



सत्यमेव जयते

FOREIGN TRADE POLICY

[1st April, 2015 – 31st March, 2020]

THE
DOLLAR
BUSINESS™

FOREIGN TRADE • EXPORTS • IMPORTS

Government of India
Ministry of Commerce and Industry
Department of Commerce

CHAPTER 6

EXPORT ORIENTED UNITS (EOUs), ELECTRONICS HARDWARE TECHNOLOGY PARKS (EHTPs), SOFTWARE TECHNOLOGY PARKS (STPs) AND BIO-TECHNOLOGY PARKS (BTPs)

6.00 Introduction and Objective

- (a) Units undertaking to export their entire production of goods and services (except permissible sales in DTA), may be set up under the Export Oriented Unit (EOU) Scheme, Electronics Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-Technology Park (BTP) Scheme for manufacture of goods, including repair, re-making, reconditioning, re-engineering, rendering of services, development of software, agriculture including agro-processing, aquaculture, animal husbandry, biotechnology, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture. Trading units are not covered under these schemes.
- (b) Objectives of these schemes are to promote exports, enhance foreign exchange earnings, attract investment for export production and employment generation.

6.01 Export and Import of Goods

- (a) An EOU / EHTP / STP / BTP unit may export all kinds of goods and services except items that are prohibited in ITC (HS).
- (b) Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) shall be subject to fulfilment of the conditions indicated in ITC (HS). In respect of an EOU, permission to export a

prohibited item may be considered, by BOA, on a case to case basis, provided such raw materials are imported and there is no procurement of such raw material from DTA.

- (c) Procurement and supply of export promotion material like brochure / literature, pamphlets, hoardings, catalogues, posters etc up to a maximum value limit of 1.5% of FOB value of previous years exports shall also be allowed.
- (d) An EOU / EHTP / STP / BTP unit may import and / or procure, from DTA or bonded warehouses in DTA / international exhibition held in India, without payment of duty, all types of goods, including capital goods, required for its activities, provided they are not prohibited items of import in the ITC (HS). Any permission required for import under any other law shall be applicable. Units shall also be permitted to import goods including capital goods required for approved activity, free of cost or on loan / lease from clients. Import of capital goods will be on a self-certification basis. Goods imported by a unit shall be with actual user condition and shall be utilized for export production.
- (e) State Trading regime shall not apply to EOU manufacturing units. However, in respect of Chrome Ore / Chrome concentrate, State Trading Regime as stipulated in export policy of these items, will be applicable to EOUs.
- (f) EOU / EHTP / STP / BTP units may import / procure from DTA, without payment of duty, certain specified goods for creating a central facility. Software EOU / DTA units may use such facility for export of software.

- (g) An EOU engaged in agriculture, animal husbandry, aquaculture, floriculture, horticulture, pisciculture, viticulture, poultry or sericulture may be permitted to remove specified goods in connection with its activities for use outside bonded area.
- (h) Gems and jewellery EOUs may source gold / silver / platinum through nominated agencies on loan / outright purchase basis. Units obtaining gold / silver / platinum from nominated agencies, either on loan basis or outright purchase basis shall export gold / silver / platinum within 90 days from date of release.
- (i) EOU / EHTP / STP / BTP units, other than service units, may export to Russian Federation in Indian Rupees against repayment of State Credit/ Escrow Rupee Account of buyer subject to RBI clearance, if any.
- (j) Procurement and export of spares / components, upto 5% of FOB value of exports, may be allowed to same consignee / buyer of the export article, subject to the condition that it shall not count for NFE and direct tax benefits.
- (k) BOA may allow, on a case to case basis, requests of EOU / EHTP / STP/ BTP units in sectors other than Gems & Jewellery, for consolidation of goods related to manufactured articles and export thereof along with manufactured article. Such goods may be allowed to be imported / procured from DTA by EOU without payment of duty, to the extent of 5% FOB value of such manufactured articles exported by the unit in preceding financial year. Details of procured / imported goods and articles manufactured by the EOU will be listed separately in the export documents. In such cases, value of procured / imported goods will

not be taken into account for calculation of NFE and DTA sale entitlement. Such procured / imported goods shall not be allowed to be sold in DTA. BOA may also specify any other conditions.

6.02 Secondhand Capital goods

Second hand capital goods, without any age limit, may also be imported duty free.

6.03 Leasing of Capital Goods

- (a) An EOU / EHTP / STP / BTP unit may, on the basis of a firm contract between parties, source capital goods from a domestic / foreign leasing company without payment of customs / excise duty. In such a case, EOU / EHTP / STP / BTP unit and domestic / foreign leasing company shall jointly file documents to enable import / procurement of capital goods without payment of duty.
- (b) An EOU / EHTP / BTP / STP unit may sell capital goods and lease back the same from a Non Banking Financial Company (NBFC), subject to the following conditions:
 - (i) The unit should obtain permission from the jurisdictional Deputy / Assistant Commissioner of Customs or Central Excise, for entering into transaction of 'Sale and Lease Back of Assets', and submit full details of the goods to be sold and leased back and the details of NBFC;
 - (ii) The goods sold and leased back shall not be removed from the unit's premises;

- (iii) The unit should be NFE positive at the time when it enters into sale and lease back transaction with NBFC;
- (iv) A joint undertaking by the unit and NBFC should be given to pay duty on goods in case of violation or contravention of any provision of the notification under which these goods were imported or procured, read with Customs Act, 1962 or Central Excise Act, 1944, and that the lien on the goods shall remain with the Customs / Central Excise Department, which will have first charge over the said goods for recovery of sum due from the unit to Government under provision of Section 142(b) of the Customs Act, 1962 read with the Customs (Attachment of Property of Defaulters for Recovery of Govt. Dues) Rules, 1995.

6.04 Net Foreign Exchange Earnings

EOU / EHTP / STP / BTP unit shall be a positive net foreign exchange earner except for sector specific provision of Appendix 6 B of Appendices & ANFs, where a higher value addition shall be required. NFE Earnings shall be calculated cumulatively in blocks of five years, starting from commencement of production. Whenever a unit is unable to achieve NFE due to prohibition / restriction imposed on export of any product mentioned in LoP, the five year block period for calculation of NFE earnings may be suitably extended by BoA. Further, wherever a unit is unable to achieve NFE due to adverse market condition or any grounds of genuine hardship having adverse impact on functioning of the unit, the five year block period for calculation of NFE earnings may be extended by BOA for a period of upto one year, on a case to case basis.

6.05 Letter of Permission / Letter of Intent and Legal Undertaking

- (a) On approval, a Letter of Permission (LoP) / Letter of Intent (LoI) shall be issued by DC / designated officer to EOU/ EHTP / STP / BTP unit. LoP / LoI shall have an initial validity of 2 years to enable the Unit to construct the plant & install the machinery and by this time the unit should have commenced production. In case the unit is not able to commence production in initial validity of 2 years, an extension of one year may be given by the DC for valid reasons to be recorded in writing. Subsequent extension of one year may be given by the Unit Approval Committee subject to condition that two-thirds of activities including construction, relating to the setting up of the Unit are complete and Chartered Engineer's certificate to this effect is submitted by the Unit. Further extension, if necessary, will be granted by the Board of Approval. Once unit commences production, LoP / LoI issued shall be valid for a period of 5 years for its activities. This period may be extended further by DC for a period of 5 years at a time.
- (b) LoP / LoI issued to EOU / EHTP / STP / BTP units by concerned authority, subject to compliance of provision in Para 6.01 above, would be construed as an Authorisation for all purposes.
- (c) Unit shall execute an LUT with DC concerned. Failure to ensure positive NFE or to abide by any of the terms and conditions of LoP / LoI / IL / LUT shall render the unit liable to penal action under provisions of the FT (D&R) Act, as amended, and Rules and Orders made thereunder, without prejudice to action under any other law / rules and cancellation or revocation of LoP / LoI / IL.

6.06 Investment Criteria

Only projects having a minimum investment of Rs. 1 Crore in plant & machinery shall be considered for establishment as EOUs. However, this shall not apply to existing units, units in EHTP / STP / BTP, and EOUs in Handicrafts / Agriculture / Floriculture / Aquaculture / Animal Husbandry / Information Technology, Services, Brass Hardware and Handmade jewellery sectors. BOA may allow establishment of EOUs with a lower investment criteria.

6.07 Applications & Approvals

- (a) Applications for setting up of units under EOU scheme shall be approved or rejected by the Units Approval Committee within 15 days as per criteria indicated in Handbook of Procedures (HBP).
- (b) In other cases, approval may be granted by BOA set up for this purpose as indicated in HBP.
- (c) Proposals for setting up EOU requiring industrial licence may be granted approval by DC after clearance of proposal by BOA and DIPP within 45 days.
- (d) Applications for conversion into an EOU / EHTP / STP / BTP unit from existing DTA units, having an investment of Rs. 50 crores and above in plant and machinery or exporting Rs. 50 crores and above annually, shall be placed before BOA for a decision.

6.08 DTA Sale of Finished Products / Rejects / Waste/ Scrap / Remnants and By-products

Entire production of EOU / EHTP / STP / BTP units shall be exported subject to following:

- (a) Units, other than gems and jewellery units, may sell goods upto 50% of FOB value of exports, subject to fulfilment of positive NFE, on payment of concessional duties. Within entitlement of DTA sale, unit may sell in DTA, its products similar to goods which are exported or expected to be exported from units. However, units which are manufacturing and exporting more than one product can sell any of these products into DTA, upto 90% of FOB value of export of the specific products, subject to the condition that total DTA sale does not exceed the overall entitlement of 50% of FOB value of exports for the unit, as stipulated above. No DTA sale at concessional duty shall be permissible in respect of motor cars, alcoholic liquors, books, tea (except instant tea), pepper & pepper products, marble and such other items as may be notified from time to time.

Such DTA sale shall also not be permissible to units engaged in activities of packaging / labelling / segregation / refrigeration / compacting / micronisation / pulverization / granulation / conversion of monohydrate form of chemical to anhydrous form or vice-versa. Sales made to a unit in SEZ shall also be taken into account for purpose of arriving at FOB value of export by EOU provided payment for such sales are made from Foreign Currency Account of SEZ unit. Sale to DTA would also be subject to mandatory requirement of registration of pharmaceutical products (including bulk drugs). An amount equal to Anti Dumping duty under section 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.

- (b) For services, including software units, sale in DTA in any mode, including on line data communication, shall also be permissible up to 50% of FOB value of exports and /or 50% of foreign exchange earned, where payment of such services is received in foreign exchange.
- (c) Gems and jewellery units may sell upto 10% of FOB value of exports of the preceding year in DTA, subject to fulfilment of positive NFE. In respect of sale of plain jewellery, recipient shall pay concessional rate of duty as applicable to sale from nominated agencies. In respect of studded jewellery, duty shall be payable as applicable.
- (d) Unless specifically prohibited in LoP, rejects within an overall limit of 50% may be sold in DTA on payment of duties as applicable to sale under Sub - para 6.08 (a) on prior intimation to Customs authorities. Such sales shall be counted against DTA sale entitlement. Sale of rejects upto 5% of FOB value of exports shall not be subject to achievement of NFE.
- (e) Scrap / waste / remnants arising out of production process or in connection therewith may be sold in DTA, as per SION notified under Duty Exemption Scheme, on payment of concessional duties as applicable, within overall ceiling of 50% of FOB value of exports. Such sales of scrap / waste / remnants shall not be subject to achievement of positive NFE. In respect of items not covered by norms, DC may fix ad-hoc norms for a period of six months and within this period, norms should be fixed by Norms Committee. Ad-hoc norms will continue till such time norms are fixed by Norms Committee. Sale of waste / scrap / remnants by units not entitled to DTA sale, or sales beyond DTA sale entitlement, shall be on payment of

full duties. Scrap / waste / remnants may also be exported.

- (f) There shall be no duties / taxes on scrap / waste / remnants, in case same are destroyed with permission of Customs authorities.
- (g) By-products included in LoP may also be sold in DTA subject to achievement of positive NFE, on payment of applicable duties, within the overall entitlement of Sub - para 6.08 (a). Sale of by-products by units not entitled to DTA sales, or beyond entitlements of Sub-para 6.08 (a), shall also be permissible on payment of full duties.
- (h) EOU / EHTP / STP / BTP units may sell finished products, except pepper and pepper products and marble, which are freely importable under FTP in DTA, under intimation to DC, against payment of full duties, provided they have achieved positive NFE. An amount equal to Anti Dumping duty under section 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.
- (i) In case of units manufacturing electronics hardware and software, NFE and DTA sale entitlement shall be reckoned separately for hardware and software.
- (j) In case of DTA sale of goods manufactured by EOU / EHTP / STP / BTP, where basic duty and CVD is nil, such goods may be considered as non-excisable for payment of duty.

- (k) In case of new EOUs, advance DTA sale will be allowed not exceeding 50% of its estimated exports for first year, except pharmaceutical units where this will be based on its estimated exports for first two years.
- (l) Units in Textile and Granite sectors shall have an option to sell goods into DTA in terms of Sub - paras 6.08 (a), (d), (e), (g) and (k) above, on payment of an amount equal to aggregate of duties of excise leviable under section 3 of the Central Excise Act, 1944 or under any other law for the time being in force, on like goods produced or manufactured in India other than in an EOU, subject to the condition that they have not used duty paid imported inputs in excess of 3% of the FOB value of exports of the preceding year and they have achieved positive NFE. Once this option is exercised, the unit will not be allowed to import any duty free inputs for any purpose.
- (m) Procurement of spares / components, up to 2% of the value of manufactured articles, cleared into DTA, during the preceding year, may be allowed for supply to the same consignee / buyer for the purpose of after-sale-service. The same can be cleared in DTA on payment of applicable duty but such clearances shall be within the overall entitlement of the unit for DTA sale at concessional rate of duty as prescribed in Para 6.08 (a) of FTP.

6.09 Other Supplies

Following supplies effected from EOU / EHTP / STP / BTP units will be counted for fulfilment of positive NFE. Such supplies shall not include "marble", except if such supply of marble is an inter unit supply as provided at Sub - para (c) below:

- (a) Supplies effected in DTA to holders of Advance Authorisation / Advance Authorisation for annual requirement / DFIA under duty exemption / remission scheme / EPCG scheme. However, printing sector EOUs (or any other sector that may be notified in HBP), can't supply goods, where basic customs duty and CVD is nil or exempted otherwise, to holders of Advance Authorisation / Advance Authorization for annual requirement.
- (b) Supplies effected in DTA against foreign exchange remittance received from overseas.
- (c) Supplies to other EOU / EHTP / STP / BTP / SEZ units, provided that such goods are permissible for procurement in terms of Para 6.01 of FTP.
- (d) Supplies made to bonded warehouses set up under FTP and / or under section 65 of Customs Act and free trade and warehousing zones, where payment is received in foreign exchange.
- (e) Supplies of goods and services to such organizations which are entitled for duty free import of such items in terms of general exemption notification issued by MoF, as may be provided in HBP.
- (f) Supplies of Information Technology Agreement (ITA-1) items and notified zero duty telecom / electronics items.
- (g) Supplies of items like tags, labels, printed bags, stickers, belts, buttons or hangers to DTA unit for export.
- (h) Supply of LPG produced in an EOU refinery to Public Sector domestic oil companies for being supplied to household domestic consumers at subsidized prices

under the Public Distribution System (PDS) Kerosene and Domestic LPG Subsidy Scheme, 2002, as notified by the Ministry of Petroleum and Natural Gas vide notification No. E-20029/18/2001-PP dated 28.01.2003 (hereinafter referred to as PDS Scheme) subject to the following conditions:-

- (i) Only supply of such quantity of LPG would be eligible for which Ministry of Petroleum and Natural Gas declines permission for export and requires the LPG to be cleared in DTA; and
- (ii) The Ministry of Finance by a notification has permitted duty free imports of LPG for supply under the aforesaid PDS Scheme.

6.10 Export through others

An EOU / EHTP / STP / BTP unit may export goods manufactured / software developed by it through another exporter or any other EOU / EHTP / STP / SEZ unit subject to conditions mentioned in Para 6.19 of HBP.

6.11 Entitlement for Supplies from the DTA

- (a) Supplies from DTA to EOU / EHTP / STP / BTP units will be regarded as “deemed exports” and DTA supplier shall be eligible for relevant entitlements under chapter 7 of FTP, besides discharge of export obligation, if any, on the supplier. Notwithstanding the above, EOU / EHTP / STP / BTP units shall, on production of a suitable disclaimer from DTA supplier, be eligible for obtaining entitlements specified in chapter 7 of FTP. For claiming deemed export duty drawback, they shall get brand rates fixed by DC wherever All Industry Rates of Drawback are not available.

- (b) Suppliers of precious and semi-precious stones, synthetic stones and processed pearls from DTA to EOU shall be eligible for grant of Replenishment Authorisations at rates and for items mentioned in HBP.
- (c) In addition, EOU / EHTP / STP / BTP units shall be entitled to following:-
- (i) Reimbursement of Central Sales Tax (CST) on goods manufactured in India. Simple interest @ 6% per annum will be payable on delay in refund of CST, if the case is not settled within 30 days of receipt of complete application (as in Para 9.10 (b) of HBP).
 - (ii) Exemption from payment of Central Excise Duty on goods procured from DTA on goods manufactured in India.
 - (iii) Reimbursement of duty paid on fuel procured from Domestic Oil Companies / Depots of Domestic Oil Public Sector Undertakings as per drawback rate notified by DGFT from time to time. Reimbursement of additional duty of excise levied on fuel under the Finance Acts would also be admissible.
 - (iv) CENVAT Credit on service tax paid.

6.12 Other Entitlements

Other entitlements of EOU / EHTP / STP / BTP units are as under:

- (a) Exemption from industrial licensing for manufacture of items reserved for SSI sector.
- (b) Export proceeds will be realized within nine months.
- (c) Units will be allowed to retain 100% of its export earnings in the EEFC account.
- (d) Unit will not be required to furnish bank guarantee at the time of import or going for job work in DTA, where:
 - (i) the unit has turnover of Rs. 5 crore or above;
 - (ii) the unit is in existence for at least three years; and
 - (iii) the unit:
 - (1) has achieved positive NFE / export obligation wherever applicable;
 - (2) has not been issued a show cause notice or a confirmed demand, during the preceding 3 years, on grounds other than procedural violations, under the penal provision of the Customs Act, the Central Excise Act, the Foreign Trade (Development & Regulation) Act, the Foreign Exchange Management Act, the Finance Act, 1994 covering Service Tax or any allied Acts or the rules made thereunder, on account of fraud / collusion / wilful mis-statement / suppression of facts

or contravention of any of the provisions thereof;

- (e) 100% FDI investment permitted through automatic route similar to SEZ units.
- (f) Units shall pay duty on the goods produced or manufactured and cleared into DTA on monthly basis in the manner prescribed in the Central Excise Rules.
- (g) The Units Approval Committee may consider on a case-to-case basis request for sharing of infrastructural facilities among EOUs and it shall forward its recommendation to the Board of Approval for its consideration. While accepting such proposals, the NFE obligations of the Units shall not be altered. Such facilities will be available to Units in EHTP / STP after getting approval from IMSC. However, sharing of facilities between EOUs and SEZ Units shall not be permitted.

6.13 Inter Unit Transfer

- (a) Transfer of manufactured goods from one EOU / EHTP / STP / BTP unit to another EOU / EHTP / STP / BTP unit is allowed with prior intimation to concerned Development Commissioners of the transferer and transferee units as well as concerned Customs authorities, following procedure of in-bond movement of goods. Transfer of manufactured goods shall also be allowed from EOU / EHTP / STP / BTP unit to a SEZ developer or unit as per procedure prescribed in SEZ Rules, 2006.
- (b) Capital goods may be transferred or given on loan to other EOU / EHTP / STP / BTP / SEZ units, with prior intimation to concerned DC and Customs authorities.

Such transferred goods may also be returned by the second unit to the original unit in case of rejection or for any reason without payment of duty.

- (c) Goods supplied by one unit of EOU / EHTP / STP / BTP to another unit shall be treated as imported goods for second unit for payment of duty, on DTA sale by second unit.
- (d) In respect of a group of EOUs / EHTPs / STPs / BTP Units which source inputs centrally in order to obtain bulk discount and / or reduce cost of transportation and other logistics cost and / or to maintain effective supply chain, inter unit transfer of goods and services may be permitted on a case-to-case basis by the Unit Approval Committee. In case inputs so sourced are imported and then transferred to another unit, then value of the goods so transferred shall be taken as inflow for the unit transferring these goods and as outflow for the unit receiving these goods, for the purpose of calculation of NFE.

6.14 Sub - Contracting

- (a) (i) EOU / EHTP / STP / BTP units, including gems and jewellery units, may on the basis of annual permission from Customs authorities, sub - contract production processes to DTA through job work which may also involve change of form or nature of goods, through job work by units in DTA.
(ii) These units may sub - contract upto 50% of overall production of previous year in value terms in DTA with permission of Customs authorities.
- (b) (i) EOU may, with annual permission from Customs authorities, undertake job work for export, on behalf of DTA exporter, provided that goods are exported

directly from EOU and export document shall jointly be in name of DTA / EOU. For such exports, DTA units will be entitled for refund of duty paid on inputs by way of brand rate of duty drawback.

(ii) Duty free import of goods for execution of export order placed on EOU by foreign supplier on job work basis, would be allowed subject to condition that no DTA clearance shall be allowed.

(iii) Sub - contracting of both production and production processes may also be undertaken without any limit through other EOU / EHTP / STP/ BTP / SEZ units, on the basis of records maintained in unit.

(iv) EOU / EHTP / STP / BTP units may sub - contract part of production process abroad and send intermediate products abroad as mentioned in LoP. No permission would be required when goods are sought to be exported from sub - contractor premises abroad. When goods are sought to be brought back, prior intimation to concerned DC and Customs authorities shall be given.

- (c) Scrap / waste / remnants generated through job work may either be cleared from job worker's premises on payment of applicable duty on transaction value or destroyed in presence of Customs / Central Excise authorities or returned to unit. Destruction shall not apply to gold, silver, platinum, diamond, precious and semi-precious stones.
- (d) Sub - contracting / exchange by gems and jewellery EOUs through other EOUs or SEZ units or units in DTA, shall be as per procedure indicated in HBP.

6.15 Sale of Unutilized Material

- (a) In case an EOU / EHTP / STP / BTP unit is unable to utilize goods and services, imported or procured from DTA, it may be:
- (i) Transferred to another EOU / EHTP / STP / BTP / SEZ unit; or
 - (ii) Disposed of in DTA with approval of Customs authorities on payment of applicable duties and submission of import authorization; or
 - (iii) Exported.

Such transfer from EOU / EHTP / STP / BTP unit to another such unit would be treated as import for receiving unit.

- (b) Capital goods and spares that have become obsolete / surplus, may either be exported, transferred to another EOU / EHTP / STP / BTP / SEZ unit or disposed of in DTA on payment of applicable duties. Benefit of depreciation, as applicable, will be available in case of disposal in DTA only when the unit has achieved positive NFE taking into consideration the depreciation allowed. No duty shall be payable in case capital goods, raw material, consumables, spares, goods manufactured, processed or packaged, and scrap / waste / remnants / rejects are destroyed within unit after intimation to Customs authorities or destroyed outside unit with permission of Customs authorities. Destruction as stated above shall not apply to gold, silver, platinum, diamond, precious and semi-precious stones.

- (c) In case of textile sector, disposal of left over material / fabrics upto 2% of CIF value or quantity of import, whichever is lower, on payment of duty on transaction value, may be allowed, subject to certification of Central Excise / Customs officers that these are leftover items.
- (d) Disposal of used packing material will be allowed on payment of duty on transaction value.

6.16 Reconditioning / Repair and Re - engineering

- (a) EOUs shall be set up with approval of UAC to carry out reconditioning, repair, remaking, testing, calibration, quality improvement, upgradation of technology and re-engineering activities for export in foreign currency. Provisions of paragraphs 6.08, 6.09, 6.10, 6.13, 6.14 of FTP and para 6.29(a), (b), (c) and (d) of HBP shall not, however, apply to such activities.
- (b) EHTP/STP/BTP units shall be set up with approval of IMSC to carry out reconditioning, repair, remaking, testing, calibration, quality improvement, upgradation of technology and re-engineering activities for export in foreign currency. Provisions of paragraphs 6.08, 6.09, 6.10, 6.13, 6.14 of FTP and para 6.29(a), (b), (c) and (d) of HBP shall not, however, apply to such activities.

6.17 Replacement / Repair of Imported / Indigenous Goods

- (a) General provisions of FTP relating to export / import of replacement / repair of goods would also apply equally to EOU / EHTP / STP / BTP units. Cases not covered by these provisions shall be considered on merits by DC.

- (b) Goods sold in DTA and not accepted for any reasons, may be brought back for repair / replacement, under intimation to concerned jurisdictional Customs / Central Excise authorities.
- (c) 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 subsequently, may be returned and replacement obtained or destroyed. In the event of replacement, goods may be brought back from foreign suppliers or their authorized agents in India or indigenous suppliers. The unit can take free of cost replacement (duty paid) from the authorized agents in India of foreign suppliers, provided the defective part is re - exported or destroyed. However, destruction shall not apply to precious and semi-precious stones and precious metals.

6.18 Exit from EOU Scheme

- (a) With approval of DC, an EOU may opt out of scheme. Such exit shall be subject to payment of Excise and Customs duties and industrial policy in force.
- (b) If unit has not achieved obligations, it shall also be liable to penalty at the time of exit.
- (c) In the event of a gems and jewellery unit ceasing its operation, gold and other precious metals, alloys, gems and other materials available for manufacture of jewellery, shall be handed over to an agency nominated by DoC, at price to be determined by that agency.

- (d) An EOU / EHTP / STP / BTP unit may also be permitted by DC to exit from the scheme at any time on payment of duty on capital goods under the prevailing EPCG Scheme for DTA Units. This will be subject to fulfilment of positive NFE criteria under EOU scheme, eligibility criteria under EPCG scheme and standard conditions indicated in HBP.
- (e) Unit proposing to exit out of EOU scheme shall intimate DC and Customs and Central Excise authorities in writing. Unit shall assess duty liability arising out of de-bonding and submit details of such assessment to Customs and Central Excise authorities. Customs and Central Excise authorities shall confirm duty liabilities on priority basis, subject to the condition that the unit has achieved positive NFE, taking into consideration the depreciation allowed. After payment of duty and clearance of all dues, unit shall obtain "No Dues Certificate" from Customs and Central Excise authorities. On the basis of "No Dues Certificate" so issued by the Customs and Central Excise authorities, unit shall apply to DC for final de-bonding. In case there is no proceeding pending under FT(D&R) Act, as amended, DC shall issue final de-bonding order within a period of 7 working days. Between "No Dues Certificate" issued by Customs and Central Excise authorities and final de-bonding order by DC, unit shall not be entitled to claim any exemption for procurement of capital goods or inputs. However, unit can claim Advance Authorisation / DFIA / Duty Drawback. Since the duty calculations and dues are disputed and take a long time, a BG / Bond / Instalment processes backed by BG shall be provided for expediting the exit process.

- (f) In cases where a unit is initially established as DTA unit with machines procured from abroad after payment of applicable import duty, or from domestic market after payment of excise duty, and unit is subsequently converted to EOU, in such cases removal of such capital goods to DTA after de-bonding would be without payment of duty. Similarly, in cases where a DTA unit imported capital goods under EPCG Scheme and after completely fulfilling export obligation gets converted into EOU, unit would not be charged customs duty on capital goods at the time of removal of such capital goods in DTA when de-bonding.
- (g) An EOU / EHTP / STP / BTP unit may also be permitted by DC to exit under Advance Authorization as one time option. This will be subject to fulfilment of positive NFE criteria.
- (h) A simplified procedure may be provided to fast track the De-bonding/ Exit of the STP / EHTP Unit which has not availed any duty benefit on procurement of raw material, capital goods etc.

6.19 Conversion

- (a) Existing DTA units may also apply for conversion into an EOU / EHTP / STP / BTP unit.
- (b) Existing EHTP / STP units may also apply for conversion / merger to EOU unit and vice-versa. In such cases, units will remain in bond and avail exemptions in duties and taxes as applicable.

6.20 Monitoring of NFE

Performance of EOU / EHTP / STP / BTP units shall be monitored by Units Approval Committee as per guidelines in HBP.

6.21 Export through Exhibitions / Export Promotion Tours / Showrooms Abroad / Duty Free Shops

EOU / EHTP / STP / BTP are permitted to:

- (i) Export goods for holding / participating in Exhibitions abroad with permission of DC.
- (ii) Personal carriage of gold / silver / platinum jewellery, precious, semi-precious stones, beads and articles.
- (iii) Export goods for display / sale in permitted shops set up abroad.
- (iv) Display / sell in permitted shops set up abroad, or in showrooms of their distributors / agents.
- (v) Set up showrooms / retail outlets at International Airports.

6.22 Personal Carriage of Import / Export Parcels including through Foreign Bound Passengers

Import / export through personal carriage of gems and jewellery items may be undertaken as per Customs procedure. However, export proceeds shall be realized through normal banking channel. Import / export through personal carriage by units, other than gems and jewellery units, shall be allowed provided goods are not in commercial quantity. An authorized person of Gems & Jewellery EOU may also import gold in primary form, upto 10 Kgs in a

financial year through personal carriage, as per guidelines prescribed by RBI and DoR.

6.23 Export / Import by Post / Courier

Goods including free samples, may be exported / imported by airfreight or through foreign post office or through courier, as per Customs procedure.

6.24 Administration of EOUs / Powers of DC

Details of administration of EOUs and power of DC is given in HBP.

6.25 Revival of Sick Units

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

6.26 Approval of EHTP / STP

In case of units under EHTP / STP schemes, necessary approval / permission under relevant paras of this Chapter shall be granted by officer designated by Ministry of Communication and Information Technology, Department of Electronics & Information Technology, instead of DC, and by Inter-Ministerial Standing Committee (IMSC) instead of BOA.

6.27 Approval of BTP

Bio-Technology Parks (BTP) would be notified by DGFT on recommendations of Department of Biotechnology. In case of units in BTP, necessary approval / permission under relevant provisions of this chapter will be granted by designated officer of Department of Biotechnology.

6.28 Warehousing Facilities

An EOU which intends to set up warehousing facilities outside the EOU premises and outside the jurisdiction of DC, at a place near to the port of export, to reduce lead time for delivery of goods overseas and to address unpredictability of supply orders, is permitted to do so subject to the provisions related to export warehousing as per terms and conditions of Notifications issued by the Department of Revenue.

