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(PART-1, SECTION-1)

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE&INDUSTRY

PUBLIC NOTICE NO. 37 (RE-00)/1997-2002

NEW DELHI, the 19th October, 2000

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 31.3.97, the Director General of Foreign Trade hereby makes the following amendment in Handbook (Vol.1). (RE-00), 1997- 2002.

1. The second sub-paragraph of paragraph 9.1 shall be amended to read as under:-

Export Processing Zones can also be set up by State Governments or in private/joint sector as per guidelines issued vide Notification No:42(RE)/92-97 dated 31st May, 1994 (Appendix 16-G). Guidelines on setting up of Special Economic Zones in the public/private/joint/State sector is given in Appendix 16-I).

2. The following shall be added as paragraph 9.2(d): -

For setting up a unit in a SEZ, 5 copies of the application in the form given in Appendix 16-J may be submitted to the Development Commissioner (DC) of the SEZ concerned.

3. The paragraph 9.5 shall be amended to read as under:-

Letter of permission (LOP)/Letter of intent (LOI) issued to EOU/EPZ/EHTP/STP units by the concerned authority would be construed as a licnece for all purposes, including for procurement of raw materials and consumables either directly or through canalizing agency. Standard format for LOP/LOI for EOU/EPZ units is given in Appendix 16-D and for Trading/Service units in Appendix 16-DD. Standard format for LOP/LOI for SEZ units is given in Appendix 16-K.

4. The paragraph 9.6 shall be amended to read as under:-

The LOP/LOI shall specify the items of manufacture/service activity, annual capacity, projected annual export performance (EP) for the first five years in dollar terms, Net Foreign Exchange earnings as a Percentage of exports (NFEP), limitations, if any, regarding sale of finished goods, by-products and rejects in the DTA and such other matter as may be necessary and also impose such conditions as may be required.

In case of any change in approved activity or undertaking any new activity by SEZ units, the Development Commissioner shall issue amended LOP within six days on receiving intimation from the unit.

5. The paragraph 9.10 (d) shall be amended to read as under:-

The goods, except capital goods and spares shall be utilised by EOU/EPZ units as per Policy within a period of two years or as may be extended by Customs authority. For items covered by chapter 8 of the Policy, the provisions of that chapter shall apply to such units.

However, in case of SEZ units, the goods shall be utilised within the approval period of 5 years

6. The following shall be added as paragraph 9.20(c):-

The approved SEZ unit shall be required to execute a legal undertaking with the DC concerned in the format to be prescribed.

7. The first sub-paragraph of paragraph 9.37(a) under the head "Approval of Units", shall be amended to read as under:-

Applications for setting up of units in EPZ or as EOU outside the EPZ, 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 BOA) and conversion of sick/closed DTA unit into EOU, satisfying the following conditions, may be approved by DC.

8. The paragraph 9.37 (b) (i) shall be amended to read as under:-

Import of additional capital goods: to allow import of additional capitals goods subject to the condition that the total value of imported capital goods is not more than US $ 20 million or 10% of the approved value of capital goods even if it exceeds US $ 20 million

9. The paragraph 9.44 shall be amended to read as under:-

SEZ unit shall maintain proper account, in format convenient to it and financial year-wise and make available on-line to the Development Commissioner/ Customs information in the format prescribed at Appendix 16 H and till such time on-line connectivity is established submit the same quarterly and regularly to the Development Commissioner/ Customs. For gem and jewellery a monthly statement shall be submitted in the same format.

10. The paragraph 9.45 shall be renumbered as paragraph 9.46 and shall be amended to read as under:-

The provisions of paragraph 9.1, 9.2, 9.4, 9.5, 9.6, 9.10, 9.14, 9.15,9.16,9.17, 9.18, 9.19, 9.20, 9.24A, 9.24B, 9.28, 9.29, 9.29A, 9.32, 9.33, 9.34, 9.35, 9.37.9.38, 9.39 and 9.40 will also apply to SEZ units

11. The following shall added as paragraph 9.45

SEZ unit may be permitted to :-

(a) export finished goods directly from the job worker's premises provided the job worker's premises is registered with the Central Excise Department. However, export of such products from the job worker's premises shall not be allowed through third parties as provided for under paragraph 9.11 of the Policy.

(b) In case of sub-contracting of production in the DTA in terms of paragraph 9.38 of the Policy, a sample of the export product being subcontracted shall be sent in advance to the jurisdictional Excise Officer of the sub-contractor in the DTA.

(c) In case of SEZ units undertaking job work for export on behalf of DTA unit in terms para 9.38 of the Policy, the finished goods shall be exported directly from the SEZ unit and export documents shall be in the name of DTA unit.

12. The guidelines for monitoring the performance of EOU/EPZ/SEZ units as contained at pages "App.116/117" of Appendix– 16 E shall be amended as per the Annexure-I to this Public Notice.

13. The Appendix– 16 H shall be amended as per the Annexure-II to this Public Notice.

14. The Appendix– 16J shall be added in the Handbook (Vol.1) as per the Annexure-III to this Public Notice.

This issues in public interest.

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

Copy to all concerned:-
By orders etc.

(A.K.Srivastava)
Dy. Director General of Foreign Trade

Annexure-I

APPENDIX – 16 E

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

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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;

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

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

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

3. The criteria for condoning marginal shortfall, keeping the unit under 'watch' or initiating penal action in respect of EOU/EPZ units would be as follows :

   i) No action – If the EOU/EPZ unit has achieved the NFEP and Export Performance (EP) as per norms in Appendix – I of Exim Policy;

   ii) Condone – If the shortfall in NFEP and/or export performance (as per norms in Appendix – I) is upto 10% during 1st and IInd year;

   iii) Watch – If the shortfall in NFEP (as per Appendix – I) is more than 10% but NFEP achieved is not negative and/or shortfall in EP does not exceed 10% of the norm in Appendix – I during first or second year;

   iv) Penal action – If NFEP achieved is negative and/or shortfall in export performance is more than 10% of the norm in Appendix – I in 3rd or subsequent years the unit should be issued Show cause notice by the Development Commissioner. If after consideration of reply of unit, the default is more than permissible limit, the Development Commissioner may initiate penal action under the FT(D&R) Act, 1992;

   However, cases where NFEP achieved is negative during first year of performance, may also be kept in 'condone' category and penal action may be taken only if the trend continues in the second or subsequent year of their operation;

   v) 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 against in subsequent year(s), fresh penal action will be initiated against the unit.

4. 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;

5. 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;

6. 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; and

7. Annual monitoring in the cases of old units which have completed more than five years will be evaluated cumulatively for the last five years (seven years for units with investment of Rs. 200 crores or above) only. 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. However, units which have not completed one year, from the date of commercial production, need not be monitored.

8. Development Commissioner will monitor Foreign Exchange realization/remittance of EOU/EPZ 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

SEZ units:

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The criteria for monitoring the performance of SEZ units would be as follows:-

(a) The performance of the SEZ units to be monitored annually. However, penal action to be initiated only if NFEP achieved is negative in 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.

(b) The performance of the SEZ units shall be monitored by a Committee as provided for in para 9.40 of the Policy.

Annexure-II

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Appendix-16-H

MONTHLY /QUARTERLY REPORT TO BE FURNISHED BY UNITS IN SEZ

Quarterly/monthly statement to be furnished by the SEZ unit in terms of paragraph 9.44 of Handbook of Procedures (Vol. I).

(All figures to be given in US$)

1. Name of the unit :

2. Period of reporting :

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

4. Date of commencement of production/operation

S.No.	Transaction	Value in US$
1.	Opening balance of capital goods, raw materials. Components, consumables, parts, Office equipment, finished products etc., as on date of conversion into SEZ scheme.(Description 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 imported till the end of the last quarter/month	
3.	CIF value of raw materials/ components, consumables imported till the end of the last quarter/ month	
4.	Other foreign exchange outgoes on account of commission/ dividend/ royalty etc. till the end of last quarter/month	
5.	Value of goods received from other SEZ/EPZ/EOU/EHTP/STP units under inter-unit transfer	
6.	Fob value of exports till the end of the last quarter/month	
7.	Value of goods/services supplied in the Domestic Tariff Area against advance licences and special duty free entitlements.	
8.	Value of goods transferred to otherSEZ/EPZ/EOU/EHTP/STP units under inter-unit transfer.	
9.	CIF value of imported raw materials lying in stock at the close of the last quarter/month	
10.	Positive Net Foreign Exchange Earning as per the formula indicated in paragraph 17.25 of the Handbook excluding the CIF value of imported raw materials lying in stock at the end of last quarter/month. (S.No. 8 above)	

Contd..

Other details

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(Value in Rupees)

11.	Sale of goods effected in DTA, if any, till last quarter/month	
12.	Sale of rejects, in the DTA, if any, till last quarter/month	
13.	Sale of waste/scrap/remnants, if any, till last quarter/month	
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 collaboarators, imported goods on loan basis, export of free samples, surplus goods imported from foreign suppliers or collaboarators free of cost for production operations, consignments imported for participation in exhibitions etc.	
15.	Value of indigenous CG procured till end of last quarter / month .	
16.	Value of indigenous raw materials/ components, consumables procured till the end of the last quarter/ month	

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Annexure-III

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APPENDIX-16-J

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APPLICATION FOR SETTING UP UNITS IN
SPECIAL ECONOMIC ZONE

Note:1 Please see Paragraph 9.2 of this Handbook.

The application should be submitted to the Development Commissioner of the concerned Special Economic Zone(SEZ)for setting up units in SEZ, in 5 copies along-with a crossed Demand Draft of Rs.1,000/-(Rupees 2,500/-in case of items falling under Schedule I & II of the new Industrial Policy)drawn in favour of the Pay & Accounts Officer, Department of Industrial Development, payable at the Sate Bank of India, Nirman Bhavan, New Delhi.

For Official Use only

Application No. ______________________________

Date : ______________________________

Date__________Month____________Year __________

Details of Bank Draft

Amount Rs. ___________________

Draft No. ___________________

draft date ___________________

Drawn on ___________________
(Name of the Bank)

Payable at ________________________

I. NAME AND ADDRESS OF THE PROMOTER(Block Letters)

Name of the company /Applicant _________________________________

Full Address _________________________________

(Regd.Office in case of limited companies & Head Office for others _________________________________
____
____

Pin Code _________________________________

Tel. No. _________________________________

Fax No. ________________________________

E-Mail No. ________________________________

II. NATURE OF THE APPLICANT FIRM:
(Please tick (√) the appropriate box)

1. Government Undertaking
2. Public Limited Company
3. Private Limited Company
4. Proprietor ship
5. Partnership
6. Others (please specify)

III. INDICATE WHETHER THIS PROPOSAL IS FOR
(Please tick (√) the appropriate box).

1. Establishment of a New Undertaking, for manufacturing/ Trading/ service
2. Effecting Substantial Expansion of the approved activity.
3. Manufacture of New product or for new service or trading.

Please furnish the following in case of manufacturing unit:

IV. ITEM(S) OF MANUFACTURE : (Including By-product/Co-products)
(If necessary, additional sheets may be attached)

Item(s) Description	Capacity(Unit =)	Item Code(ITC HS Code No.)

_______________ _______________ ______________________

_______________ _______________ ______________________

_______________ _______________ _______________________

Please furnish the following in case of trading/service unit:

(Rs. In lakhs)

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V	INDICATE BROAD DETAILS OF THE PRODUCTS/SERVICE ACTIVITIES FOR WHICH UNIT IS PROPOSED IN A PERIOD OF FIVE YEARS	Imports	Export	Local purchase	

VI. FOB VALUE OF EXPORTS

(1 $ = Rs.)

	Rupees (lakhs)	US $ (Thousand
1st year		
2nd year		
3rd year		
4th year		
5th year		
Total:		

VII. INVESTMENT:

(RS. IN LAKHS)

(a) Land ______________________

(b) Building ________________________

(c) Plant and Machinery ________________________

(I) Indigenous ________________________

(US $ Thousand)

(ii) Import CIF value ________________________

(iii) Total (I) + ii) ________________________

VIII. WHETHER FOREIGN TECHNOLOGY AGREEMENT IS ENVISAGED

(Please tick (\/) the appropriate box)

Yes ____________ No_____________

(I) Name and Address of foreign collaborator ________________________

(ii) Terms of collaboration (Rupees lakhs)

(Gross of Taxes)

(a) Lumpsum payment _____________________

(b) Design & Drawing fee _____________________

(c) Payment to foreign technician _____________________

(d) Royalty (on exports) ____________________%

(e) Royalty(on DTA sales if envisaged) ____________________

(f) Duration of agreement ___________________

(No.of years)

IX. EQUITY INCLUDING FOREIGN/NRI INVESTMENT

(i)

	$ Thousand)	(Rs.lakhs)
(a) Authorized	________________	________________
(b) Subscribed	________________	________________
(c) Paid up Capital	________________	________________

Note: If it is an existing company, please give the break up of the existing and proposed capital structure

(ii) Pattern of share holding in the paid-up capital (Amount in Rupees)

(Rs. in lakhs) (US $ Thousand)

(a) Foreign holding ______________ __________________

(b) Non Resident Indian company / Individual holding

(i) Repatriable ______________ ___________________

(ii) Non-repatriable ______________ ___________________

(c) Resident holding ______________ ___________________

(d) Total(a+b(i+ii)+c equity ______________ ____________________

(e) (iii) External commercial Borrowing _______________ ___________________

Foreign Exchange Balance sheet

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		1st	2nd	3rd	4th	5th	Total 5 Yrs	
X.	Fob value of exports in first five years							
XI.	Foreign Exchange outgo on							
(i)	Import of machinery							
(ii)	Import of raw materials and							

	components							
(iii	Import of spares and consumables							
(iv)	Repatriation of dividends and profits to foreign collaborators							
(v)	Royalty							
(vi)	Lump sum know-how fee							
(vii)	Design and drawing fee							
(viii)	Payment of foreign technicians							
(ix)	Payment on training of Indian technicians abroad							
(x)	Commission on Export etc.							
(xi)	Foreign Travel							
(xii)	Amount of interest to be paid on external commercial borrowing/ deferred payment credit(specify details)							
(xiii)	Any other payments (specify details)							

	Total (i)to(xiii)							
	Net Foreign Exchange earnings in five years							

XII.REJECTS.

Generation of Rejects/Sub-standard goods of the finished __________ __________________
__________ ____________________
(percentage of 5 yrs production)

XIII. SUB-CONTRACTING

a) Whether any of the required components are proposed to be sub-contracted to small scale and ancillary units. __________ ___________
__________ ___________
Yes No

XIV. EMPLOYMENT

(All figures in number)

Existing Proposed

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a) Supervisory _____________ _______________
_____________ _______________

b) Non-supervisory _____________ _______________
_____________ _______________

XV. NET FOREIGN EXCHANGE EARNING

Percentage

Positive foreign Exchange earning in five year _________ in terms of paragraph 16.4 of the policy __________

XVI MARKETING

a) Whether marketing tie-up/Buy-back envisaged/finalized?(Attach documents, if any) ________ _________ ________ _________

Yes No

b) Destination of exports(in percentage)

	G. C. A.	R. P . A.
	________	_________
	________	_________

XVII. OTHER INFORMATION

i) Any special features of the project proposal which you want to highlight :...............................
....

(please attach the project report, for new units)

ii)(a) Whether the applicant has been issued any industrial license or LOI/LOP under EOU SEZ/EPZ scheme if so, please give full particulars especially reference number, date of issue, items of manufacture and progress of implementation of each project. :...............................
....

(b) Whether the applicant has submitted any other application for LOI/LOP which is pending. If so, please give particulars like reference number, name under which application made, items of manufacture etc. :...............................
....

(iii) Whether the applicant or any of the :...............................

partners/Directors who are also partners /Directors of another company or its associate concerns have been debarred from getting any License/Letter of Intent/ Letter of Permission under the Export and Import(Control)Act. 1947/ Foreign Trade (Development and Regulation) Act, 1992 or otherwise penalized.	....

Place :_________ Signature of the Applicant __________________

Date :________ Name in Block Letters __________________

Designation _________________

Official Seal/Stamp__________________

Full Official Address : ....
....

Full Residential Address : ....
....

UNDERTAKING

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I/We hereby declare that the above statements are true and correct to the best of my/our knowledge and belief. I/We will abide by any other condition which may be stipulated by the concerned Development Commissioner of Secretariat of Industrial Approvals(Deptt. of Industrial Policy and Promotion). I/We fully understand that any Permission Letter granted to me/us on the basis of the statement furnished is liable to cancellation or any other action that may be taken having regard to the circumstances of the case if it is found that any of the statements or facts therein are incorrect or false.

Signature of the Applicant : ....

Name in Block Letters : ....

Designation : ....

Official Address : ....
....

Official Seal/Stamp

Residential Address: : ....
....

Place:___________
Date:____________

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