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INTRODUCTION

Duration

In exercise of the powers conferred under Section 5 of the Foreign Trade (Development and Regulation Act), 1992 (No. x22 of 1992), the Central Government hereby notifies the Export and Import Policy for the period 2002-2007. This Policy shall come into force with effect from 1st April, 2002 and shall remain in force upto 31st March, 2007 and will be co-terminus with the Tenth Five Year Plan (2002-2007). However, the Central Government reserves the right in public interest to make any amendments to this Policy in exercise of the powers conferred by Section-5 of the Act. Such amendment shall be made by means of a Notification published in the Gazette of India.

Transitional Arrangements

Any Notifications made or Public Notices issued or anything done under the previous Export/ Import policies, and in force immediately before the commencement of this Policy shall, in so far as they are not inconsistent with the provisions of this Policy, continue to be in force and shall be deemed to have been made, issued or done under this Policy.

Licence/certificate/permissions issued before the commencement of this Policy shall continue to be valid for the purpose for which such licence/ certificate/permission was issued unless otherwise stipulated.

In case an export or import that is permitted freely under this Policy is subsequently subjected to any restriction or regulation, such export or import will ordinarily be permitted notwithstanding such restriction or regulation, unless otherwise stipulated, provided that the shipment of the export or import is made within the original validity of the irrevocable letter of credit established before the date of imposition of such restriction.

Objectives

The principal objectives of this Policy are:

- To facilitate sustained growth in exports to attain a share of atleast 1% of global merchandise trade.
- To stimulate sustained economic growth by providing access to essential raw materials, intermediates, components, consumables and capital goods required for augmenting production and providing services.
- To enhance the technological strength and efficiency of Indian agriculture, industry and services, thereby improving their competitive strength while generating new employment opportunities, and to encourage the attainment of internationally accepted standards of quality.
- To provide consumers with good quality goods and services at internationally competitive prices while at the same time creating a level playing field for the domestic producers.

The objectives will be met through the coordinated efforts of the State Governments and all the departments of the Government of India in general and the Ministry of Commerce and Industry and the Directorate General of Foreign Trade and its network of Regional Offices in particular, with a shared vision and commitment and in the best spirit of facilitation, in the interest of promotion of trade in goods and services.

General provisions regarding imports & exports

Exports and Imports free unless regulated

Exports and Imports shall be free, except in cases where they are regulated by the provisions of this Policy or any other law for the time being in force. The itemwise export and import policy shall be, as specified in ITC(HS) published and notified by Director General of Foreign Trade, as amended from time to time.

Compliance with Laws

Every exporter or importer shall comply with the provisions of the Foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders made thereunder, the provisions of this Policy and the terms and conditions of any licence/certificate/permission granted to him, as well as provisions of any other law for the time being in force. All imported goods shall also be subject to domestic Laws, Rules, Orders, Regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods.

Interpretation of Policy

If any question or doubt arises in respect of the interpretation of any provision contained in this Policy, or regarding the classification of any item in the ITC(HS) or Handbook (Vol.1) or Handbook (Vol.2), the said question or doubt shall be referred to the Director General of Foreign Trade whose decision thereon shall be final and binding.

If any question or doubt arises whether a licence/ certificate/permission has been issued in accordance with this Policy or if any question or doubt arises touching upon the scope and content of such documents, the same shall be referred to the Director General of Foreign Trade whose decision thereon shall be final and binding.

Procedure

The Director General of Foreign Trade may, in any case or class of cases, specify the procedure to be followed by an exporter or importer or by any licensing or any other competent authority for the purpose of implementing the provisions of the Act, the Rules and the Orders made thereunder and this Policy. Such procedures shall be included in the Handbook (Vol.1), Handbook (Vol.2) and in ITC(HS) and published by means of a Public Notice. Such procedures may, in like manner, be amended from time to time.

The Handbook (Vol.1) is a supplement to the EXIM Policy and contains relevant procedures and other details. The benefits available under various schemes of the Policy are given in the Handbook (Vol.1).

Exemption from Policy / Procedure

Any request for relaxation of the provisions of this Policy or of any procedure, on the ground that there is genuine hardship to the applicant or that a strict application of the Policy or the procedure is likely to have an adverse impact on trade, may be made to the Director General of Foreign Trade for such relief as may be necessary. The Director General of Foreign Trade may pass such orders or grant such relaxation or relief, as he may deem fit and proper. The Director General of Foreign Trade may, in public interest, exempt any person or class or category of persons from any provision of this Policy or any procedure and may, while granting such exemption, impose such conditions as he may deem fit. Such request may be considered only after consulting ALC if the request is in respect of a provision of Chapter-4 (excluding any provision relating to Gem & Jewellery sector) of the Policy/ Procedure. However, any such request in respect of a provision other than Chapter-4 as given above may be considered only after consulting Policy Relaxation Committee.

Principles of Restriction

- Protection of public morals.
- Protection of human, animal or plant life or health.
- Protection of patents, trademarks and copyrights and the prevention of deceptive practices.
- Prevention of prison labour.
- Protection of national treasures of artistic, historic or archeological value.
- Conservation of exhaustible natural resources.
- Protection of trade of fissionable material or material from which they are derived; and
- Prevention of traffic in arms, ammunition and implements of war.

Restricted Goods

Any goods, the export or import of which is restricted under ITC(HS) may be exported or imported only in accordance with a licence/ certificate/ permission or a public notice issued in this behalf.

Terms and Conditions of a Licence / Certificate / Permission

Every licence/certificate/permission shall be valid for the period of validity specified in the licence/certificate/permission and shall contain such terms and conditions as may be specified by the licensing authority which may include:

- The quantity, description and value of the goods;
- Actual User condition;
- Export obligation;
- The value addition to be achieved; and
- The minimum export price.

Licence/ Certificate/ Permission not a Right

No person may claim a licence/certificate/ permission as a right and the Director General of Foreign Trade or the licensing authority shall have the power to refuse to grant or renew a licence/certificate/permission in accordance with the provisions of the Act and the Rules made thereunder.

Penalty

If a licence/certificate/permission holder violates any condition of the licence/certificate/ permission or fails to fulfill the export obligation, he shall be liable for action in accordance with the Act, the Rules and Orders made there under, the Policy and any other law for the time being in force.

State Trading

Any goods, the import or export of which is governed through exclusive or special privileges granted to State Trading Enterprise(s), may be imported or exported by the State Trading Enterprise(s) as specified in the ITC(HS) Book subject to the conditions specified therein. The Director General of Foreign Trade may, however, grant a licence/certificate/permission to any other person to import or export any of these goods.

In respect of goods the import or export of which is governed through exclusive or special privileges granted to State Trading Enterprise(s), the State Trading Enterprise(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale. These enterprises shall act in a non discriminatory manner and shall afford the enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.

Importer-Exporter Code Number

No export or import shall be made by any person without an Importer-Exporter Code (IEC) number unless specifically exempted. An Importer-Exporter Code (IEC) number shall be granted on application by the competent authority in accordance with the procedure specified in the Handbook (Vol.1).

Trade with Neighbouring Countries

The Director General of Foreign Trade may issue, from time to time, such instructions or frame such schemes as may be required to promote trade and strengthen economic ties with neighbouring countries.

Transit Facility

Transit of goods through India from or to countries adjacent to India shall be regulated in accordance with the bilateral treaties between India and those countries.

Trade with Russia under Debt- Repayment Agreement

In the case of trade with Russia under the Debt Repayment Agreement, the Director General of Foreign Trade may issue, from time to time, such instructions or frame such schemes as may be required, and anything contained in this Policy, in so far as it is inconsistent with such instructions or schemes, shall not apply.

Actual User Condition

Capital goods, raw materials, intermediates, components, consumables, spares, parts, accessories, instruments and other goods, which are importable without any restriction, may be imported by any person. However, if such imports require a licence/certificate/ permission, the actual user alone may import such goods unless the actual user condition is specifically dispensed with by the licensing authority.

Second Hand Goods

All second hand goods shall be restricted for imports and may be imported only in accordance with the provisions of this Policy, ITC(HS), Handbook (Vol.1), Public Notice or a licence/certificate/permission issued in this behalf.

Import of samples

Import of samples shall be governed by the provisions given in Handbook (Vol.1).

Import of Gifts

Import of gifts shall be permitted where such goods are otherwise freely importable under this Policy. In other cases, a Customs Clearance Permit (CCP) shall be required from the DGFT.

Passenger Baggage

Bonafide household goods and personal effects may be imported as part of passenger baggage. Samples of such items that are otherwise freely importable under this Policy may also be imported as part of passenger baggage without a licence/certificate/ permission. Exporters coming from abroad are also allowed to import drawings, patterns, labels, price tags, buttons, belts, trimming and embellishments required for export, as part of their passenger baggage without a licence/certificate/ permission.

Import on Export basis

New or second hand capital goods, equipments, components, parts and accessories, containers meant for packing of goods for exports may be imported for export without a licence/certificate/permission on execution of Legal Undertaking/ Bank Guarantee with the Customs Authorities.

Re-import of goods repaired abroad

Capital goods, equipments, components, parts and accessories, whether imported or indigenous, may be sent abroad for repairs, testing, quality improvement or upgradation or standardisation of technology and re-imported without a licence/certificate/permission.

Import of goods used in projects abroad

After completion of the projects abroad, project contractors may import, without a licence/certificate/permission, used goods including capital goods provided they have been used for at least one year.

Sale on High Seas

Sale of goods on high seas for import into India may be made subject to this Policy or any other law for the time being in force.

Import under Lease Financing

Permission of licensing authority is not required for import of new capital goods under lease financing.

Clearance of Goods from Customs

The goods already imported/shipped/arrived, in advance, but not cleared from Customs may also be cleared against the licence/ certificate/ permission issued subsequently.

Execution of BG/LUT

Wherever any duty free import is allowed or where otherwise specifically stated, the importer shall execute a Legal Undertaking (LUT)/Bank Guarantee (BG) with the Customs Authority before clearance of goods through the Customs, in the manner as may be prescribed. In case of indigenous sourcing, the licence/certificate/ permission holder shall furnish BG/LUT to the licensing authority before sourcing the material from the indigenous supplier/nominated agency.

Private/ Public Bonded Warehouses for Imports

Private/Public bonded warehouses may be set up in the Domestic Tariff Area as per the terms and conditions of notification issued by Department of Revenue. Any person may import goods except prohibited items, arms and ammunition, hazardous waste and chemicals and warehouse them in such private/public bonded warehouses. Such goods may be cleared for home consumption in accordance with the provisions of this Policy and against Licence/certificate/ permission, wherever required. Customs duty as applicable shall be paid at the time of clearance of such goods. If such goods are not cleared for home consumption within a period of one year or such extended period as the custom authorities may permit, the importer of such goods shall re-export the goods.

Free Exports

All goods may be exported without any restriction except to the extent such exports are regulated by ITC(HS) or any other provision of this Policy or any other law for the time being in force. The Director

General of Foreign Trade may, however, specify through a public notice such terms and conditions according to which any goods, not included in the ITC(HS), may be exported without a license/certificate/permission

Export of samples

Export of samples shall be governed by the provisions given in Handbook (Vol.1)

Export of Passenger Baggage

Bonafide personal baggage may be exported either along with the passenger or, if unaccompanied, within one year before or after the passenger's departure from India. However, items mentioned as Restricted in ITC(HS) shall require a license/certificate/permission, except in the case of edible items.

Export of Gifts

Goods, including edible items, of value not exceeding Rs.1,00,000/- in a licensing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC(HS) shall not be exported as a gift, without a licence/ certificate/ permission, except in the case of edible items.

Export of Spares

Warranty spares, whether indigenous or imported, of plant, equipment, machinery, automobiles or any other goods may be exported upto 7.5% of the FOB value of the exports of such goods alongwith the main equipment or subsequently but within the contracted warranty period of such goods.

Third Party Exports

Third party exports, as defined in paragraph 9.56 shall be allowed under the Policy.

Export of Imported Goods

Goods imported, in accordance with this Policy, may be exported in the same or substantially the same form without a licence/certificate/ permission provided that the item to be imported or exported is not mentioned as restricted for import or export in the ITC(HS). Exports of such goods imported against payment in freely convertible currency would be permitted against payment in freely convertible currency. Goods, including those mentioned as restricted item for import or export (except prohibited items) in ITC(HS), may be imported under Customs Bond for export in freely convertible currency without a licence/certificate/ permission.

Export of Replacement Goods

Goods or parts thereof on being exported and found defective/damaged or otherwise unfit for use may be replaced free of charge by the exporter and such goods shall be allowed clearance by the customs authorities provided that the replacement goods are not mentioned as restricted items for exports in ITC(HS).

Export of Repaired Goods

Goods or parts thereof on being exported and found defective, damaged or otherwise unfit for use may be imported for repair and subsequent re-export. Such goods shall be allowed clearance without a licence/certificate/ permission and in accordance with customs notification issued in this behalf.

Private Bonded Warehouses for Exports

Private bonded warehouse exclusively for exports may be set up in DTA as per the terms and conditions of the notifications issued by Department of Revenue. Such warehouse shall be entitled to procure the goods from domestic manufacturers without payment of duty. The supplies made by the domestic supplier to the notified warehouses shall be treated as physical exports provided the payments for the same are made in free foreign exchange.

Denomination of Export Contracts

All export contracts and invoices shall be denominated in freely convertible currency and export proceeds shall be realised in freely convertible currency. Contracts for which payments are received through the Asian Clearing Union (ACU) shall be denominated in ACU Dollar. The Central Government may relax the provisions of this paragraph in appropriate cases. Export contracts and Invoices can be denominated in Indian rupees against EXIM Bank/Government of India line of credit.

Realisation of Export Proceeds

If an exporter fails to realise the export proceeds within the time specified by the Reserve Bank of India, he shall, without prejudice to any liability or penalty under any law for the time being in force, be liable to action in accordance with the provisions of the Act, the Rules and Orders made thereunder and the provisions of this Policy.

Free movement of export goods No seizure of Stock

No seizure of stock shall be made by any agency so as to disrupt the manufacturing activity and delivery schedule of export goods. In exceptional cases, the concerned agency may seize the stock on the basis of prima facie evidence. However, such seizure should be lifted within 7 days.

Export Promotion Council

The basic objective of export promotion councils is to promote and develop the exports of the country. Each Council is responsible for the promotion of a particular group of products, projects and services. The list of the councils, and their main functions are given in Handbook (Vol.1).

Registration -cum-Membership Certificate

Any person, applying for (i) a licence/ certificate/ permission to import/ export, [except items listed as restricted items in ITC(HS)] or (ii) any other benefit or concession under this policy shall be required to furnish Registration-cum-Membership Certificate (RCMC) granted by the competent authority in accordance with the procedure specified in the Handbook (Vol.1) unless specifically exempted under the Policy.

Promotional Measures

Central Assistance to States

In furtherance to the methodology outlined in Paragraph 1.5 the State Governments shall be encouraged to fully participate in encouraging exports from their respective states. For this purpose, suitable provisions shall be made in the Annual Plan of the Department of Commerce for allocation of funds to the states on the twin criteria of gross exports and the rate of growth of exports from different states. The States shall utilise this amount for developing complementary and critical infrastructure such as roads connecting production centres with the ports, setting up of Inland Container Depots and Container Freight Stations, creation of new State level export promotion industrial parks/zones, augmenting common facilities in the existing zones, equity participation in infrastructure projects and any other activities as may be notified by DGFT from time to time.

Market Access Initiative

Financial assistance shall be available under the scheme to the export promotion councils, industry and trade associations and other eligible entities, as may be notified from time to time, on the basis of the competitive merits of proposals received in this regard for the following purposes which inter-alia includes:-

- Marketing studies on country product focus approach basis.
- Setting up of common showrooms under one roof and warehousing facility in the identified centres on the basis of marketing studies in important cities abroad.
- Participation in sales promotion campaigns through international departmental stores.
- Publicity campaign for launching identified products in selected markets.
- Participation in international trade fairs, seminars, buyers sellers meet.
- Promotion of select brands.
- Transport subsidies for select agriculture products.
- Registration charges for product registration abroad for pharmaceuticals, bio-technology and agro chemicals and testing charges for engineering products.
- Inland freight subsidies for units located in North East, Sikkim and Jammu & Kashmir.
- Setting up of "business centre" in Indian missions abroad for visiting Indian exporters/businessmen.

Towns of Export Excellence

A number of towns in specific geographical locations have emerged as dynamic industrial locations handsomely contributing to India's exports. These "Industrial Clusters " rooted in history symbolise the bursting forth of the free market spirit and are essentially collective response to common problems of competitiveness. Some have become globally renowned manufacturing bases. It is necessary to grant recognition to these industrial cluster items with a view to maximize their export profiles and help in upgrading them to move up in the higher value markets.

A number of such industrial cluster towns are exporting a substantial portion of their products which are world class. For example, Tirupur is exporting 80% of its production of hosiery. A beginning is being made to consider industrial cluster towns such as Tirupur for hosiery, woollen blanket in Panipat, woollen knitwear in Ludhiana to be eligible for the following benefits:-

Common service providers in these areas shall be entitled for facility of EPCG scheme. The recognised associations of units will be able to access the funds under the Market Access Initiative scheme in Paragraph 3.2 for creating focused technological services. Further such areas will receive priority for assistance for identified critical infrastructure gaps from the scheme on Central Assistance to States mentioned in paragraph 3.1. The units in these notified areas would be eligible for availing all the EXIM policy schemes as per their choice and the provisions of those schemes shall stand relaxed to the extent provided in this paragraph in respect of such units.

Special Focus on Cottage and Handicraft Sector

The small scale sector alongwith the cottage and handicraft sector has been contributing to more than half of the total exports of the country. The cottage and handicrafts sector which mostly employs artisan and rural people contributes significantly to this effort. In recognition of the export performance of this sector and to further increase its competitiveness, the following facilities shall be extended to this sector.

- The unit in this sector shall be eligible for funds from Market Access Initiative (MAI) scheme as given in paragraph 3.2 of this Policy. Funds shall be earmarked for this sector in the MAI scheme. The funds shall be utilised for developing their website for virtual exhibition, among other activities,

- Under the EPCG scheme, these units will not be required to maintain average level of exports as given in paragraph 5.5(ii) of this Policy;
- These units shall be entitled to the benefit of export house status on achieving lower average export performance of Rs.5 crore during the preceding three licensing years as given in paragraph 3.7.2 of this Policy; and
- The units in handicraft sector shall be entitled to duty free imports of specified items upto 3% of FOB value of their exports.

Agri Export Zones (AEZ)

With a view to promoting agricultural export from the country and remunerative returns to the farming community in a sustained manner, AEZ as announced earlier would be set up for end to end development for export of specific products from a geographically contiguous area.

AEZ would be identified by the State Government, who may evolve a comprehensive package of services provided by all State Government agencies, State agriculture universities and all institutions and agencies of the Union Government for intensive delivery in these zones.

Such services which would be managed and co-ordinated by State Government would include provision of pre/post harvest treatment and operations, plant protection, processing, packaging, storage and related research & development etc. APEDA will supplement, within its schemes and provisions, efforts of State Governments for facilitating such exports.

Units in AEZ would be entitled for all the facilities available for exports of goods in terms of provisions of the respective schemes.

Brand Promotion and Quality

The Central Government aims to encourage manufacturers and exporters to attain internationally accepted standards of quality for their products. The Central Government will extend support and assistance to trade and industry to launch a nationwide programme on quality awareness and to promote the concept of total quality management.

State Programmes

The Central Government will encourage and assist State Governments in launching similar programmes in their respective States, particularly for the small scale and handicraft sectors.

Test Houses

The Central Government will assist in the modernisation and upgradation of test houses and laboratories in order to bring them at par with international standards.

Quality Complaints/Disputes

The Regional Sub-Committee on Quality Complaints (RSCQC) set up at the Regional Offices of the Directorate General of Foreign Trade shall investigate quality complaints received from foreign buyers. The guidelines for settlement of quality complaints, in particular, and such other complaints, in general, is given in Appendix- 37 of Handbook (Vol.1).

If it comes to the notice of the Director General of Foreign Trade or he has reason to believe that an export or import has been made in a manner gravely prejudicial:

- (i) to the trade relations of India with any foreign country;
- (ii) to the interest of other persons engaged in exports or imports;
- (iii) has brought disrepute to the credit or the goods of the country;

The Director General Foreign Trade may take action against the exporter or importer concerned in accordance with the provisions of the Act, the Rules and Orders made thereunder and this Policy.

Status Certificate

Export Performance Level

The applicant is required to achieve the prescribed average export performance level:

Category	Average FOB / FOR value during the preceding three licensing years, in Rupees
Export House	15 crore
Trading House	100 crore
Star Trading House	500 crore
Super Star Trading House	2000 crore

Note :

Units in Small Scale Industry/Tiny Sector/Cottage Sector/Units registered with KVICs or KVIBs/ Units located in North Eastern States, Sikkim and J&K/ Units exporting handloom, handicrafts, hand knotted carpets, silk carpets/exporters holding golden status/ exporters exporting to countries in Latin America and CIS/sub Saharan Africa, units having ISO 9000 (series) status, shall be entitled for export house status on achieving average FOB/FOR value of Rs.5 crore during the preceding three licensing years. The same threshold limit shall be applicable to the service exporters and agri exporters (other than grains) for obtaining Export house status.

Export made on re-export basis shall not be counted for the purpose of recognition.

The exports made by a subsidiary of a limited company shall be counted towards export performance of the limited company for the purpose of recognition. For this purpose, the company shall have the majority share holding in the subsidiary company.

Special Strategic Package for Status Holders

- The status holders shall be eligible for the following new/ special facilities:
- License/certificate/permissions and Customs clearances for both imports and exports on self-declaration basis.
- Fixation of Input-Output norms on priority;
- Priority Finance for medium and long term capital requirement as per conditions notified by RBI;
- Exemption from compulsory negotiation of documents through banks. The remittance, however, would continue to be received through banking channels;
- 100% retention of foreign exchange in EEFC account;
- Enhancement in normal repatriation period from 180 days to 360 days.

Validity Period

All status certificates issued or renewed on or after 1.4.2002 shall be valid from 1st April of the licensing year during which the application for the grant of such recognition is made upto 31st March, 2007, unless otherwise specified. On the expiry of such certificate, application for renewal of status certificate shall be required to be made within a period as prescribed in the Handbook (Vol.1). During the said period, the status holder shall be eligible to claim the usual facilities and benefits.

Transitional Arrangement

The status certificates expiring on 31st March, 2002 shall be deemed to have been extended upto 31st March, 2004. However, further renewal shall be granted on achieving the threshold limit prescribed in the Policy.

Service Exports

"Services" include all the 161 tradable services covered under the General Agreement on Trade in Services where payment for such services is received in free foreign exchange. A list of services is given in Appendix-36 of Handbook (Vol.1).

The service providers as defined in paragraph 9.47, rendering services listed in Appendix-36 shall be entitled for all the facilities mentioned in the Policy. All provisions of the Policy shall apply mutatis-mutandis to such export of services as they apply to goods.

Electronic Data Interchange

In an attempt to speed up the transactions, reduce physical interface and to bring about transparency in various activities related to exports, electronic data interchange would be encouraged. Applications received electronically shall be cleared within 24 hours.

Duty Exemption / Remission Scheme

Duty Exemption/ Remission Scheme

The Duty Exemption Scheme enables duty free import of inputs required for export production. An Advance Licence is issued under Duty Exemption Scheme. The Duty Remission Scheme enables post export replenishment/ remission of duty on inputs used in the export product. Duty Remission scheme consist of (a) DFRC and (b) DEPB. DFRC permits duty free replenishment used in the export product. The DEPB scheme allows drawback of import charges on inputs used in the export product.

Advance Licence

An Advance Licence is issued to allow duty free import of inputs, which are physically incorporated in the export product (making normal allowance for wastage). In addition, fuel, oil, energy, catalysts etc. which are consumed in the course of their use to obtain the export product, may also be allowed under the scheme. Duty free import of mandatory spares upto 10% of the CIF value of the licence which are required to be exported/ supplied with the resultant product may also be allowed under Advance Licence. Advance Licence can be issued for:-

- **Physical exports:-** Advance Licence may be issued for physical exports to a manufacturer exporter or merchant exporter tied to supporting manufacturer(s) for import of inputs required for the export product.
- **Intermediate supplies:-** Advance Licence may be issued for intermediate supply to a manufacturer-exporter for the import of inputs required in the manufacture of goods to be supplied to the ultimate exporter/ deemed exporter holding another Advance Licence.
- **Deemed exports:-** Advance Licence can be issued for deemed export to the main contractor for import of inputs required in the manufacture of goods to be supplied to the categories mentioned in paragraph 8.2 (b), (c), (d) (e) (f),(g) (i) and (j) of the Policy.
- In addition, in respect of supply of goods to specified projects mentioned in paragraph 8.2 (d) (e) (f),(g) and (j) of the Policy, an Advance Licence for deemed export can also be availed by the sub-contractor of the main contractor to such project provided the name of the sub contractor(s) appears in the main contract. Such licence for deemed export can also be issued for supplies made to United Nations Organisations or under the Aid Programme of the United Nations or other multilateral agencies and paid for in foreign exchange.

Advance Licence is issued for duty free import of inputs, as defined in paragraph 4.1.1 subject to actual user condition. Such licences (other than Advance Licence for deemed exports) are exempted from payment of basic customs duty, additional customs duty, anti dumping duty and safeguard duty, if any. However, Advance Licence for deemed export shall be exempted from basic customs duty and additional customs duty only.

Advance Licence and/or materials imported there under shall not be transferable even after completion of export obligation.

Advance Licences (including Advance Licence for deemed exports and intermediate supply) shall be issued with a positive value addition. However, for exports for which payments are not received in freely convertible currency, the same shall be subject to value addition as specified in Appendix-32 of Handbook (Vol.1), 2002-07.

Advance Licence shall be issued in accordance with the Policy and procedure in force on the date of issue of licence and shall be subject to the fulfillment of a time bound export obligation as may be specified.

The facility of Advance Licence shall also be available where some of the inputs are supplied free of cost to the exporter. In such cases, for calculation of value addition, the notional value of free of cost inputs alongwith value of other duty-free inputs shall be taken into consideration.

Export Obligation

The period for fulfillment of the export obligation under Advance Licence shall be as prescribed in the Handbook (Vol.1).

Advance Release Orders

An Advance Licence holder (except Advance Licence for intermediate supply) and holder of DFRC intending to source the inputs from indigenous sources/state trading enterprises/ EOU/ EPZ/ SEZ/ EHTP/ STP units in lieu of direct import has the option to source them against Advance Release Orders denominated in foreign exchange/Indian rupees. The transferee of a DFRC shall also be eligible for ARO facility.

Back-to-Back Inland Letter of Credit

An Advance Licence holder, (except Advance Licence for intermediate supply) and holder of DFRC may, instead of applying for an Advance Release Order, avail of the facility of Back-to-Back Inland Letter of Credit in accordance with the procedure specified in Handbook (Vol.1).

Prohibited Items

Prohibited items of imports mentioned in ITC(HS) shall not be imported under the licence issued under the scheme.

Compliance with Export Policy

Goods mentioned as restricted for exports in ITC(HS) may be exported without specific export licence/certificate/ permission under Advance Licence for physical exports issued with prior import condition. In such cases, the licence/certificate/permission holder shall not be allowed to use indigenous inputs and the export product shall be manufactured only out of imported inputs under Advance Licence for physical exports.

Re-import of Exported Goods under Duty Neutralisation Scheme

Goods exported under Advance Licence/ DFRC/ DEPB may be re-imported in the same or substantially the same form subject to such conditions as may be specified by the Department of Revenue from time to time.

Admissibility of Drawback

In the case of an Advance Licence, the drawback shall be available in respect of any of the duty paid materials, whether imported or indigenous, used in the goods exported, as per the drawback rate fixed by Ministry of Finance (Directorate of Drawback). The Drawback shall however be restricted to the duty paid materials as mentioned in the licence.

Duty Free Replenishment Certificate

DFRC is issued to a merchant-exporter or manufacturer-exporter for the import of inputs used in the manufacture of goods without payment of basic customs duty, and special additional duty. However, such inputs shall be subject to the payment of additional customs duty equal to the excise duty at the time of import.

DFRC shall be issued on minimum value addition of 33%.

DFRC may be issued in respect of exports for which payments are received in non-convertible currency. Such exports shall, however, be subject to value addition and conditions as specified in Appendix-32 of Handbook (Vol.1).

DFRC shall be issued only in respect of export products covered under the SIONs as notified by DGFT. However, DFRC shall not be issued in respect of SIONs which are subject to "actual user" condition or where the input is allowed with prior import condition or where the norms allow import of Acetic Anhydride, Ephedrine and Pseudo Ephedrine in the Handbook (Vol-II).

However DFRC may be issued for SIONs allowing import of Acetic Anhydride, Ephedrine and Pseudo Ephedrine provided these items are specifically deleted from the list of import items.

DFRC shall be issued for import of inputs as per SION as indicated in the shipping bills. The validity of such licences shall be 18 months. DFRC and or the material(s) imported against it shall be freely transferable.

The export products, which are eligible for modified VAT, shall be eligible for CENVAT credit. However, non excisable, non dutiable or non centrally vatiable products, shall be eligible for drawback at the time of exports in lieu of additional customs duty to be paid at the time of imports under the scheme.

The exporter shall be entitled for drawback benefits in respect of any of the duty paid materials, whether imported or indigenous, used in the export product as per the drawback rate fixed by Directorate of Drawback (Ministry of Finance). The drawback shall however be restricted to the duty paid materials not covered under SION.

Jobbing, Repairing etc. for re-export

Import of goods, including those mentioned as restricted in ITC(HS) but excluding prohibited items, in terms of paragraph 4.1.1 supplied free of cost, may be permitted for the purpose of jobbing without a licence/ certificate/ permission as per the terms of notification issued by Department of Revenue from time to time.

Duty Entitlement Passbook Scheme

The objective of DEPB is to neutralise the incidence of Customs duty on the import content of the export product. The neutralisation shall be provided by way of grant of duty credit against the export product.

Under the DEPB, an exporter may apply for credit, as a specified percentage of FOB value of exports, made in freely convertible currency. The credit shall be available against such export products and at such rates as may be specified by the Director General of Foreign Trade by way of public notice issued in this behalf, for import of raw materials, intermediates, components, parts, packaging material etc.

The holder of DEPB shall have the option to pay additional customs duty, if any, in cash as well.

Validity

The DEPB shall be valid for a period of 12 months from the date of issue.

Transferability

The DEPB and/or the items imported against it are freely transferable. The transfer of DEPB shall however be for import at the port specified in the DEPB, which shall be the port from where exports have been made. Imports from a port other than the port of export shall be allowed under TRA facility as per the terms and conditions of the notification issued by Department of Revenue.

Applicability of Drawback

Normally, the exports made under the DEPB Scheme shall not be entitled for drawback. However, the additional customs duty/excise duty paid in cash on inputs under DEPB shall be adjusted as CENVAT Credit or Duty Drawback as per rules framed by the Department of Revenue. In cases, where the additional customs duty is adjusted from DEPB, no benefit of CENVAT/ Drawback shall be admissible.

Scheme for Gem and Jewellery

Exporters of gem and jewellery are eligible to import their inputs by obtaining Replenishment (REP) Licences from the licensing authorities in accordance with the procedure specified in this behalf.

Replenishment Licence

The exporters of gem and jewellery products listed in Appendix-26 of the Handbook (Vol.1) shall be eligible for grant of Replenishment Licences at the rate and for the items mentioned in the said Appendix to import and replenish their inputs. Replenishment licence may also be issued for import of consumables as per the details given in paragraph 4.80 of Handbook (Vol.1).

Export of Cut & Polished Diamonds for Certification / Grading

Gems and Jewellery exporters with a track record of at least three years and having an annual average turnover of Rs.5 crores and above during the preceding three licensing years or the authorised offices /agencies in India of Gemological Institute of America (GIA), The Robert Mouawad Campus, International Gemological Institute (IGI) and European Gemological Laboratory (EGL) in USA, Hoge Road Voor Diamand, Antwerp, (HRD), World Diamond Centre of Diamonds High Council, Antwerp, Belgium may be permitted to export cut & polished diamonds each weighing 0.50 of a carat and above to the said laboratories/agencies, for the purpose of certification/grading reports by them with a condition that the same should be re-imported with the certificate/grading reports issued by them without any import duty at the time of re-import.

At the time of export of cut and polished diamonds for certification/grading, exporter should give an undertaking to the customs that the cut and polished diamonds will be re-imported within three months of exports for certification/ grading. The export invoice should clearly indicate the estimated value, height, circumference, weight of each diamond to be exported for certification/ grading so that at the time of their import, the above specification could be compared with the original ones to establish their identity. Subsequently these cut and polished diamonds would be exported as per the provisions of the Policy.

Schemes for Gold/ Silver/ Platinum Jewellery

Exporters of gold/silver/platinum jewellery and articles thereof may import their essential inputs such as gold, silver, platinum, mountings, findings, rough gems, precious and semi-precious stones, synthetic stones and unprocessed pearls etc. in accordance with the procedure specified in this behalf.

Nominated Agencies

The exporter availing the schemes of gold/ silver/platinum jewellery and articles thereof may obtain gold/silver/platinum from the nominated agencies. The nominated agencies are MMTC Ltd, Handicraft and Handloom Export Corporation (HHEC), State Trading Corporation (STC), The Project and Equipment Corporation of India Ltd (PEC) and any agency authorised by Reserve Bank of India (RBI). A bank authorised by RBI is allowed export of gold scrap for refining and import in the form of standard gold bars

Items of Export

The following items, if exported, would be eligible for the facilities under these schemes:

- Gold jewellery, including partly processed jewellery and any articles including medallions and coins (excluding the coins of the nature of legal tender), whether plain or studded, containing gold of 8 carats and above;
- Silver jewellery including partly processed jewellery and any articles including medallions and coins (excluding the coins of the nature of legal tender and any engineering goods) containing more than 50% silver by weight;
- Platinum jewellery including partly processed jewellery and any articles including medallions and coins (excluding the coins of the nature of legal tender and any engineering goods) containing more than 50% platinum by weight.

Value Addition

The value addition will be as given in Handbook (Vol.1).

Wastage Norms

Under the schemes for gold/ silver/ platinum jewellery, the wastage or manufacturing loss shall be admissible as specified in the Handbook (Vol.1).

Export Against Supply by Foreign Buyer

Where export orders are placed on the nominated agencies/ status holder/ exporters of three years standing having an annual average turnover of Rs. Five Crore during the preceding three licensing years, the foreign buyer may supply to the nominated agencies/status holder/ exporter, in advance and free of charge, gold/ silver/ platinum, alloys, findings and mountings of gold/silver/platinum for manufacture and export. The exports may be made by the nominated agencies directly or through their associates or by the status holder/exporter as the case may be. The import and export of findings shall be on net to net basis. The foreign buyer may also supply to the nominated agencies/status holder/ exporter in advance and free of charge plain, semi finished gold/silver/platinum jewellery including findings/ mountings/ components for repairs/re-make and export subject to minimum value addition of 10%. However, if the so imported semi finished gold/silver /platinum jewellery is exported as studded jewellery, value addition of 15% shall be achieved. In such cases of export, wastage of 2% may be permitted.

The procedures in this regard shall be as prescribed in the Handbook (Vol.1)

Export Promotion Tours / Export of Branded Jewellery**Export Against Supply by Nominated Agencies**

The exporter may obtain the gold/silver/platinum as an input for export products from nominated agencies in advance or as replenishment after exports in accordance with the procedure specified in this behalf.

Export Against Advance Licence

An Advance Licence may be granted for the duty free import of:

- Gold of fineness not less than 0.995 and mountings, sockets, frames and findings of 8 carats and above;
- Silver of fineness not less than 0.995 and mountings, sockets, frames and findings containing more than 50% silver by weight;
- Platinum of fineness not less than 0.900, mountings, sockets, frames and findings containing more than 50% platinum by weight.

Such licences shall carry an export obligation which will be required to be fulfilled in accordance with the procedure specified in this behalf.

The Advance Licence holder may obtain gold/silver/platinum from the nominated agencies in lieu of direct import in accordance with the procedure specified in this behalf.

Gem Replenishment Licence

Gem Replenishment (Gem REP) Licence may be issued under the schemes for export of gold/silver/platinum jewellery and articles thereof as given in paragraph 4.4.8, 4.4.9, 4.4.10 and 4.4.11 of the Policy. In the case of plain gold/ silver/platinum jewellery and articles, the value of such licences shall be determined with reference to the realisation in excess of the prescribed minimum value addition. In the case of studded gold/silver/platinum jewellery and articles thereof, the value of Gem Replenishment Licence shall be determined by taking into account the value of studdings used in items exported, after accounting for the value addition on gold/silver/platinum including admissible wastage. Such Gem REP licences shall be freely transferable.

Gem REP Rate and Item

The scale of replenishment and the item of import will be as prescribed in Appendix 26A of Handbook (Vol.1).

Personal Carriage of Export/ Import Parcels

Personal carriage of gems and jewellery export parcels by foreign bound passengers and personal carriage of gems & jewellery import parcels by an Indian importer/foreign national may be permitted as per the conditions given in Handbook (Vol.1).

Diamond Imprest Licence

Diamond Imprest Licence for import of cut & polished diamonds including semi processed diamonds, half cut diamonds, broken in any form, for mixing with cut & polished diamonds or for export as it is, may be issued for export of cut & polished diamonds. Such licences shall carry an export obligation, which has to be discharged in accordance with the procedure specified in this behalf.

Eligibility

An exporter of cut & polished diamonds who is status holder may be issued a licence for import of cut & polished diamonds upto 5% of the export performance of the preceding year of cut & polished diamonds.

Export Obligation

The export obligation against each consignment shall be fulfilled within a period of five months from the date of clearance of such consignment through Customs. However, at no point of time, the importer shall be required to maintain records of individual import consignments nor will they be required to co-relate export consignments with the corresponding import consignments towards fulfillment of export obligation.

Private/ Public Bonded Warehouse

Private/Public Bonded Warehouses may be set up in EPZ/DTA for import and re-export of cut & Polished diamonds, cut & polished coloured gemstones, uncut & unset precious & semi-precious stones. Import & re-export of cut & polished diamonds & cut & polished coloured gemstones will be subject to achievement of minimum value addition of 5%.

Export promotion capital goods scheme

The scheme allows import of new capital goods including CKD/SKD thereof as well as computer software systems at 5% Customs duty subject to an export obligation equivalent to 5 times CIF value of capital goods to be fulfilled over a period of 8 years reckoned from the date of issuance of licence over a period of 8 years.

However, in respect of EPCG licences for Rs.100 crore or more, the same export obligation shall be required to be fulfilled over a period of 12 years.

The capital goods shall include jigs, fixtures, dies and moulds. Spares may also be imported under the scheme upto 20% of the CIF value of capital goods. EPCG licence may also be issued for import of components of such capital goods required for assembly or manufacturer of capital goods by the licence holder.

Eligibility

The scheme covers manufacturer exporters with or without supporting manufacturer(s)/vendor(s), merchant exporters tied to supporting manufacturer(s) and service providers.

Conditions for Import of Capital Goods

Import of capital goods shall be subject to Actual User condition till the export obligation is completed.

Export Obligation

The following conditions shall apply to the fulfillment of the export obligation:-

- The export obligation shall be fulfilled by the export of goods capable of being manufactured or produced by the use of the capital goods imported under the scheme. The export obligation may also be fulfilled by the export of same goods, for which EPCG licence has been obtained, manufactured or produced in different manufacturing units of the licence holder/ specified supporting manufacturer(s)/ vendor(s).

However, if exporter is processing further to add value on the goods so manufactured, the export obligation shall stand enhanced by 50%.

- The export obligation under the scheme shall be, in addition to any other export obligation undertaken by the importer, except the export obligation for the same product under Advance Licence, DFRC, DEPB or Drawback scheme. The export obligation under the scheme shall be, over and above, the average level of exports achieved by him in the preceding three licensing years for same and similar products except for categories mentioned in Handbook (Vol.1).

Any firm/ company acquiring a unit which is under BIFR shall be allowed 12 years for fulfilment of export obligation reckoned from the date of issuance of licence . This dispensation would be only for EPCG licences taken by the BIFR unit.

Indigenous Sourcing of Capital Goods and benefits to domestic supplier

A person holding an EPCG licence may source the capital goods from a domestic manufacturer instead of importing them. The domestic manufacturer supplying capital goods to EPCG licence holders shall be eligible for deemed export benefit under paragraph 8.3 of the Policy.

Benefits to Domestic Supplier

In the event of a firm contract between the EPCG licence holder and domestic manufacturer for such sourcing, the domestic manufacturer may apply for the issuance of Advance Licence for deemed exports for the import of inputs including components required for the manufacturer of said capital goods.

The domestic manufacturer may also replenish the inputs including components after supply of capital goods to the EPCG licence holders. The export obligation relating to the EPCG licence shall be reckoned with reference to the CIF value of the licence actually utilized.

Service provider in Agri export zone shall have the facility to move or shift the capital goods within the zone provided he maintains accurate record of such movements. However, such equipments shall not be sold or leased by the licence holder.

Export oriented units (eous), units in export processing zones (epzs), electronics hardware technology parks (ehtps) and software technology parks (stps)

Eligibility

Units undertaking to export their entire production of goods and services may be set up under the Export Oriented Unit (EOU) Scheme, Export Processing Zone (EPZ) Scheme, Electronic Hardware Technology Park (EHTP) Scheme or Software Technology Park (STP) Scheme. Such units may be engaged in manufacture, services, repair, remaking, reconditioning, re-engineering including making of gold/ silver/ platinum jewellery and articles thereof, agriculture, including agro-processing, aquaculture, animal husbandry, biotechnology, floriculture, horticulture, pisciculture, viticulture, poultry, sericulture and granites and may export all products except restricted and prohibited items of exports in ITC (HS). Units for generation/distribution of power may also set up in EPZs. No trading units shall be permitted.

Export and import of goods

An EOU/ EPZ/ EHTP/S TP unit may export goods and services including agro-products, partly processed jewellery, sub-assemblies and components. It may also export by-products, rejects, waste scrap arising out of the production process.

An EOU/ EPZ/ EHTP/ STP unit may import without payment of duty all types of goods, including capital goods, as defined in the Policy, required by it for its activities as mentioned in paragraph 6.1 above or in connection therewith, provided they are not prohibited items of imports in the ITC (HS). The units shall also be permitted to import goods required for the approved activity, including capital goods, free of cost or on loan from clients.

EOU/ EPZ/ EHTP/ STP units may procure goods required by it for its activities or in connection therewith, without payment of duty, from bonded warehouses in the DTA set up under the Policy and from International Exhibitions held in India.

STP/ EHTP/ EPZ may import without payment of duty all types of goods for creating a central facility for use by software development units in STP/ EHTP/ EPZ. The central facility for software development can also be accessed by units in the DTA for export of software.

An EOU engaged in agriculture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry or sericulture may import without payment of duty only such goods as are permitted to be imported duty free under a Custom Notification issued in this behalf.

Further EOUs in agriculture and horticulture engaged in contract farming shall be permitted to import/procure from DTA specified goods as at Appendix 14-B of Handbook (Vol.1) and take out the same to the fields of contract farmers for production or in connection therewith and bringing back the produce for exports.

EOU/ EPZ gem and jewellery units may also source gold/ silver/ platinum through the nominated agencies.

EOU/ EPZ/ EHTP/ STP unit, other than service units, may also export to Russian Federation in Indian Rupees against repayment of State Credit/Escrow Rupee Account of the buyer subject to RBI clearance, if any.

Second hand Capital Goods

Second hand capital goods may also be imported without payment of duty.

Leasing of Capital Goods

An EOU/EPZ/EHTP/STP unit may, on the basis of a firm contract between the parties, source the capital goods from a domestic/foreign leasing company. In such a case, the EOU/EPZ/EHTP/STP unit and the domestic/foreign leasing company shall jointly file the documents to enable import/ procurement of the capital goods without payment of duty.

Net Foreign Exchange earning as a Percentage of exports (NFEP) and Minimum Export Performance (EP)

The minimum Net Foreign Exchange earning as a Percentage of Exports (NFEP) and the minimum Export Performance (EP) shall be as specified in Appendix I of the Policy. Items of manufacture for export specified in the Letter of Permission (LOP)/ Letter of Intent (LOI) alone shall be taken into account for calculation of NFEP and EP.

Letter of Permission/ Letter of Intent and Legal Undertaking

- On approval, a Letter of Permission (LOP)/Letter of Intent (LOI) shall be issued by the Development Commissioner to EOU/EPZ/EHTP/STP unit. The LOP/LOI shall have an initial validity of 3 years. Its validity may be extended by another 3 years, beyond initial validity, by the competent authority.
- LOP/LOI issued to EOU/EPZ/EHTP/STP units by the concerned authority would be construed as a licence for all purposes, including for procurement of raw materials and consumables either directly or through designated State Trading Enterprise. Standard format for LOP/LOI for EOU/EPZ units is given in Appendix 14-C.
- The unit shall execute a legal undertaking with the Development Commissioner concerned and in the event of failure to fulfil the performance, as stipulated in Appendix I of the Policy, it would be liable to penalty in terms of the legal undertaking or under any other law for the time being in force.

Application and Approvals

- Only project having an investment of not less than Rs.50 lakhs and above in plant and machinery shall be considered for establishment under EOU scheme. (This shall however not apply to existing units and units in EPZ/EHTP/STP/ agriculture/ floriculture/aquaculture/ animal husbandry/ information technology, services and such other sectors as may be decided by the BOA). Applications for setting up of EOU/EPZ/EHTP/STP units, satisfying the conditions mentioned in paragraph 6.7 of the Handbook (Vol-I) may be approved by the concerned Development Commissioner within 15 days.
- In other cases, approval may be granted by the Board of Approval (BOA) set up for this purpose as notified and indicated at Appendix 14-B.
- Proposals requiring industrial license may be considered by the Board of Approval on a case to case basis.

DTA Sale of finished products/ rejects waste/ scrap/ remnants and by-products

The entire production of EOU/EPZ/EHTP/STP units shall be exported subject to the following:

- Unless specifically prohibited in the LOP/LOI, rejects may be sold in the Domestic Tariff Area (DTA) on payment of duties as applicable to sale under paragraph 6.8(b) of the Policy, on prior intimation to the Customs authorities. Such sales shall be counted against DTA sale entitlement under paragraph 6.8(b) of the Policy. Sale of rejects upto 5% of FOB value of exports shall not be subject to achievement of NFEP.
- Units, other than gems and jewellery units, may sell goods/ services upto 50 % of FOB value of exports, subject to fulfilment of minimum NFEP as prescribed in Appendix-I of the Policy on payment of applicable duties. Sales made to a private bonded warehouse set up under paragraph 2.39 of the policy shall also be taken into account for the purpose of arriving at FOB value of exports by EOU/EPZ units provided payment for such sales are made from EEFC account. No DTA sale shall be permissible in respect of motor cars, alcoholic liquors, tea (except instant tea) and books or by a packaging/labelling /segregation/ refrigeration unit and such other items as may be notified from time to time.
- Gems and jewellery units may sell upto 10% of FOB value of exports of the preceding year in DTA subject to fulfilment of NFEP as prescribed in Appendix 1 of the Policy. In respect of sales of plain jewellery, the recipient shall pay concessional rate of duty to the Customs in Indian rupees as applicable to sale from nominated agencies. In respect of studded jewellery, duty shall be payable in Indian rupees as notified by Customs.
- Scrap/ waste/ remnants arising out of production process or in connection therewith may be exported or sold in the DTA on payment of duties as applicable under paragraph 6.8 (b) of the Policy within the overall ceiling of 50% of FOB value of exports but shall not be subject to achievement of minimum NFEP. Sale of waste/scrap/remnants by units not entitled to DTA sale or sales beyond the DTA sale entitlement, shall be on payment of full duties.
- There shall be no duties/taxes on such scrap/ waste/ remnants in case the same are destroyed with the permission of Customs authorities.
- EOU/ EPZ/ EHTP/ STP units may be permitted to sell finished products which are freely importable under the Policy in the DTA over and above the levels permissible under sub paragraph (b) above against payment of full duties, provided they have achieved the NFEP and EP as per Appendix-I of the Policy.
- Such sales may also be permitted in exceptional cases without achievement of NFEP/ EP.
- For services, including software units, sale in the DTA in any mode, including on-line data communication, shall be permissible up to 50% of FOB value of exports and/or 50% of foreign exchange earned, where payment for such services is received in free foreign exchange.
- By-products included in the LOP/LOI may also be sold in the DTA subject to achievement of NFEP and on payment of applicable duties within the overall entitlement of paragraph 6.8 (b) of the Policy. Sale of by-products by units not entitled to DTA sales or beyond the entitlements of paragraph 6.8(b) shall also be permissible on payment of full duties.

Note:In the case of units manufacturing electronics hardware and software, the NFEP and DTA sale entitlement shall be reckoned separately for hardware and software.

Other Supplies in DTA

The following supplies in DTA shall be counted towards fulfillment of NFEP/ EP :

- Supplies effected in DTA in terms of paragraph 8.2 of the Policy
- Supplies effected in DTA against payment from the Exchange Earners Foreign Currency (EEFC) Account of the buyer in the DTA or against foreign exchange remittance received from overseas.
- Supplies to other EOU/ EPZ/EHTP/ STP/ SEZ units provided that such goods are permissible for procurement in terms of paragraph 6.2 of the Policy.
- Supplies made to private bonded warehouses set up under paragraph 2.39 of the Policy and/or under Section 65 of the Customs Act.
- Supply of goods against special entitlement of duty free import of goods.
- Supply of goods to Defence and internal security forces, foreign missions/ diplomats provided they are entitled for duty free imports of such items in terms of general exemption notification issued by Ministry of Finance.
- Supply of services (by services units) relating to exports paid for in free foreign exchange or for such services rendered in India Rupees which are otherwise considered as having been paid for in free foreign exchange by RBI.
- Supplies of Information Technology Agreement (ITA-I) items, provided that the items are manufactured in the unit and attract zero rate of basic customs duty.

Export through status holder

An EOU/ EPZ/ EHTP/ STP unit may export goods manufactured by it through a merchant exporter/status holder recognized under this Policy or any other EOU/ EPZ/ EHTP/ STP/ SEZ unit.

Samples

Procedure for export/supply of samples by EOU/ EPZ/ EHTP/ STP units is given in paragraph 6.11 of the Handbook Vol-I.

Entitlement for supplies from the DTA

- Supplies from the DTA to EOU/ EPZ/ EHTP/ STP units will be regarded as "deemed exports" and the DTA supplier shall be eligible for the relevant entitlements under paragraph 8.3 of this Policy besides discharge of EP if any, on the supplier. In addition the EOU/ EPZ/ EHTP/ STP units shall be entitled to the following:-
 - Reimbursement of Central Sales Tax.
 - Exemption from payment of Central Excise Duty on all goods as per entitlement under Paragraph 6.2 of the Policy.
 - Reimbursement of Central Excise Duty paid on bulk tea procured from licenced auction centres by Development Commissioner of concerned Zone so long as levy on bulk tea in this regard is in force.
 - Reimbursement of Duty paid on fuels procured from domestic oil companies, by the Development Commissioner of the concerned Zone as per the rate of Drawback notified by the Directorate General of Foreign Trade from time to time.
- Supplier of cut and polished diamonds, precious and semi-precious stones, synthetic stones and processed pearls from DTA to EOU/EPZ units shall be eligible for grant of Replenishment Licenses at the rates and for the items mentioned in Appendix-13 of the Handbook (Vol.1).

The entitlements under paragraph (a) (i) and (ii) above shall be available provided the goods supplied are manufactured in India.

Other Entitlements

Other entitlements of EOU/ EPZ/ EHTP/ STP units are indicated in the Handbook (Vol-I).

Inter Unit Transfer

- Transfer of manufactured goods from one EOU/EPZ/ EHTP/STP unit to another EOU/EPZ/ EHTP/ STP/SEZ unit will be allowed.
- Goods imported/procured by an EPZ unit may be transferred or given on loan or lease to another EPZ unit in the same Zone which shall be duly accounted for, but not counted towards discharge of export performance.
- Capital goods may be transferred or given on loan with prior permission of the concerned Development Commissioner/ Customs authorities.

Sub-Contracting

- The EOU/EPZ/EHTP/STP units other than gem and jewellery units, may on the basis of annual permission from the Customs authorities, sub-contract production process in DTA, which may also involve change of form or nature of the goods, through job work by units in the DTA. These units may also sub-contract up to 50% of the overall production of previous year in value terms for job work in DTA with the permission of Customs authorities.

Sub-contracting of both production and production process may also be undertaken without any limit through other EOU/EPZ/EHTP/STP/SEZ units on the basis of records maintained in the unit.

Subcontracting of part of production process may also be permitted abroad with the approval of the Board of Approval.

- EOU/EPZ units may, on the basis of annual permission from the Custom Authorities, undertake job-work for export, on behalf of DTA exporter, provided the goods are exported directly from the EOU/EPZ units and export documents are in the name of the DTA exporter. For such exports, the DTA units will be entitled to refund of duty paid on the inputs by way of Brand Rate of duty drawback.
- The scrap/waste/remnants generated at the job worker's premises may be either cleared from the job worker's premises on payment of duty or returned to the supplying unit.
- Gems and jewellery EOU/EPZ units are allowed to receive plain gold/silver/ platinum jewellery, including findings, components and semi-finished jewellery from DTA against exchange of equivalent quantity of gold / silver/ platinum, as the case may be, contained in the said jewellery. The DTA units supplying such jewellery against exchange of gold/silver/platinum shall not be entitled for deemed export benefits. The EOU/EPZ units shall not be eligible for wastage or manufacturing loss against jewellery.

Sale of Un-utilised Material

- In case an EOU/EPZ/EHTP/STP unit is unable, for valid reasons, to utilize the goods, imported or procured from DTA, it may dispose them in the DTA on payment of applicable duties and submission of import license by DTA unit, wherever applicable or export. Supply from one EOU/EPZ/EHTP/STP unit to another such unit would be treated as import under this paragraph.
- Capital goods and spares that have become obsolete/surplus, may either be exported, transferred to another EOU/EPZ/EHTP/STP or disposed of in the DTA on payment of applicable duties. The benefit of depreciation, as applicable, will be available in case of disposal in DTA. No duty shall be payable if the goods are destroyed with the permission of Customs authorities and under intimation to Development Commissioner.

Reconditioning Repair and Re-engineering

EOU/ EPZ/ EHTP/ STP units may be set up with the approval of BOA to carry out reconditioning, repair, remaking, testing, calibration, quality improvement, up-gradation of technology and re-engineering activities for export in freely convertible foreign currency. Such units may import goods of any origin for export in freely convertible foreign exchange for the above activities. The provisions of paragraphs 6.8,6.9 6.10, 6.11, 6.12, 6.14, and 6.15 of this Chapter shall not, however, apply to such activities.

Replacement/ Repair of imported/ indigenous goods

- The general provisions of the Policy relating to export of replacement/repaired goods would also apply equally to EOU/EPZ/EHTP/STP units, save that, cases not covered by these provisions shall be considered on merits by the Development Commissioner.
- The goods sold in the DTA and found to be defective may be brought back for repair/ replacement under intimation to the concerned jurisdictional Customs/Excise authorities.
- Goods or parts thereof on being imported/ indigenously procured and found defective or otherwise unfit for use or which have been damaged or become defective after import/ procurement may be returned and replacement obtained or destroyed. In the event of replacement, the goods may be brought back from the foreign suppliers or their authorized agents in India or indigenous suppliers.

Bonding

The initial bonding period for units under the EOU/EHTP/STP Schemes shall be 5 years. This period may be extended further by the Development Commissioner concerned for period of 5 years at a time.

Debonding

- Subject to the approval of the Development Commissioner, EOU/EPZ/EHTP/STP units may be debonded. Such debonding shall be subject to payment of duties of Customs and Excise and the industrial policy in force at the time of debonding.
- If the unit has not achieved the obligations under the scheme, the debonding shall also be subject to penalty as may be imposed by the competent authority.
- In the event of a gem and jewellery unit ceasing its operation, gold and other precious metals, alloys, gem and other materials available for manufacture of jewellery, shall be handed over to an agency nominated by the Ministry of Commerce and Industry (Department of Commerce) at the price to be determined by that agency.
- An EOU/EPZ/EHTP/STP unit may also be permitted by the Development Commissioner, as a one time option, to debond on payment of duty on capital goods under the prevailing EPCG Scheme, subject to the unit satisfying the eligibility criteria under that Scheme and standard conditions, as per Appendix 14-J of the Handbook (Vol-I).

Conversion

- Existing DTA units, may also apply for conversion into an EOU/EHTP/STP unit, but no concession in duties and taxes would be available under the scheme for plant, machinery and equipment already installed.
- The existing EHTP/STP units may also apply for conversion/merger to EOU unit and vice-versa. In such cases the units will continue to remain in bond and avail the permissible exemption in duties and taxes as applicable under the relevant scheme.

Monitoring of NFEP/ EP and maintenance of records

Net Foreign exchange Earning as a Percentage of exports (NFEP) shall be calculated cumulatively for a period of five years from the commencement of commercial production according to the formula given in the Handbook (Vol.1).

The performance of EOU/EPZ units will be monitored as per the Guidelines given in Appendix 14-E of Handbook (Vol.1).

Export through Exhibitions/ Export Promotion Tours/ Export of branded jewellery/ Export through show rooms abroad/Duty Free Shops.

EOU/EPZ gem and jewellery units shall be entitled for the following:

- Export of gold/ silver/ platinum jewellery and articles thereof, for holding/ participating in exhibitions abroad with the permission of Development Commissioner.
- Personal carriage of gold/ silver/ platinum jewellery, precious, semi-precious stones, beads and articles.
- Export of jewellery and branded jewellery is also permitted for display/sale in the permitted shops set up abroad.
- Display/ sell in the permitted shops set up abroad or in the show rooms of their distributors/ agents.
- Set up show rooms/retail outlets at the International Airports for sale of jewellery.

Personal carriage of Export/ Import parcel

Personal carriage of gems and jewellery export parcels by foreign bound passengers and personal carriage of gems and jewellery, import parcels by an Indian or foreign national may be permitted as per the conditions given in paragraph 6.24 of the Handbook (Vol.1).

Export by Post / Courier

Gold/ silver/ platinum jewellery and articles thereof may be exported by airfreight or through Foreign Post Office or through courier.

Development of infrastructure in EPZs.

Development of infrastructure, including construction of Standard Design Factory Buildings in an EPZ may be undertaken through private/joint/State sector as per the guidelines given in Appendix-14 H of Handbook (Vol.I).

Administration of EOU/ EPZ units

Details of administration of EOU/EPZ units are given in Handbook (Vol.1).

Revival of Sick units

Subject to a unit being declared sick by the appropriate authority, proposals for revival of the unit or its take over may be considered by the Board of Approval.

Note:

In the case of units under EHTP/ STP Schemes, necessary approval / permission under relevant paragraphs of this Chapter shall be granted by the officer designated by the Ministry of Communication and Information Technology, Department of Information Technology for the purpose instead of the Development Commissioner of EPZ and by the Inter-Ministerial Standing Committee (IMSC) instead of BOA.

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Special Economic Zones

Eligibility

- Special Economic Zone (SEZ) is a specifically delineated duty free enclave and shall be deemed to be foreign territory for the purposes of trade operations and duties and tariffs.
- Goods going into the SEZ area from DTA shall be treated as deemed exports and goods coming from the SEZ area into DTA shall be treated as if the goods are being imported.
- SEZ units may be set up for manufacture of goods and rendering of services, production, processing, assembling, trading, repair, remaking, reconditioning, re-engineering including making of gold/ silver/ platinum jewellery and articles thereof or in connection therewith.

Export and Import of Goods.

- SEZ units may export goods and services including agro-products, partly processed jewellery, sub-assemblies and component. It may also export by-products, rejects, waste scrap arising out of the production process.
- SEZ units, other than trading/service unit, may also export to Russian Federation in Indian Rupees against repayment of State Credit/Escrow Rupee Account of the buyer, subject to RBI clearance, if any.
- SEZ unit may import without payment of duty all types of goods, including capital goods, as defined in the Policy, whether new or second hand, required by it for its activities or in connection therewith, provided they are not prohibited items of imports in the ITC(HS). Goods shall include raw material for making capital goods for use within the unit. The units shall also be permitted to import goods required for the approved activity, including capital goods, free of cost or on loan from clients.
- SEZ units may procure goods required by it without payment of duty, from bonded warehouses in the DTA set up under the Policy and from International Exhibitions held in India.
- SEZ may import, without payment of duty, all types of goods for creating a central facility for use by software development units in SEZ. The Central facility for software development can also be accessed by units in the DTA for export of software.
- Gem & Jewellery and Jewellery units may also source gold/ silver/ platinum through the nominated agencies.
- SEZ units may also import/procure goods from DTA without payment of duty for setting up of units in the Zone.

Leasing Of Capital Goods

SEZ unit may, on the basis of a firm contract between the parties, source the capital goods from a domestic/foreign leasing company. In such a case the SEZ unit and the domestic/ foreign leasing company shall jointly file the documents to enable import/procurement of the capital goods without payment of duty.

Net Foreign exchange Earning (NFE)

SEZ unit shall be a positive net foreign exchange earner. Net Foreign exchange Earning (NFE) shall be calculated cumulatively for a period of five years from the commencement of commercial production according to the formula given in Paragraph 7.4 of the Handbook (Vol-I).

Monitoring of performance

- The performance of SEZ units shall be monitored by a committee comprising of Development Commissioner and Customs. The Committee shall be headed by the Development Commissioner. It will also see that the wastage/manufacturing loss on gold/ silver/platinum jewellery and articles are within the overall percentage prescribed in Appendix- 14 L of Handbook (Vol-I). In case of higher wastage/ manufacturing loss, the committee shall satisfy itself of the reasonableness of the same.
- The performance of SEZ units shall be monitored as per the guidelines given in Appendix-14 E of Handbook (Vol-I).

Legal Undertaking

The unit shall execute a legal undertaking with the Development Commissioner concerned and in the event of failure to achieve positive foreign exchange earning it shall be liable to penalty in terms of the legal undertaking or under any other law for the time being in force.

Approvals and Applications

- Applications for setting up of SEZ units, satisfying the conditions mentioned in paragraph 7.19 of the Handbook (Vol.1) may be given approval by the concerned Development Commissioner of SEZ. In other cases, approval may be granted by the Board of Approvals (BOA) as notified and indicated at Appendix 14 –B of Handbook (Vol-I).
- Proposal requiring industrial License may be considered by the Board of Approval on case to case basis.

DTA Sales and Supplies

- SEZ unit may sell goods, including by-products, and services in DTA in accordance with the import policy in force, on payment of applicable duty.
- DTA sale by service/trading unit shall be subject to achievement of positive NFE cumulatively. Similarly for units undertaking manufacturing and services/ trading activities against a single LOP, DTA sale shall be subject to achievement of NFE cumulatively.
- The following supplies effected in DTA by SEZ units will be counted for the purpose of fulfilment of positive NFE:
 - Supplies effected in DTA in terms of Paragraph 8.3 of the Policy.
 - Supplies made to bonded warehouses set up under the Policy and/or under Section 65 of the Customs Act.
 - Supplies to other EOU/EPZ/SEZ/ EHTP/ STP units provided that such goods are permissible for procurement by units in terms of paragraph 7.2 of the Policy.
 - Supplies against special entitlement of duty free import of goods
 - Supplies of goods to defence and internal security forces, foreign missions/diplomats provided they are entitled for duty free import of such items in terms of general exemption notification issued by the Ministry of Finance.
 - Supply of services (by services units) relating to exports paid for in free foreign exchange or for such services rendered in Indian Rupees which are otherwise considered as having been paid for in free foreign exchange by RBI.
 - Supplies of Information Technology Agreement (ITA-I) items, provided that the items are manufactured in the unit and attract zero rate of basic customs duty.

Entitlement for Supplies from the DTA

- Supplies from the DTA to SEZ units shall be eligible for the following:
 - DTA supplier shall be entitled for :-
 - Relevant entitlements under paragraph 8.3 of the Policy.
 - Discharge of Export performance, if any, on the supplier.
 - SEZ units shall be entitled for:-
 - Reimbursement of Central Sales Tax
 - Exemption from payment of Central Excise Duty on all goods eligible for procurement as per paragraph 7.2 of the policy.
 - Reimbursement of Central Excise Duty, if any, paid on bulk tea procured by SEZ units so long as levy on bulk tea in this regard is in force.
 - Reimbursement of Duty paid on fuels or any other goods procured from DTA as per the rate of drawback notified by the Directorate General of Foreign Trade from the date of such notification.
- Supplier of cut and polish diamonds, precious and semi-precious stones, synthetic stones and processed pearls from Domestic Tariff Area to the units situated in SEZ shall be eligible for grant of Replenishment Licenses at the rates and for the items mentioned in Appendix-13 of the Handbook (Vol. I).
- The entitlements under paragraphs (I) and (II) (i) and (ii) above shall be available provided the goods supplied are manufactured in India.

Export Through Status Holder

SEZ unit may also export goods manufactured by it through a merchant exporter/ status holder recognized under this Policy or any other EOU/ EPZ/ SEZ/ EHTP/ STP unit.

Inter-unit Transfer

- Transfer of manufactured goods, including partly processed/semi-finished goods from one SEZ unit to another SEZ/ EOU/ EPZ/ EHTP/STP unit will be allowed.
- Goods imported/procured by an SEZ unit may be transferred or given on loan to another unit within the same SEZ which shall be duly accounted for, but not counted towards discharge of export performance.
- Transfer of goods in terms of sub-paras (a) and (b) above within the same SEZ shall not require any permission but the units shall maintain proper accounts of the transaction.

- Capital goods imported/ procured may be transferred or given on loan to another SEZ/ EOU/ EPZ/ EHTP/ STP unit with prior permission of the Development Commissioner concerned.

Other Entitlements

Other entitlements of SEZ units are indicated in the Handbook (Vol-1).

Sub- Contracting

SEZ unit, may subcontract a part of their production or production process through units in the DTA or through other SEZ/EOU/EPZ/ EHTP/ STP, with the permission of Customs authorities. Subcontracting of part of production process may also be permitted abroad with the approval of the Board of Approval.

Subcontracting by SEZ gems and jewellery units shall be subject to following conditions :-

- Goods, finished or semi-finished, including studded jewellery, containing quantity and purity equal to the gold/ silver/platinum so taken out, shall be brought back to the Zone within 30 days. Further, no diamond, precious or semi-precious stones shall be allowed to be taken out of the Zone for sub-contracting.
- Receive plain gold/silver/platinum jewellery from DTA in exchange of equivalent quantity of gold/silver/ platinum, as the case may be, contained in the said jewellery.
- SEZ units shall not be eligible for wastage or manufacturing loss against the jewellery received from DTA after processing as mentioned in (i) and against exchange of gold/silver/platinum as mentioned in (ii) above.
- The DTA unit undertaking job work or supplying jewellery against exchange of gold/silver/platinum shall not be entitled to export benefits.
- All units, including gem and jewellery, may sub-contract part of the production or production process through other units in the same SEZ without permission of Customs authorities subject to records being maintained by both the supplying and receiving units.
- SEZ units other than gems and jewellery units may be allowed to undertake job-work for export, on behalf of DTA exporter, provided the finished goods are exported directly from SEZ units. For such exports, the DTA units will be entitled for refund of duty paid on the inputs by way of Brand Rate of duty drawback.
- Scrap/ waste/ remnants generated through job work may either be cleared from the job worker's premises on payment of applicable duty or returned to the unit.

De-bonding

- SEZ unit may be debonded with the approval of the Development Commissioner. Such debonding shall be subject to payment of applicable Customs and Excise duties on the imported and indigenous capital goods, raw materials etc. and finished goods in stock. In case the unit has not achieved positive NFE, the debonding shall be subject to penalty, that may be imposed by the adjudicating authority under Foreign Trade (Development and Regulation) Act, 1992.
- SEZ unit may also be permitted by the Development Commissioner, as one time option, to debond on payment of duty on capital goods under the prevailing EPCG Scheme, subject to the unit satisfying the eligibility criteria of that Scheme and standard conditions, as per Para 7.13 of the Handbook (Vol-I).

Export through Exhibitions/ Export Promotion Tours/ Export of branded jewellery/ Export through show rooms abroad / Duty Free Shops

SEZ gem and jewellery, units shall be entitled for the following:

- Export of gold/ silver/ platinum jewellery and articles thereof, for holding/ participating in exhibitions abroad with the permission of Development Commissioner.
- Personal carriage of gold/ silver/ platinum jewellery, precious, semi-precious stones, beads and articles.
- Export of jewellery and branded jewellery, is also permitted for display/sale in the permitted shops set up abroad.
- Display/ sell in the permitted shops set up abroad or in the show rooms of their distributors/ agents.
- Set up show rooms/retail outlets at the International Airports for sale of jewellery.

Personal carriage of Export/ Import parcel

Personal carriage of gems and jewellery export parcels by foreign bound passengers and personal carriage gems and jewellery, import parcels by an Indian or foreign national may be permitted as per the conditions given in paragraph 7.15 of the Handbook (Vol.1).

Export by post / courier

Gold/silver/platinum jewellery and articles thereof may be exported by airfreight or through Foreign Post Office or through courier.

Disposal of Rejects/ Scrap/ Waste/ Remnants

Rejects/ scrap/ waste/ remnants arising out of production process or in connection therewith may be sold in the DTA on payment of applicable duty. No duty shall be payable in case scrap/waste/ remnants/ rejects are destroyed within the Zone after intimation to the Custom authorities or destroyed outside the SEZ with the permission of Custom authorities. Destruction as stated above shall not apply to gold, silver, platinum, diamond, precious and semi precious stones.

Replacement/ Repair of Goods

- The general provisions of Policy relating to export of replacement/ repaired goods shall apply equally to SEZ units, save that, cases not covered by these provisions shall be considered on merits by the Development Commissioner.
- The goods sold in the DTA and found to be defective may be brought back for repair/ replacement under intimation to Development Commissioner.
- Goods or parts thereof on being imported/ indigenously procured and found defective or otherwise unfit for use or which have been damaged or become defective after import/ procurement may be returned and replacement obtained or destroyed. In the event of replacement, the goods may be brought back from the foreign suppliers or their authorised agents in India or the indigenous suppliers.
- Goods may be transferred to DTA/abroad for repair/ replacement, testing or calibration, quality testing and R & D purpose under intimation to Customs authorities.

Management of SEZ

- SEZ will be under the administrative control of the Development Commissioner.
- All activities in the zone of SEZ units, unless otherwise specified, shall be through self certification procedure.

Setting up of SEZ in Private/ Joint/ State Sector

A SEZ may be set up in the public, private, joint sector or by state Government as notified by the Ministry of Commerce and Industry. The existing Export Processing Zones (EPZs) may also be converted into SEZ by the Ministry of Commerce and Industry through issue of a notification.

Samples

SEZ units may, on the basis of records maintained by them, and on prior intimation to Customs authorities:

- supply or sell samples in the DTA for display/market promotion on payment of applicable duties;
- Remove samples without payment of duty, on furnishing a suitable undertaking to Customs authorities for bringing the goods back within a stipulated period;
- Samples, including samples made in wax models, silver models and rubber moulds may be exported on the basis of records maintained by the unit and under intimation to the Custom authorities. Samples may also be exported through courier agencies.

Sale of Un-utilised Material/ Obsolete goods

- In case an SEZ unit is unable, for valid reasons, to utilize the goods, including capital goods and spares, it may dispose them in the DTA in accordance with the import policy in force and on payment of applicable duties or export them.
- Capital goods and spares that have become obsolete/surplus may either be exported or disposed of in the DTA on payment of applicable duties. The benefit of depreciation, as applicable, will be available in case of disposal in DTA.
- No duty shall be payable if the goods are destroyed with the permission of Customs authorities.
- SEZ unit may be allowed by Customs authorities concerned to donate imported/ indigenously procured (bought or taken on loan) computer and computer peripherals, including printer, plotter, scanner, monitor, key-board and storage units without payment of duty, two years after their import/procurement and use by the units, to recognized non-commercial educational institutions, registered charitable hospitals, public libraries, public funded research and development establishments, organisations of the Government of India or Government of a State or Union Territory as per Custom/ Central Excise notification issued in this regard.

Entitlement for SEZ Developer

- Developer of SEZ in the Private/Joint/State sector may import/ procure goods from DTA without payment of duty for the development, operation and maintenance of SEZ.
- SEZ developer shall be eligible for the entitlements as provided for in the Income Tax Act for development, operation and maintenance of SEZ.

Transitional Arrangements

An existing EPZ unit will have the following options:

- It can opt for SEZ Scheme under this Chapter. On conversion, its previous obligations as an EPZ unit shall be subsumed by its obligations under the SEZ Scheme. The raw materials, components, consumable and finished goods lying in stock with the unit at the time of conversion shall be taken as its opening balance under the SEZ Scheme. All unutilized DTA sale entitlements of the unit shall cease to exist from the date of conversion as notified by the Ministry of Commerce and Industry
- In case an existing EPZ unit decides not to opt for (a) above, it can either convert into an EOU or de-bond. In both the cases, the unit shall physically move out of the SEZ.

Deemed Exports

"Deemed Exports" refers to those transactions in which the goods supplied do not leave the country.

Categories of Supply

The following categories of supply of goods by the main/ sub-contractors shall be regarded as "Deemed Exports" under this Policy, provided the goods are manufactured in India:

- Supply of goods against Advance Licence/ DFRC under the Duty Exemption /Remission Scheme;
- Supply of goods to Export Oriented Units (EOUs) or units located in Export Processing Zones (EPZs) or Special Economic Zone (SEZs) or Software Technology Parks (STPs) or Electronic Hardware Technology Parks (EHTPs);
- Supply of capital goods to holders of licences under the Export Promotion Capital Goods (EPCG) scheme;
- Supply of goods to projects financed by multilateral or bilateral agencies/funds as notified by the Department of Economic Affairs, Ministry of Finance under International Competitive Bidding in accordance with the procedures of those agencies/funds, where the legal agreements provide for tender evaluation without including the customs duty;
- Supply of capital goods, including in unassembled/ disassembled condition as well as plants, machinery, accessories, tools, dies and such goods which are used for installation purposes till the stage of commercial production and spares to the extent of 10% of the FOR value to fertiliser plants.
- supply of goods to any project or purpose in respect of which the Ministry of Finance, by a notification, permits the import of such goods at zero customs duty coupled with the extension of benefits under this chapter to domestic supplies;
- Supply of goods to the power and refineries not covered in (f) above.
- Supply of marine freight containers by 100% EOU (Domestic freight containers–manufacturers) provided the said containers are exported out of India within 6 months or such further period as permitted by the Customs; and
- Supply to projects funded by UN agencies.
- Supply of goods to nuclear power projects through competitive bidding as opposed to international competitive bidding.

Benefits for Deemed Exports

Deemed exports shall be eligible for any/all of the following benefits in respect of manufacture and supply of goods qualifying as deemed exports subject to the terms and conditions as given in Handbook (Vol.1):-

- Advance Licence for intermediate supply/ deemed export.
- Deemed Exports Drawback.
- Refund of Terminal Excise duty.

Definitions

- For the purpose of this Policy, unless the context otherwise requires, the following words and expressions shall have the following meanings attached to them.
- "Accessory" or "Attachment" means a part, sub-assembly or assembly that contributes to the efficiency or effectiveness of a piece of equipment without changing its basic functions.
- "Act" means the Foreign Trade (Development and Regulation) Act, 1992 (No.22 of 1992).
- "Actual User" means an actual user who may be either industrial or non-industrial.
- "Actual User (Industrial)" means a person who utilises the imported goods for manufacturing in his own industrial unit or manufacturing for his own use in another unit including a jobbing unit.
- "Actual User (Non-Industrial)" means a person who utilises the imported goods for his own use in:
 - any commercial establishment carrying on any business, trade or profession; or
 - any laboratory, Scientific or Research and Development (R&D) institution, university or other educational institution or hospital; or
 - any service industry
- "AEZ" means Agricultural Export Zones notified by DGFT.
- "ALC" means the Advance Licensing Committee in the Directorate General of Foreign Trade for recommending grant of licences under Duty Exemption Scheme and for recommending Input Output norms and value addition norms to be notified by Director General of Foreign Trade.
- "Applicant" means the person on whose behalf the application is made and shall, wherever the context so requires, include the person signing the application.
- "Capital Goods" means any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, of goods or for rendering services, including those required for replacement, modernisation, technological upgradation or expansion. Capital goods also include packaging machinery and equipment, refractories for initial lining, refrigeration equipment, power generating sets, machine tools, catalysts for initial charge, equipment and instruments for testing, research and development, quality and pollution control. Capital goods may be for use in manufacturing, mining, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture and viticulture as well as for use in the services sector.
- "Competent Authority" means an authority competent to exercise any power or to discharge any duty or function under the Act or the Rules and Orders made thereunder or under this Policy.
- "Component" means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved. A component includes an accessory or attachment to the component.
- "Consumables" means any item, which participates in or is required for a manufacturing process, but does not necessarily form part of the end-product. Items, which are substantially or totally consumed during a manufacturing process will be deemed to be consumables.
- "Consumer Goods" means any consumption goods, which can directly satisfy human needs without further processing and includes consumer durables and accessories thereof.
- "Counter Trade" means any arrangement under which exports/imports from/ to India are balanced either by direct imports/exports from the importing/ exporting country or through a third country under a Trade Agreement or otherwise. Exports/Imports under Counter Trade may be carried out through Escrow Account, Buy Back arrangements, Barter trade or any similar arrangement. The balancing of exports and imports could wholly or partly be in cash, goods and/or services.
- "DFRC" means Duty Free Replenishment Certificate issued under Duty Remission Scheme.
- "Drawback, " in relation to any goods manufactured in India and exported, means the rebate of duty chargeable on any imported material or excisable material used in the manufacture of such goods in India. The goods include imported spares, if supplied with capital goods manufactured in India.
- "EHTP " means Electronic Hardware Technology Park.
- "EOU" means Export Oriented Unit.
- "EPZ" means Export Processing Zone.
- "Excisable goods" means any goods produced or manufactured in India and subject to a duty of excise under the Central Excise and Salt Act 1944 (1 of 1944).
- "Exporter" means a person who exports or intends to export and holds an Importer-Exporter Code number unless otherwise specifically exempted.
- "Export Obligation" means the obligation to export the product or products covered by the licence or permission in terms of quantity, value or both, as may be prescribed or specified by the licensing or competent authority.

- "Handbook (Vol.1)" means the Handbook of Procedures (Vol.1) and "Handbook (Vol.2)" means Handbook of Procedures (Vol.2) published under the provisions of the paragraph 2.4 of the Policy.
- "Importer" means a person who imports or intends to import and holds an Importer-Exporter Code number unless otherwise specifically exempted.
- "ITC(HS)" means ITC(HS) Classifications of Export and Import Items Book.
- "Jobbing" means processing or working upon of raw materials or semi-finished goods supplied to the job worker so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for the aforesaid process.
- "Licensing Authority" means the authority competent to grant a licence under the Act/Order.
- "Licensing Year" means the period beginning on the 1st April of a year and ending on the 31st March of the following year.
- "Manufacture" means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, repacking, polishing and labeling. Manufacture, for the purpose of this Policy, shall also include agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining.
- "Manufacturer Exporter" means a person who export goods manufactured by him or intends to export such goods.
- "MAI" means Market Access Initiative
- "Merchant Exporter" means a person engaged in trading activity and exporting or intending to export goods.
- "NFEP" means Net Foreign Exchange Earning as a percentage of exports.
- "Notification" means a notification published in the Official Gazette.
- "Order" means an Order made by the Central Government under the Act.
- "Part" means an element of a sub-assembly or assembly not normally useful by itself and not amenable to further disassembly for maintenance purposes. A part may be a component or an accessory.
- "Person" includes an individual, firm, society, company, corporation or any other legal person.
- "Policy" means the Export and Import Policy, 2002-07 as amended from time to time.
- "Prescribed" means prescribed under the Foreign Trade (Development and Regulation) Act, 1992 (No. 22 of 1992) or the Rules or Orders made thereunder or under this Policy.
- "Public Notice" means a notice published under the provisions of paragraph 2.4 of the Policy.
- "Raw material" means:
 - basic materials which are needed for the manufacture of goods, but which are still in a raw, natural, unrefined or unmanufactured state; and
 - for a manufacturer, any materials or goods which are required for his manufacturing process, whether they have actually been previously manufactured or are processed or are still in a raw or natural state.
- "Registration-Cum-Membership Certificate" (RCMC) means the certificate of registration and membership granted by an Export Promotion Council or other competent authority as prescribed in the Policy or Handbook (Vol.1).
- "Rules" means Rules made by the Central Government under Section 19 of the Act.
- "Services" include all the tradable services covered under General Agreement on Trade in Services and earning free foreign exchange.
- "Service Provider" means a person providing
 - Supply of a 'service' from India to any other country;
 - Supply of a 'service' from India to the service consumer of any other country in India; and
 - Supply of a 'service' from India through commercial or physical presence in the territory of any other country.
 - Supply of a 'service' in India relating to exports paid in free foreign exchange or for such services paid in Indian rupees, which are otherwise considered as free foreign exchange by RBI.
- "SEZ" means Special Economic Zone notified by the Ministry of Commerce & Industry, Department of Commerce.
- "Ships" mean all types of vessels used for sea borne trade or coastal trade and shall include second hand vessels.
- "SION" means Standard Input Output Norms notified by DGFT in the Handbook (Vol.2), 2002-07.
- "Spares" means a part or a sub-assembly or assembly for substitution, that is ready to replace an identical or similar part or sub-assembly or assembly. Spares include a component or an accessory.
- "Specified" means specified by or under the provisions of this Policy.
- "Status holder" means an exporter recognised as "Export House/Trading House/Star trading House/ Super Star Trading House" or service provider recognised as "Service Export House,

International Service Export House, International Star Service Export House International Super Star Service Export House" by the Director General of Foreign Trade.

- "STP" means Software Technology Park
- "Third-party exports" means exports made by an exporter or manufacturer on behalf of another exporter(s). In such cases, shipping bills shall indicate the name of both the exporter/manufacturer and exporter(s).
- "Wild Animal" means any wild animal as defined in Section 2(36) of the Wildlife (Protection) Act, 1972.

Appendix - I

Minimum FEP And EP Requirement Under The EOU/ EPZ/ EHTP/ STP Scheme (Paragraph 6.5 Of The Policy).

Name of the sector		Minimum NFEP	Minimum EP for five years
A. Manufacturing / Processing Sector =			
1.	Units with actual investment in plant and machinery, both imported and indigenous of Rs.5 crore and above.	Positive	US \$ 3.5 Million or 3 times the CIF value of imported capital goods whichever is higher.
2.	Electronics Hardware	Positive	US \$ 1.00 Million or 3 times the CIF value of imported capital goods whichever is higher.
3.	a. Agriculture, aquaculture, animal husbandry, horticulture, pisciculture, viticulture, poultry and sericulture	Positive	-do-
	b. EOU in Agricultural Export Zones.	Positive	US \$ 0.25 Million or 3 times the CIF value of imported capital goods, whichever is higher
	c. Floriculture	-do-	-do-
	d. Food processing	-do-	-do-
	e. Biotechnology	-do-	US \$ 0.50 Million or 3 times the CIF value of imported capital goods, whichever is higher
4.	Toys all kind	-do-	US \$ 0.50 Million or 3 times the CIF value of imported capital goods, whichever is higher
5.	Computer software and IT enabled Services	10%	US \$ 0.25 Million or 3 times the CIF value of imported capital goods, whichever is higher -

GEM AND JEWELLERY

Gold/ Platinum/ Silver

a.	Gold/ platinum/ silver unstudded chains and bangles or combination thereof manufactured by fully mechanised process.	3%	US \$ 1 Million or 3 times the CIF value of imported capital goods, whichever is higher.
b.	Gold/ Silver/ Platinum medallions, coins (excluding the coins of the nature of legal tender) and other articles.	3%	-do-
c.	Gold/ silver/ Platinum findings, moundings manufactured by mechanised process.	3%	-do-
d.	Plain gold/ platinum/ silver jewellery and articles or combination thereof and ornaments like Mangalsutra containing gold and black beads, imitation stones, cubic zirconia etc. only but excluding diamonds, precious & semi-precious stones.	7%	-do-
e.	Repair/ remake of plain Gold/ platinum/ silver jewellery	7%	-do-
f.	Studded gold / platinum/ silver jewellery and articles thereof or combination thereof.	10% on gold / silver / platinum content plus	-do-

		5% over the value of studdings.	
g.	Repair/ remake of gold/ platinum/ silver studded jewellery	10%	-do-
DIAMOND			
h.	Cut and polished diamonds (with per carat realization of more than US\$ 575 FOB)	7%	US \$ 1 Million or 3 times the CIF value of imported capital goods, whichever is higher.
i.	Cut and polished diamonds (with per carat realization of more than US \$ 400 and upto US \$ 575 FOB)	15%	-do-
j.	Cut and polished diamonds (with per carat realization of more than US \$ US \$ 260 FOB and upto US \$ 400 FOB)	20%	-do-
k.	Cut and polished diamonds (with per carat realization of more than US \$ 125 upto US \$ 260 FOB).	25%	-do-
SERVICES			
	(Other than IT enable services)	10%	US \$ 0.50 Million or 3 times the CIF value of imported capital goods, whichever is higher
8.	All Others	10%	US \$ 1 million or 3 times the CIF value of imported capital goods, whichever is higher.