and development of small scale and village industries such as steel. Non- ferrous metals, cement, oil refineries. (b) Capital goods industries: to meet machinery requirements of cottage industry. (c) High technology industry: to develop agriculture and small scale industries such as pesticides, fertilizers, petrochemicals. (d) Other industries: Remaining industries which were outside the list of reserve items of small scale industries suc as machine tools, organic and inorganic chemicals.

(iii) Big Business Houses: The policy restricted the scope of big business houses so that no unit of the same business house could control and acquired monopolistic position in the market.

(iv) Role of Public Sector: The role, according to the policy, expanded to: (a) Production of strategic goods of basic nature that is essential good for consumers, (b) Development of ancillary industries and (c) Transferring its expertise in technology and management to mall and cottage industries.

(v) Revival of Sick industrial units: The industrial policy 1977 issued certain guidelines for the revival and rehabilitation of sick units.

(vi) Promotion of Technological Self Reliance: The policy encouraged the inflow of technology in sophisticated and high priority areas where domestic skills and technology were not adequately developed. The policy mentioned the provision of state's preference for outright purchase of best available technology and adopt those technologies.

(vii) Labour and management Relationship: The policy recognised the labour's participation in management and active participation in decision making in all levels of industrial unit.

The Industrial Policy Resolution 1977 had brought certain changes which were not there in the previous policies. Recognizing the promotion of rural areas, it had given more emphasis on small scale, cottage and tiny industries According to the Industrial Policy Resolution 1977, the basic role of large scale industries was to fulfill the requirement of public and to promote agriculture sector industries; export promotion and import barriers; controls on prices, wages, and profits. The policy also attempted to restrict the control of big business houses to save the consumers from exploitation of monopoly status of big firms .

Stop to Consider

Tiny industries : According to the Industrial Policy Resolution 1977, a unit with investment in machinery and equipment up to Rs. 1 Lakh and situated in towns or villages with a population of less than 50,000 (as per 1971 census);

Small Scale Industries: All industrial units with an investment of not more than Rs. 10 lakhs irrespective of the number of persons employed.

Check Your Progress

1. What were the main provisions of the Industrial Policy Resolution 1977?
2. What types of measures were suggested by the Industrial Policy Resolution 1977 to promote small scale industries?
3. According to the Industrial Policy Resolution 1977, what would be role of public sector to promote industrialization in India?

Self Asking question

1. How does the Industrial Policy Resolution 1977 differ from Industrial Policy Resolution 1956?

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2. What are the shortcomings of the Industrial Policy Resolution 1977?

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3. Name the agency which was proposed to establish in each and every district to provide services to small scale and cottage industries by the Industrial Policy Resolution 1977 ?

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3.6. Industrial Policy -1980

On 23rd of July, 1980, the Industrial Policy, which was mainly based on Industrial Policy Resolution of 1956 was announced by the Government. The main features of the policy were:

(i) Optimum utilisation of installed capacity.

(ii) Maximising production and achieving higher productivity as well as Higher employment generation

(iii). Correction of regional imbalance through a preferential development of industrially backward areas,

(iv) Promotion of export-oriented and import substitution industries

(v) Strengthening of the agricultural base through agro based industries and promotion of optimum inter-sectoral relationship.

(vi) Promoting economic federialism with an equitable spread of investment over small but growing units in both rural and urban areas

(viii) Revival of economy by removing the infrastructural gaps

Certain policy measures were put forwarded by the Industrial Policy Resolution 1980 to revive economy and accelerate the pace of industrialization. Some of them were:

(a) Effective operational management of the Public Sector Enterprises,

(b) Integrating industrial development in the private sector by promoting the concept of economic federalism: it would be done with setting up of a few nucleus plants in each district, identifying industrially backward, generating as many as ancillaries , small and cottage industries.

(c) Redefining of SSIs by upward revision of investment

(d) Promotion of suitable industries in rural areas to generate higher employment and higher per capita income

(e) Removal of regional imbalance by setting up units in industrially backward areas by the state and promote investment by public as well as private sectors in the backward areas.

(f) Regularization of unauthorized excess capacity installed in the private sector

(g) Overcoming Industrial sickness by keeping the provision of taking over the management of the sick units by the state on public interest, in exceptional cases.

The Industrial Policy Resolution 1980 intended to follow a pragmatic approach that removes the lingering constraints to production. The policy also recognised the need for promoting competition in the domestic market, modernization, selective liberalisation, technological upgradation, liberalized licencing and other certain measures including allowing the privilege of automatic expansion of capacity to all industries in the First Schedule of Indian Industries (Development and Regulation) Act. The policy, however, reversed the previous Industrial Policy Resolution's (IPR 1977) attempt of economic decentralization and the priority which was given to the small scale and cottage industries. The policy favoured more capital intensive and expansion of large and heavy industries.

Stop to Consider

Pragmatic approach of the new policy: removing constraints to industrial production by revising the definition of SSIs, regularization of installed capacity beyond licensed capacity, a scheme of automatic expansion of capacity.

Tiny industries : a unit with investment in machinery and equipment up to Rs. 2 Lakh

Small Scale Industries: All industrial units with an investment of not more than Rs. 20 lakhs irrespective of the number of persons employed.

Ancillary unit: a unit with investment in machinery and equipment up to Rs. 25 Lakhs

Check Your Progress

1. What were the main provisions of the Industrial Policy Resolution 1980?
2. What types of measures were suggested by the Industrial Policy Resolution 1980 to promote industrialization in India ?
3. According to the Industrial Policy Resolution 1977, how would the problem of sick units be overcome by the government?

Self Asking Question

1. How does the Industrial Policy Resolution 1980 differ from Industrial Policy Resolution 1977 ?

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2. How would the Industrial Policy Resolution 1980 promote industrialization in rural areas?

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3. How would the Industrial Policy Resolution 1980 reduce the regional imbalance ?

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3.7 Industrial Policy 1990

On 31st March 1990, the Janata Dal led Government announced a new Industrial Policy by incorporating certain changes in the previous industrial policy. The policy's main thrust was to promote Small Scale industries and generate large scale employment.

The main objectives of Industrial Policy Resolution 1990 were:

(a) To promote Small Scale and Agro-based Industries
(b) To re-orient industrial growth to ensure employment generation
(c) To disperse industries in rural and backward areas
(d) To increase exports of products Small Scale Industry
(e) To review the procedures for licensing and other regulatory measures

The measures which were laid down by the Industrial Policy 1990 to promote Small Scale Industries were:

(i) Redefining of SSIs by increasing ceiling in plant and machinery: Investment ceiling for tiny units had been increased from Rs. 2 lakhs to Rs. 5 lakhs provided the unit is located in an area having a population of 50,000 as per 1981 Census . The investment ceiling in plant and machinery for small-scale industries (fixed in 1985) was raised from Rs. 35 lakhs to Rs. 60 lakhs and correspondingly, for ancillary units from Rs. 45 lakhs to Rs. 75 lakhs

(ii) Increasing Quantitative Restriction items of SSI: 836 items were reserved for exclusive manufacture in small- scale sector.

(iii) Providing Subsidy: A new scheme of Central Investment Subsidy exclusively for small-scale sector in rural and backward areas capable of generating more employment at lower cost of capital was introduced .

(iv) Implementation of programmes of technology up gradation : To improve the competitiveness of the products manufactured in the small scale sector, programmes of technology up gradation would be implemented under the umbrella of an apex Technology Development Centre in Small Industries Development Organisation (SIDO).

(v) Arranging adequate and timely flow of credit facilities for the small-scale industries: To ensure both adequate and timely flow of credit facilities for the small- scale industries, the policy suggested for a new apex bank ; as a result of that 'Small Industries Development Bank of India (SIDBI)' was established in 1990.

(vi) Giving greater emphasis on training of women and youth under Entrepreneurship Development Programme (EDP) and establishing a special cell in SIDO for this purpose.

Check Your Progress

1. What were the main objectives of the Industrial Policy Resolution 1990?
2. What types of measures were suggested by the Industrial Policy Resolution 1990 to promote Small Scale Industries in India ?

Self Asking question

1. According to Industrial Policy Resolution 1980, what are the differences between Tiny and is Small Scale Industry?

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2. How would the Industrial Policy Resolution 1990 develop SSIs in rural areas?

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3.8 Industrial Policy 1991

On July 24, 1991, the Government of India announced the New Industrial Policy 1991. The main focus of the policy was liberalisation and deregulation of industries. The policy also attempted to provide a policy regime that facilitate and foster industrial development in India.

The main objectives of the policy were:

(a) to unshackle the Indian economy from cobweb of bureaucratic control, (b) to introduce liberalisation measures in order to integrate Indian economy to the world economy (c) to abolish restriction on FDI, (d) to remove indigenous enterprises from the restrictions of MRTP Act (e) to redefine the role of public sector., (f) to remove restriction imposed by FERA on international trade (g) to ensure quality standards (h) to improve the productivity of Indian industry (i) to prepare Indian industry for globally competitive.

Major provisions of the New Industrial Policy 1991 were:

(i) Industrial Licensing Policy: To make the economy more liberalized, the policy aimed to abolish industrial licensing system. Only few industries such as industries related to security and strategic concerns and social reasons were necessary to obtain license for setting up new units. There were 18 industries that require Compulsory

Licensing; further it reduced to 5. There was a provision for import of capital goods with automatic clearance if adequate foreign exchange was available through foreign equity.

(ii) Liberalised Policy towards Foreign Investment : The policy made several changes to encourage flow of foreign capital. The upper limit Foreign Direct Investments in the total equity of industrial units was raised to 51 percent. Thirty four specified industries were placed under that category. The NRIs were allowed to 100% equity investments on nonrepatriation basis in all activities except the negative list.

(iii) Automatic Permission of Foreign Technology Agreement: The policy stated that automatic permission would be granted to technology agreements in high priority industries . Any industrial unit would be given automatic permission to enter into technology agreement provided the investment limit was upto Rs 1 Crore. A provisions were made for 5% royalty for domestic sales and 8% for exports; however, these could not exceed total of 8% of sales over a period of 10 years from the date of agreement or seven years from commencement of production.

(iv) De-reservation of Industries for Public Sector: The Industrial Policy 1991 looked for limiting the role public sector and increasing private sector's participation in different fields. Out of the 17 industries reserved for the public sector under IPR 1956, the new policy reduced the number to 8 industries. Provisions was made to increase the number de-reserved industries, hence, later on it reduced to 4 industries (a. Defense production, b. Atomic energy, c. Railways, d. Minerals used in generation of atomic energy) . However the policy sought greater autonomy to public enterprises in day-to-day management.

(v) Change in Monopolies and Restrictive Trade Practices (MRTP) Act 1969: The policy amended the MRTP Act to remove the threshold limit of assets in respect of the companies covered under this act. Many changes were incorporated with regard to the requirement of prior approval of central government for establishment of new undertakings, expansion of undertakings, merger, amalgamation and takeovers etc. According to the IPR 1991, no prior approval or clearance would be required for expansion, establishment of new industrial unit ,merger, etc

The policy also introduced the rupee convertibility on current account as well as on capital account.. Further, the policy also abolished compulsory clause of conversion of loans into equity (the provisions in previous IPR that the financial institution extending loans to industrial houses had an option to convert their 20% loans into equity). The policy also suggested to set up a special board to negotiate with those international companies for FDI in industries in India and a fund called National Renewal Fund to provide social security to retrenched workers and provide relief as well as rehabilitate those workers due to technological changes.

The IPR 1991 was the turning point of ending the 'License- Permit Raj' and moving towards liberalisation. It was paradigm shift in the Indian industrial environment. The policy indicated that state's role in industrialization and control over the industries would be reduced over the period of time. Though the policy attempted to improve the performance of the government undertakings by providing greater autonomy to the management and creating a competitive environment with private sector undertaking, it would be big challenge for small and tiny industries. The policy's attempt to attract more foreign investments by increasing the cap and liberalizing the market would bring drastic change in the Indian economy; hence, proper care would be taken by both the state and industrial units to face the challenges.

Stop to Consider

License- Permit Raj : the system of strict state's control over economy; strong regulation on industries, no industrial set up without the prior permission of the state (government)

FDI: An investment involving a long-term relationship and reflecting a lasting interest and control by a resident entity in one economy (foreign direct investor or parent enterprise) in an enterprise resident in an economy other than that of the foreign direct investor. (OECD & IMF)

Check Your Progress

1. What were the main objectives of the New Industrial Policy 1991?
2. What were the main provisions in the New Industrial Policy 1991?
3. What type of agencies were proposed by the New Industrial Policy 1991 to promote industrialization?

Self Asking Question

What type of changes were proposed in the New Industrial Policy 1991 and why were those changes proposed?

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To what extent the New Industrial Policy 1991 would serve the purpose India's industrial development ?

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3.9 Industrial Policy Reforms After 1991

The Government of India has introduced number of industrial reforms in the post IPR 1991. They are: (i) Industrial Policy Reforms 1993-94, (b) Industrial Policy Reforms 1994-95, (c) Industrial Policy Reforms 1995-96 (d) Industrial Policy Reforms 1996-1997 (e) Industrial Policy Reforms 2000-01, (f) Industrial Policy Reforms 2002-03, (g) Industrial Policy Reforms 2003-04, (h) Industrial Policy Reforms 2004-05 (i) Industrial Policy Reforms 2006-07 (j) Industrial Policy Reforms 2007-08, etc Several changes in the line of IPR 1991 were made in the Industrial Policy Reforms. National Manufacturing Policy was introduced in 2011 with an intention to bring both qualitative and quantitative change in manufacturing sector.

Draft Industrial Policy 2022: Considering the need to bring changes in industrial sector, the India government attempts to develop a new Industrial Policy. The draft of the policy proposed industrial policy focuses on improving competitiveness, achieving international scale, integration with global supply chains, facilitating the movement of the local industry up the value chain, becoming an innovative knowledge economy, improving the ease of doing business, and creating skills and employment. The policy also includes a plan to develop mega clusters that can integrate with global supply chains and serve the needs of key sectors such as heavy engineering, electronics, food processing, drugs, semiconductors, and automobiles, the report added. The draft policy also includes a proposal to establish a technology fund that would incentivize pioneer companies in advanced technology areas and identify them for acquisitions. Under the new industrial policy, one of the proposals is to help small businesses access the corporate bond markets.

3.10 Summing Up

From the First Industrial Policy of 1948 till the Industrial policy of 1990, strict regulation, controlling and localization were the main motives of India's industrial policies. Though more emphasis was given in the large and heavy industries in the first and second industrial policies, there were special space of Small and cottage industries by providing reservation of items produced by those industries. The IPR 1977 and 1990 had provided special benefit for Small and cottage industries considering their large scale operation in the rural areas. However, a drastic change in those existing policies were brought with the introduction of New Industrial Policy Resolution (IPR) 1991. The IPR 1991 which was based on the LPG (liberalisation, privatisation, and globalisation) pillars, have allowed for the replacement of the old industrial system which was mainly closed and less competitive in nature. The policy reduced the reservation of both Public sector enterprise and items produced by the SSIs. In the name of' ease of doing business' and 'encouraging foreign investment', the provision of Compulsory Licensing for setting up new unit' became restricted to few and the cap of investment increased to cent percent in some of the industries. Reports suggested that the changes had already started destroying industries inside its own economy with more advanced technology. However, success stories of number of industries as well as entrepreneurs have also come out . All the policies have merits and demerits. The success of any industrial policy at the end depends on how it suits the changing industrial environment and how it works for the benefits of humanity as a whole by increasing the production and distribution of goods and services.

3.11 Model Questions

1 .Choose the correct answer-

(a) One of the main features of IPR 1991 is (i) compulsory licensing (ii) strict licensing (iii) proper licensing (iv) liberalisation of licensing

(b) The role of government, according to IPR 1977 is (i) to protect the small scale and cottage industries, (ii) to close the public sector enterprises (iii) to downsize the units (v) none of the above.

(c) The number of industries included in Schedule A of IPR 1956 - (i) 26 (ii) 17 (iii) 23 (iv) 15

(d) The IPR 1948 envisaged (i) mixed economy (ii) capitalist economy (iii) socialist economy (iv) none of these

2. State whether the following statements are true or false.

(a) Industrial Policy 1956 was shaped by the Mahalanobi's Model of growth.

(b) The number of 836 items were reserved for exclusive manufacture in small- scale sector in IPR 1980.

(c) Small Industries Development Bank of India (SIDBI) was established in 1992.

(d) Deregulation is an action of removing of state's control over industry.

(e) According to New Industrial Policy 1991, a special permission is not necessary for hiring of foreign technicians of developed technologies

3. Answer the following questions

(a) What do you mean by License Raj? What are the advantages and disadvantages of License Raj.

(b) Write the main provisions in Industrial Policy 1956?

(c) Find out the similarities between Industrial Policy 1956 and 1980.

(d) Discuss the provisions related to promotion of Small Scale Industries highlighted in Industrial Policy 1990?

(e) What are the significant provisions of the New Industrial Policy 1991?

(f) Considering the present situation of India, in your opinion, which IPR is to be considered as the best? Justify.

3.12 References and Suggested Readings

Cherunilam, Francis., *Business Environment*, Mumbai: Himalaya Publishing House. (latest editions)

Datta Ruddar and Sundaram KPM: *Indian Economy* New Delhi: S Chand

Satanarayana .G: *Seventy Years of Industrial Policy & Promotion in India: 1947-48 to 2016-17*; New Delhi: New Century Publications

https://dpiit.gov.in/

Handbook of Industrial Policy and Statistics , retrieved from https://eaindustry.nic.in/archive_data/archive/industrial_handbook_200809.pdf

https://www.business-standard.com/article/economy-policy/dpiit-working-on-new-industrial-policy-proposes-scheme-for-made-in-india-123010100065_1.html

https://www.outlookindia.com/business/here-are-key-things-to-know-about-industrial-policy-2022-make-in-india-for-the-world—news-244881

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