TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY
(PART –1, SECTION-1)

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY

PUBLIC NOTICE NO.34 (RE-01)/ 1997-2002
NEW DELHI, the 31st of August,2001

In exercise of powers conferred under Paragraph 4.11 of the Export and Import Policy 1997-2002, as notified in the Gazette of India extraordinary, Part-II Section 3, Sub section (ii) vide S.O. No.283(E) dated 31.03.1997, the Director General of Foreign Trade hereby makes the following amendment in Handbook (Vol 1).(RE-01), 1997-2002.

1) Paragraph 7.28 A (ii) is amended to read as :

"If the export obligation is fulfilled in terms of quantity but there is shortfall in terms of value, no penalty will be imposed if the minimum prescribed value addition (or positive value addition, as the case may be) for the particular licence has been achieved. (In case the actual value addition imposed is lower than the minimum prescribed value addition, no penalty will be imposed if the former has been achieved).

However, in case the exporter fails to achieve the required minimum prescribed value addition (or positive value addition, as the case may be), he shall be required to deposit an equivalent amount through TR in the authorised branch of Central Bank of India indicating the "Head of Account :0037 - Customs and Minor Head: 101- Imports" so that the deposited amount and the FOB value realised in Indian Rupees together account for the minimum prescribed value addition (or positive value addition, as the case may be) over the CIF value."

2) The second paragraph 7.28 B (ii) is amended to read as :

"However, in case he fails to achieve minimum prescribed value addition, he shall be required to deposit an equivalent amount through TR in the authorised branch of Central Bank of India indicating the "Head of Account :0037 - Customs and Minor Head: 101- Imports so that the deposited amount and the FOB value realised in Indian Rupees account for the minimum prescribed value addition over the CIF value."

3) The first sentence of paragraph 7.29 is amended as under:

"The customs duty with interest to be recovered from the licencee on account of regularisation or enforcement of BG/ LUT, as the case may be , shall be deposited by the licence holder in relevant Head of Customs Revenue i.e. Major Head : 0037- Customs and Minor Head: 101 – Import Duties in prescribed T.R. Challan within 30 days of the demand raised by the licencing/ customs authority and documentary evidence shall be produced to this effect to the licencing/ customs authority immediately."

4) Para 9.7 pertaining to the "Import of Capital Goods" is substituted by the following:

"In the case of EOU/EPZ/EHTP/STP units, import of capital goods including second hand capital goods, may be undertaken as per LUT."

5) Para 9.29 A(c), is substituted by the following:-

"FOB value of export of an EOU/EPZ/EHTP/STP units may be clubbed with FOB value of export of its parent company in the DTA or vice versa for the purpose of according Export House, Trading House, Star Trading House or Super Star Trading House status."

6) Para 9.29 A(d), is substituted by the following:-

"100% FDI in the manufacturing sector is permissible to EOU/EPZ/EHTP/STP units. For FDI in services and trading sector, the sectoral norms as notified by the Department of Industrial Policy and Promotion shall be applicable."

7) Para 9.30(b), is substituted by the following:-

"In respect of items not covered by Appendix-41, Development Commissioner shall fix the wastage keeping in view the norms notified under Duty Exemption Scheme. For items not covered by these two, the Development Commissioner, if considered necessary, could send proposals to the Board of Approval for decision.

All cases where wastage norms have not been fixed by the Development Commissioner within 45 days from the date of receipt of application, the same shall be referred to the Board of Approval for information along with reasons for delay."

8) The opening para 9.37 b)(vi) is substituted by the following:-

"Change of location/expansion: To permit change of location from the place mentioned in the LOP/LOI to another and/or include additional location provided that:"

9) Para 9.37 b) (x) is substituted by the following:

"Merger of two or more EOU/EPZ units: To permit merger of two or more units into one unit provided the units fall within the jurisdiction of the same DC."

10) Para 9.37 b) (xi) is deleted.

11) In paragraph 9-A.4, the last sub-para is substituted by the following:-

"For annual calculation of NFE, the value of imported capital goods and lumpsum payment of foreign technical know-how fee shall be amortized as under:"

12) Paragraph 9-A.8 is substituted by following:

"SEZ units may sell goods including by products and services in the DTA on payment of applicable duties on the basis of self-certification."

13) In paragraph 9-A.11 (iv) the last sentence shall be read as under:

"Sectoral norms as notified by the Government shall apply to foreign investment in services and trading activities."

14) In paragraph 9-A.12, the following new sub-para (d) is incorporated:-

"(d) SEZ units may be permitted to remove moulds, jigs, tools, fixtures, tackles, instruments, hangers and patterns and drawings to the premises of sub-contractors subject to the conditions that these shall be brought back to the bonded premises of SEZ units on completion of the job work within a stipulated period"

15) Paragraph 9-A.19 (iii)(b) is deleted.

16) In paragraph 9-A.19 (iii), the following two new sub-para (g) and (h) are added:

"(g) Approve applications for setting up of units in SEZ other than proposals for setting up of unit in the service sector (except software and IT enabled services, trading or any other service activity as may be delegated by the BOA), provided that the item of manufacture does not require an industrial licence under the Industries (Development & Regulation) Act, 1951.

(h) Green Card will be issued by the DC concerned to SEZ units automatically after execution of Legal Undertaking."

17) Paragraph 10.3 is amended as under:
“ In respect of supply of goods to EOU/ EPZ/SEZ/ EHTP / STP in terms of paragraphs 10.2(b) of the Policy, the supplier shall be entitled to the benefits listed in paragraph 10.3 (a), (b) and (c) of the Policy.

18) A last sub para is added to Paragraph 10.7 as under:

“Supplies under paragraph 10.2 (b) of the Policy would be eligible for refund of Terminal Excise Duty (TED) to the EOUEPZ units upon furnishing proof of payment of TED and a disclaimer certificate from the DTA supplier that he shall not be claiming refund of TED paid by him.”

19) The Annexure to Appendix 16 BBB is substituted by the relevant enclosure to this Public Notice.

20) The Appendix 16 E and the Annexure 1 thereto are hereby substituted by the relevant Appendix and Annexure appended to this Public Notice.

21) Appendix 16 F and H are substituted by the relevant enclosure to this Public Notice.

22) Appendices 16 J and 16 K are deleted.

23) Appendix 16 L is added as per the relevant enclosure to this Public Notice.

24) Appendix 26 A is added as per annexure to this Public Notice.

25) The following amendments/ corrections are made in Appendix 28 A as under:
(a) Product Group: Engineering (Product Code: 61)
(i) The following entry is corrected as under:

S.No	Description of Export Product	DEPB Rate	Value Cap
229	Steel pegs	13.00	Rs. 40/ kg

(ii) The following entries are amended as under:

S.No	Description of Export Product	DEPB Rate	Value Cap
93	2” Galvanised/ Zinc Coated Bungs	14.00	Rs 95/ kg
94	2” Galvanised/ Zinc Coated Flange	14.00	Rs 90/ kg
96	3/ 4” Galvanised Bungs with Rubber Gaskets	14.00	Rs 96/ kg
98	3/ 4” Galvanised / Zinc coated Bungs	14.00	Rs 140/ kg
99	3/ 4” Galvanised/ Zinc coated Flange	14.00	Rs 100/ kg
227	Steel Clamp (galvanised and ungalvanised)	15.00	Rs 70/ kg
438	2” Bungs with or without washer/ gasket	14.00	Rs 88/ kg

(b) Product Group: Chemicals (Product Code : 62)
(i) The following entry is amended as under:

S.No	Description of Export Product	DEPB Rate	Value Cap
777	Potassium Penicillin -G First Crystal/ Penicillin Potassium V First Crystal /BP/ USP/ ISP	16.00	Rs 600/- BOU

(c) Product Group: Electronics (Product Code : 83)

(i) The following entry is amended as under:

S.No	Description of Export Product	DEPB Rate	Value Cap
43	Televisions – Colour of all Screen sizes including projection TV and video projector in CKD/ SKD/CBU thereof	22.00	(i)Rs 4200 per piece for size upto and including 17” (ii) Rs 8700 per piece for size above 17” (excluding 17”)

26) The address and contact numbers of M/s American Quality Assessors (India) Pvt Ltd (Under the Offices of AQA, USA) appearing at S.No 12 of Appendix 32 A and S.No 12 of List A under Appendix 32 B is amended to read as under:

3-6-157, Victory Vihar, 4th Floor,
Himayathnagar, Hyderabad –500 029
Tel: 040-3222894,3222895 Fax: 040-3223023
Email: aqa@aqa-india.com/ srihari@hd1.vsnl.net.in

27) The following clarification is issued with reference to Appendix 41 that pertains to the “Norms of Scrap/ Waste Material for an Export Product under EOU and units in EPZ”.

The wastage norms for Combed Cotton Yarn at S.No 100 of Appendix 41 of the Handbook as per the table given below would be applicable w.e.f. 01.12.1999 i.e the date of issue of Public Notice No 42 (RE-99).

S.No	Goods Manufactured	Imported Goods used	Percentage of scrap or waste on imported goods
100	a)Combed Cotton Yarn below 40’s b)Combed Cotton yarn 41’s and above	Cotton Cotton	25% 30%

28) Appendix 43 is substituted by the relevant enclosure to this Public Notice.

29) The Following addition is made in Appendix 51 B pertaining to the “ List of Agencies Authorised to Issue Certificates of Origin – Non Preferential” under the State Head Delhi

DELHI

8. M/s Laghu Udyog Bharti,
1E/11, Swami Ramtirth Nagar, Jhandewalan Extn,

New Delhi 110055

This issues in public interest.

(N.L.Lakhanpal)
Director General of Foreign Trade

Copy to all concerned,
By orders etc.

(Bipin Menon)
Dy. Director General of Foreign Trade

Annexure of Appendix BBB

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ANNUAL PERFORMANCE REPORT OF SEZ UNITS

PART - A		
1. Name of the unit		
2. LOP No. & Date		
3. Item of Manufacture		
4.Date of commencement of commercial production		
	Rs. in lakhs	US $'000
5. Opening balance of Capital Goods :		
6. Import of capital goods during the year		
7. CG received under Inter-Unit Transfer during the year		
8. Outflow of FE on account of know how fees		
Total		
9. Opening balance of imported RM, consumables, spares, etc. at the beginning of the year		
10. RM, Consumables, spares, etc. imported during the year		
11. RM, consumables, spares, transferred to other units under inter unit transfer		
12. RM, consumables, spares received under inter unit transfer		
13. Imported RM, Consumables, spares, etc. consumed during the year		
14. Closing balance of imported RM, consumables, spares, etc at the end of the year		

15. Outflow of FE on account of interest on ECB, Export commission, foreign travel, royalty/dividend payment etc		
Total		
16. FOB value of exports		
17. Supplies made under para 9.10		
Total		
18. TA sales- (I) Finished goods (II) Rejects (III) Waste &		
19. NFE actually achieved		
20. Export Performance actually achieved		

Part B (as on 31.3.2001)		
Authorised capital		
Paid up capital		
Foreign Direct Investment - (I)Approved (Since inception) (II) Actual Inflow		
NRI capital (I)Approved (Since inception) (II) Actual Inflow		
Indian Equity		
	Supervisory	Non-supervisory Total
Employment :	Male	
	Female	
	Total	

Notes :-

1) The above information should be given separately for each Letter of Permission.

2) Figures should correspond to financial year April-March.

3) The information given in the formats should be authenticated by the authorized signatory of the unit and should be certified for its correctness by a Chartered Accountant with reference to the account records and registers maintained by the unit.

APPENDIX – 16 E

Guidelines for monitoring the performance of EOU/EPZ/SEZ units

(1) The annual review of performance of each operational unit and its compliance with the conditions of approval shall be undertaken by the Development Commissioner before the end of the first quarter of the following financial year;

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(2) A summary of annual performance review will be sent by each Development Commissioner to the Ministry of Commerce for information under the three formats indicated below latest by 30th June every year;

Proforma I: Comparative statement of performance and monitoring as compared to previous year;

Proforma II: Summary of annual performance of the EOU/EPZ/SEZ units, sector – wise with sectoral sub – totals.

Proforma III: Unit-wise statement on NFE and NFEP showing the result of review.

(A) EOU / EPZ units:

CRITERIA FOR ANNUAL MONITORING:

The criteria for keeping the unit under watch or initiating penal action in respect of EOU/EPZ units would be as follows :

i) Watch – If there is shortfall in achieving the NFEP and/or Export Performance (as per norms in Appendix – I) at the end of 1st and IInd year;

ii) Penal action -If at the end of 3rd or subsequent year the NFEP / EP are not achieved as per Appendix-I of Exim Policy, Show Cause Notice will be issued. After consideration of reply of unit, if it is noted that the unit has not achieved NFEP/EP as per policy the Development Commissioner would initiate penal action under the FT(D&R) Act, 1992;

iii) If penal action has been initiated against a unit on account of shortfall in NFEP/EP as stated above in a particular year and it defaults again in subsequent year(s), fresh penal action will be initiated against the unit. If however, during the adjudication proceedings, it comes to light that

unit has improved performance and now fulfilling NFEP/EP as per policy, DC concerned would consider that fact before taking a decision.

METHOD OF MONITORING:

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i) In all cases of debonding where the unit has imported inputs and failed to fulfil the conditions of LOP with regard to NFEP/EP, appropriate steps are to be taken for penal action after issuing Show Cause Notice to the units. Steps may also be initiated for cancellation of LOP/LOA of units which is not operating for more than a year;

ii). The Minimum export obligation expressed as minimum FOB value of exports shall be as per the norm for the 5 year period for various sectors given in Appendix – I of Exim Policy from time to time;

(iii) NFEP is to be calculated as per Para 9.29 of Exim Policy. For purpose of uniformity, guidelines for calculation of NFEP given in Annexure – I, may be followed.

iv) .Units which have not completed one year, from the date of commencement of commercial production, will not be monitored In case a unit has completed less than five years from the date of commencement of commercial production it will be monitored for the number of completed years. Annual monitoring in the cases of old units which have completed more than five years will be undertaken for only such number of years which fall in the second block of five years

v) Concurrent joint monitoring of EOU / EPZ units:

a) The performance of EOU / EPZ units would be jointly reviewed by the Development Commissioners of EPZs and concerned Customs / Central Excise Officers on six monthly basis i.e. April - September each year to be completed in the following quarter on the basis of QPRs furnished by the EOUs and for the full financial year on the basis of APR to be completed in the following quarter. The formats of QPR/APR have been prescribed in the LUT at Appendix B and Appendix BB.

b) Joint review of EP/NFEP of the EOUs would be conducted by the DC / JDC and jurisdictional Deputy Commissioner / Asstt. Commissioner of Customs and Central Excise in the office of Commissioner of Customs / Central Excise where representative of units would also be invited. This will help them to understand the scheme and clear the doubts about operation. The Development Commissioner are advised to identify the number of Customs and Excise Commissioners where the meetings are to be held and work out a scheduled for visiting each of these places. It is suggested that at least two places should be visited each month, so that all places are covered within a period of three months. Some places may be covered by JDC and in the

next six months, these could be interchanged between JDC and DC. For EPZ/SEZ units, this review will be done in the Zone itself.

c) For publicising the scheme, advertisement in the local papers may be arranged before the date of such meetings. Promotion program may be organised in collaboration with local industry, Association on any other organisation which has good presence in the area. General Manager of District Industries Center may be associated.

d) For each existing unit, review should be done at length to understand their problems and their possible resolution. Efforts should be made to identify the reasons for shortfall / poor performance and unit-wise action plan should be prepared for removal of bottlenecks. It should be ensured that the unit should have an export promotion strategy as well tentative targets for next few years, so that it has an idea as to what is to be achieved by them. Effective action should be taken against erring units to discourage any misuse of the scheme.

(e) For units under implementation, separate review beheld so that their issues could be resolved.

(f) At such places, if any infrastructure gaps are noticed, District Administration may be advised to prepare projects which can be routed through State Government to the Ministry for approval under CIB Scheme.

g) Based on the joint review Development Commissioner concerned would prepare a report for information of the Department of Commerce and CBEC and suggest corrective measures to enable the defaulting units to fulfill their obligation as per Exim Policy / Customs Notifications.

(B) SEZ UNITS:

QUARTERLY AND ANNUAL MONITORING

i) The performance of the SEZ units shall be monitored by a Committee as provided for in para 9A-5 of the Exim Policy.

ii) The performance of the SEZ units to be monitored each quarter period on the basis of reports received in Appendix 16 H.

iii) Annual monitoring would be undertaken on the basis of APR prescribed in Annexure I of Appendix 16-BBB. However, penal action is to be initiated only if NFE achieved is negative at the end of 3rd or subsequent years. In case of existing EPZ units converting into SEZ scheme, the date of commencement of commercial production under

the EPZ scheme will be the date for reckoning the number of years completed by the units for the purpose of monitoring.

iv) During the joint review, efforts should be made to identify the reasons for shortfall/poor performance and unit-wise action plan should be prepared for removal of bottlenecks through such a review.

(v) Based on the joint review, Development Commissioner concerned would prepare a report for the information of the Department of Commerce and CBEC and suggest corrective measures to enable the defaulting units to fulfil their obligations as per Exim Policy/Customs Notifications

(c) OTHER CONDITIONS:

Development Commissioner will monitor Foreign Exchange realization/remittance of EOU/EPZ/SEZ units in coordination with the concerned General Manager of RBI as per instructions issued on the subject vide RBI circular No. COEXD. 3109/05.62.05/99-2000 dated 21.2.2000.

ANNEXURE – I

CALCULATION OF NFEP/NFE

While calculating NFEP/EP achieved, following basic components are to be taken into consideration:

i. Amortised value of capital goods and technical know how fee
ii. Value of import of R. M. (which is consumed during the year and consumables, spares, etc.).
iii. Other outflow of foreign exchange towards royalty, interest on external commercial borrowings etc.
iv. Value of physical exports effected excluding DTA sales but including supplies made under para 9.10 and 9A.10 of the policy.

1. Amortised Value of Capital Goods: For this purpose as much value of CG is taken into account as indicated in para 9.40 for NFEP and 9A.32 for NFE of the Hand Book of procedure (Vol.I). The CG imported prior to the 5 years period is not taken into consideration for the purposes of NFEP/NFE if the value of said CG is fully amortized. However where investment in plant and machinery is more than Rs. 5.00 crores, the value of imported CG will be apportioned over a period of 8 years. If any capital goods imported duty free

is leased from a leasing company or is taken in loan the CIF value of the capital goods shall be included under the imported inputs. However, on return of such CG its unamortized portion of value would be excluded from the calculation formula.

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2. <u>Import of raw material, consumables and spares etc</u>: Whatever R. M. Consumables and spares are imported during the year are taken into account. However, it should be noted that whatever R. M. is in balance at the end of the previous year is added while the RM at the end of the current year is deducted which will give the amount of RM consumed during the year. RM purchased as inter – unit transfer is also included.

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3. <u>Other outflow of foreign exchange:</u> All the foreign exchange outflow on account of royalty, dividends, commission on exports, interest on external commercial borrowing etc., during the particular year has to be accounted for while calculating value addition.
However outflow on account of know-how fee would be apportioned during a period of five years/eight years as applicable

4. <u>Value of exports:</u> While calculating value of exports, DTA sale made during the year are not to be accounted for. However, supplies made in accordance with the para 9.10 and 9A.10 of the Policy will be taken into consideration for calculation of NFEP/NFE.

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Given below are details of a unit so as to calculate the NFEP for the year 1999 – 2000, on the presumption that no imported RM was in balance at the end of previous year as well as at the end of 1999-2000. In this case, the NFEP for 1999-2000 is calculated as below: -

1. Amortised value of CG. (20% of import of CG made during the years 1995-96 to 1999-2000)	(i.e., 20% of Rs. 50.00 lakhs) Rs. 10.00 lakhs
2. Import of R. M. etc	Rs. 100.93 lakhs
3. Other outflow of F. E.	Rs. 10.72 lakhs
4. Value of exports	Rs. 173.13 lakhs

The NFEP comes to $= \dfrac{173.13 - (10 + 100.93 + 10.72) \times 100}{173.13}$

= 29.73%

Note: <u>CALCULATION OF NFEP/NFE ON NOTIONAL/ACTUAL BASIS</u>: While calculating NFEP/NFE, FOB value of the capital goods or raw material received free of cost may be taken into account.

<u>Appendix-16-H</u>

QUARTERLY REPORT TO BE FURNISHED BY UNITS IN SEZ

Quarterly statement to be furnished by the SEZ unit in terms of paragraph 9A.5 of Handbook of Procedures (Vol. I).

(All figures to be given in US$)

1. 1. Name of the unit :

2. 2. Period of reporting :

3. 3. Item(s) of manufacture/trading/service :

4. 4. Date of commencement of production/operation

S.No.	Transaction	Value in US$
1.	Opening balance as on the date of conversion/Ist day of quarter into SEZ scheme:- i) capital goods and office equipments, ii) raw materials. Components, consumables, spare parts, iii) finished manufactured products (category of items and value to be indicated. In case of imported capital goods, balance value remaining after amortization allowed under EPZ scheme only to be indicated).	
2.	CIF value of CG and office equipments imported / purchased from other EPZ / SEZ / EOU / EHTP during the quarter.	
3.	CIF value of raw materials/ components, consumables imported during the quarter.	
4.	Other foreign exchange outgoes on account of commission/ dividend/ royalty etc. during the quarter.	
5.	Value of goods received from other SEZ/EPZ/EOU/EHTP/STP units under inter-unit transfer during the quarter.	
6.	Fob value of exports till the end of the quarter.	
7.	Value of goods/services supplied in the Domestic Tariff Area against advance licenses and special duty free entitlements during the quarter.	
8.	Value of goods transferred to other SEZ/EPZ/EOU/EHTP/STP units under inter-unit transfer during the quarter.	

9.	CIF value of imported raw materials, components and consumables lying in stock at the close of the quarter.	
10.	Net Foreign Exchange Earning as per the formula indicated in paragraph 9-A.4 of the Handbook of Procedure (Vol.I) excluding the CIF value of imported raw materials, components, consumables lying in stock at the end of last quarter (S.No. 9 above)	

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<u>Other details</u>

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(Value in Rupees)

11.	Sale of goods effected in DTA, if any, till last quarter.	
12.	Sale of rejects, in the DTA, if any, till last quarter.	
13.	Sale of waste/scrap/remnants, if any, till last quarter	
14.	Goods exported without GR form under intimation to the Development Commissioner of SEZ such as (i) imported goods found defective for the purpose of replacement by foreign suppliers or collaborators, imported goods on loan basis, export of free samples, surplus goods imported from foreign suppliers or collaborators free of cost for production operations, consignments imported for participation in exhibitions etc.	
15.	Value of indigenous CG procured till end of last quarter.	
16.	Value of indigenous raw materials/ components, consumables procured till the end of the last quarter	
17.	Cases of pending Foreign Exchange realisation outstanding for more than one year at the end of last quarter Date of export : Name of Importer: Address : Amount	
18.	External commercial borrowing pending at the end of last quarter (a) Less than three years Amount in \$ (b) More than three years -do-	
19.	Overseas investment made by the unit at the end of last quarter a) Less than one years Amount in \$ (b) More than one years -do-	

Explanatory Notes:

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a) Finished goods imported as samples or for re-making should be included in column 1 (ii)

b) Opening balance not to include value of items imported on loan basis or procured from DTA without CT-3 exemption.

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APPENDIX- 16-L

TO BE PUBLISED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
(PART I SECTION 1)

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
(DEPARTMENT OF COMMERCE)

New Delhi, dated the August 7 , 2001

NOTIFICATION

No. 14/1/2001-EPZ: In supersession of Ministry of Commerce and Industry Notification No. 14/1/2001 dated 19.6.2001, Government of India hereby constitutes combined Board of Approvals for EOU/EPZ and SEZ Schemes as under:-

1.	Additional Secretary Department of Commerce	Chairman,
2.	Joint Secretary Department of Commerce	Member
3.	Joint Secretary, Department of Industrial Policy and Promotion	Member
4.	Member(Customs)	Member

	Central Board of Excise and Customs	
5.	Director General of Foreign Trade	Member
6.	Joint Secretary, Ministry of Environment and Forests	Member
7.	Joint Secretary, Ministry of Science and Technology	Member
8.	A representative from Ministry of Small Scale Industries and Agro and Rural Industries	Member
9.	Development Commissioner of the concerned EPZs/SEZs	Member
10.	A representative of Department of Economic Affairs	Member
11.	A representative of Ministry of Urban Development and Poverty Alleviation	Member
12.	A representative of Central Board of Direct Taxes	Member
13.	Deputy Secretary/Director (EOU/EPZ)	Member-Secretary Department of Commerce

Powers and functions of the Board:

1. The Board shall consider proposals under EOU/EPZ/SEZ scheme that fall outside the automatic approval procedure as notified from time to time.

2. Subject to necessary empowerment under section 14 of the Industries (Development and Regulation) Act, 1951, the Board, wherever applicable, shall also consider applications for grant of industrial licence wherever such licence is compulsory. Minutes in such cases will be issued after approval of Department of Industrial Policy and Promotion. Based on the approved minutes the Development Commissioner shall issue the Letter of Intent and upon fulfillment of conditions therein convert the same into industrial licence.

3. All Cases would be submitted before the Board by the Development Commissioner along with his comments so that the units have a single interface at the level of Development Commissioner;

4. EOU cases involving foreign equity, including investment by NRIs and OCBs that fall outside the automatic route shall continue to be dealt with by the Foreign Investment Promotion Board (FIPB). In such cases, the units will apply directly to Secretariat for Industrial Assistance (SIA)) for FIPB approval with a copy to the Development Commissioner concerned.

Those falling under the automatic route shall avail themselves of the dispensation available under the automatic route.

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5. Consider all application for setting up of SEZ/EPZ in the public/private/joint or State sector and make suitable recommendations in this regard.

6. Approve goods and services required for developing , maintaining and operating SEZ or any component thereof

7. Any other issues concerning development of EPZ/SEZ

Note: Separate meeting will be held to consider the proposal to set up SEZ/EPZ in the public/private/joint or State sector."

General

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8. The Board may prescribe any condition, as it may consider necessary while granting approval.

9. The Board may in its discretion grant or refuse the approval.

(10) Chairman of the Board may co-opt any representative of any other Department oragency not already included in it, if he finds it necessary for any specific purpose.

(D.K.Mittal)
Joint Secretary to the Government of India
[No. 14/1/2001-EOU]

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APPENDIX - 43

Procedure to be followed for reimbursement of Central Sales Tax (CST) on supplies made to Export Oriented Units (EOUs) and units in Export Processing Zones(EPZ), Electronic Hardware Technology Park (EHTP), Software Technology Park (STP) and Special Economic Zones(SEZ)from Domestic Tariff Area (DTA)

Note: Please see paragraph 9.29 and 9A.17 of this Handbook.

The procedure given hereunder shall be applicable for reimbursement of Central Sales Tax.

2. The Export Oriented Units (EOUs) and units in Export Processing Zones (EPZs), Electronic Hardware Technology Park (EHTP), Software Technology Park (STP) and Special Economic Zones (SEZ) will be entitled to full reimbursement of Central Sales Tax (CST) paid by them on purchases made from the Domestic Tariff Area (DTA), for production of goods and services as per Exim Policy on the following terms and conditions:

(a) The supplies from DTA to EOU/EPZ/EHTP/STP/SEZ units must be utilised by them for production of goods meant for export and/or utilised for export production and may include raw material, components, consumables, packing materials, capital goods, spares, material handling equipment etc. on which CST has been actually paid by the EOU/EPZ/EHTP/STP/SEZ

(ii) While dealing with the application for reimbursement of CST, the Development Commissioner or the designated officer of EHTP/STP shall see, inter alia, that the purchases are essential for the production of goods meant for export and/or to be utilised for export production by the units.

3. The procedure to be followed in this regard is indicated hereinafter and shall be strictly adhered to:

Procedure:

(i) The unit shall present its claim for reimbursement of CST in the prescribed form (Annexure - I) to the Development Commissioner of the EPZ/SEZ concerned or the designated officer of the EHTP/STP.

(ii) As soon as the goods are received by the EOU/EPZ/EHTP/STP/SEZ unit in its premises it will be entered in the material receipt register kept for the purpose. The register must show the details of goods, quantity, the source of purchase and the C Form against which purchase is made, etc. which will be subject to periodical check by the authorised staff of the Zone/Customs administration. A Chartered Accountant's certificate regarding the verification of the materials receipt register relevant to the claim as at Annexure - II shall be submitted alongwith the claim,.

(i) The reimbursement of CST shall be admissible only to those units who get themselves registered with the Sales Tax authorities in terms of Section 7 of the CST Act, 1956 read with (Registration and Turnover) Rules, 1957 and furnish a photostat copy of the Registration Certificate issued by the Sales Tax authorities to the Zone office concerned for keeping it in the relevant file.

iv) Claims shall be admissible only if payments are made through the bank accounts maintained by EOU/EPZ/SEZ/EHTP/STP unit or DD emanated from its accounts.

(v) The claim shall be submitted alongwith the following documents:

a) Chartered Accountant's Certificate, from CA, meeting the following criteria, certifying receipt of the goods as shown in Annexure-II in the bonded premises, scrutiny of original invoice/bill of the supplier and proof of payment against each invoice/bill and its reconciliation with 'C' Form:-

Eligibility criteria for C.A. firms:

(i) In case of units located in the the States of J&K, Orissa, North-Eastern States, Andaman and Nicobar islands and Lakshadweep, the Chartered Accountant firm should be at least a Sole Proprietorship firm who should be an FCA and engaged full time with the firm.

(ii) In case of partnership Chartered Accountant firms located in the regions indicated in (i) above, should have at least two full time partners, one of whom should be an FCA.

(iii) In case of units located in other regions, the partnership Chartered Accountant firms should have atleast one full time partner, who should be an FCA.

(iv) For the regions indicated in (i) above, the Chartered Accountant firm be located in the area where the unit is situated otherwise qualification of (iii) shall apply.

b) Photostat copy of C Form issued by the EOU/EPZ/EHTP/STP/SEZ to the supplier in the DTA with reference to the counterfoil produced by the unit. The counterfoil of C form will be returned to the unit after making suitable endorsement like 'cancelled/CST reimbursed' duly signed by the authorised officer of the Zone administration. While making the endorsement only, the items for which CST has been reimbursed should be indicated as cancelled. and the photostat copy will be retained by the officer for keeping in respective file. In the event of the same `C' form being used again, the verification could be done at the time of scrutiny from the self attested photocopies. The firm must indicate the file No. on which the original stands submitted.

(vi) The reimbursement will be limited to the payment of CST against C Form only.

(vii) The EOU/EPZ/EHTP/STP/SEZ shall also intimate the name of the person/persons who are authorised by them to sign the C Form and furnish three copies of his/their specimen signature(s) which will be kept in the relevant file of the unit.

(viii) The reimbursement will be made on quarterly basis. No claim for reimbursement will be normally entertained if not claimed within a period of six months from the completion of the quarter in which the claim has arisen. In case of procurement of goods against payment in instalments, the CST reimbursement claim may be made in the quarter in which the full payment has been effected against the invoice/bill. In exceptional cases, the Development Commissioner may consider delayed applications after satisfying that the delay was due to genuine grounds.

(ix) Only one consolidated claim for a quarter will be admitted for reimbursement of CST. No supplementary claim shall be entertained.

(x) The claim for CST reimbursement for the amount below Rs. 100/- on any single invoice shall not be entertained.

(xi) The disbursing authority for the claim of reimbursement of CST will be Development Commissioner/designated officer of EHTP/STP who will make payment to the units. All claims shall be subjected to post audit.

(xii) The unit shall preserve for three years all the original documents viz. Original invoice/bill, money receipt/bank statement for random/sample checking and produce the same as and when called for by the office of the Development Commissioner. Random checking of 5% of the claims of a particular quarter should be done in the next quarter through generation of computer statements on the basis of serial numbers. The random list will be generated by the Development Commissioner personally.

(xiii) In case some glaring error or irregularity is detected against any unit in claiming CST reimbursement, action to recover the amount paid and levy penalty would be taken under FTDR Act against such unit.

(xiv) Any dues of the Government viz. arrear of Lease rent, amount on account of a Courts decree or Income tax recovery note, etc. will also be deductible from the claim amount or it can be set off from the subsequent payment.

APPENDIX- 16- F

Sector specific conditions for EOU/EPZ unit:

(1) RICE:

i) Export of rice(both basmati and non-basmati)shall be subject to minimum export price(MEP) whenever inforce;

ii) The labeling of export package should declare the type of rice and country of origin. The export of rice would be under brand names suitably registered with APEDA which shall be the nodal agency in the matters relating to labeling and registration of brand names;

iii) The approval shall be granted in consultation with Ministry of Food Processing Industries with regard to capacity of the unit;

iv) EOU/EPZ rice mills will be exempted from levy orders limited to the quantity exported by them.

(2) COTTON YARN:

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The approval for manufacture of cotton yarn in the range of 40 counts and below would be subject to conditions mentioned in Press Note No.2 of 1999 dated 18.1.99 issued by the Deptt. of IP&P

(3) TEA:

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The approval for setting up EOUs would be subject to the following conditions:-

i) DTA sale of Tea will not be allowed .

ii) Use of "India Tea logo" shall be allowed with the permission of Tea Board.

iii) DTA sale of instant tea would be allowed upto 20% of FOB value of exports in the form of tea bags or bulk.

(iii) Tea units may be allowed to sell tea waste in accordance with para 9.20 of the Policy.

(4) COFFEE

Export of imported coffee shall be subject to approval from Coffee Board under relevant Act.

(5) MEAT PROCESSING:

(6) -

Proposals for setting up meat processing units shall be subject to prior clearance of location by the respective State Governments/UTAdministration.

(6) PETROLEUM PRODUCTS:

Proposals for setting up petroleum refineries under the EOU scheme shall require prior clearance of the Ministry of Petroleum.

(7) GRANITES:

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I) Minimum annual capacity requirement for Granite EOUs would be as follows:-

a) SLABS (if exclusively minimum 40,000 sq.mtrs. with two gang saws)

b) TILES (if exclusively minimum 50,000 sq.mtrs. with two block cutters)

c) MONUMENTS (if exclusively minimum 20,000 sq.mtrs. with one circulars saw)

d) SLABS, MONUMENTS & TILES (50,000 sq.mtrs.)

2) Normally raw material tie-ups are not insisted upon but this may be necessary in cases, such as granite products where availability of raw materials is contingent upon Government leases etc.

(8) FLORICULTURE/HORTICULTURE EOUS:

The EOUs engaged in floriculture/horticulture may import for use at fields of other contract farmers the following irrigation equipment's as these are covered in the green house equipment's listed in Annexure -I notification No.126-Cus /94 dated the 3rd June, 1994 as amended from time to time.

S.No.	Name of the equipment	HSD No.
1.	Filters	84.21
2.	Driplines & Drip Fittings	84.24
3.	Micro sprinklers & Misters	84.24
4.	Agriculture sprinlers	84.24
5.	Fertilizer Tanks	84.24
6.	Valves	84.81
7.	Fertilizer pumps & Chemical Injections	84.13

It may, however be ensured that not more than 50% production may take place at other identified place with the help of the above equipment besides normal export production on the specified area of floriculture/horticulture EOUs.

(9) HIGH GRADE IRON ORE

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Proposals for export of high grade i.e. 64% Fe Iron Ore and above except iron ore of Goa origin and Redi origin are presently canalized through MMTC and its exports would be subject to annual quantity allocation by the BOA.

NOTE: Units will obtain separate licence required under any Central/State law, like drugs, milk products etc.

APPENDIX -26-A

FORMAT OF CERTIFICATE OF CHARTERED ACCOUNTANT/COST AND WORKS ACCOUNTANT FOR SERVICE PROVIDERS

I/We hereby confirm that I/We have examined the prescribed registers and also the relevant records of M/s________________________________ for the period ________ and hereby certify that:

M/s ______________________________ (full name and address of the applicant) have earned the following foreign exchange from direct and indirect sources in the prescribed licensing year:

The following documents/records have been furnished by the applicant for services provided against Direct/Indirect foreign exchange and have been examined and verified by me/us.

In respect of direct foreign exchange earnings, we have verified the certified statements from the Banker/ Chartered Accountant of Foreign Exchange Earnings. In respect of indirect forex earnings duly certified by Chartered Accountant such as amount received from Travel agents/Tour Operators, Foreign Airlines for stay of Crew and Catering, UN organizations and Diplomatic Missions and Encashment Certificate from authorized dealers and others in terms of DGFT Policy circular no.60/97-2002 dated 24.12.1998.

1. The financial information given in the above statement is in agreement with the relevant register and records; the same has been incorporated in the books of accounts maintained by the Service provider; and is also true and correct.
2. It has been ensured that the information furnished is true and correct in all respect; no part of it is false or misleading and no relevant information has been concealed or withheld;
3. Neither I, nor any of my partners/director is a partner, director, or an employee of the above-named entity or its associated concerns;
4. I/We fully understand that any statement made in this certificate, if proved incorrect or false, will render me/us liable for any penal or other consequences as may be prescribed in law or otherwise warranted.

(Signature and Stamp/ Seal of the Signatory)

(Chartered Accountant/ Cost & Works Accountant)

Name of the Signatory :
Place: Full Address :
Date: Membership No. :