

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, bio-technology, 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). However export of gold jewellery, including partly processed jewellery, whether plain or studded, and articles, containing gold of 8 carats and above up to a maximum limit of 22 carats only shall be permitted. The export of findings like posts, push backs, locks which help in collating the jewellery pieces together, containing gold of 3 carats and above up to a maximum limit of 22 carats only shall be allowed.

(b) Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) shall be subject to fulfillment of conditions contained in the Chapter 10 of the FTP (new Chapter for SCOMET). In respect of an EOU, permission to export prohibited item(s) may be considered by BOA on a case to case basis, provided the input(s) used for the export item(s) is/are imported and there is no procurement of such inputs from DTA.

(c) Procurement and supply of export promotion material like brochure/literature, pamphlets, hoardings, catalogues, posters etc. upto a maximum value limit of 1.5% of FOB value of previous year's exports shall also be allowed.

(d) (i) An EOU / EHTP/ STP/ BTP unit may import and / or procure, from DTA or bonded warehouses in DTA / international exhibition held in India, all types of goods, including capital goods, required for its activities, provided they are not prohibited items of import in the ITC (HS) subject to conditions given at para (ii) & (iii) below. 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.

(ii) The imports and/ or procurement from bonded warehouse in DTA or from international exhibition held in India shall be without payment of duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 and additional duty, if any, leviable thereon under Section 3(1), 3(3) and 3(5) of the said Customs Tariff Act. Such imports and/ or procurements shall be made without payment of integrated tax and compensation cess leviable thereon under section 3(7) and 3(9) of the Customs Tariff Act, 1975 as per notification issued by the Department of Revenue.

(iii) The procurement of goods covered under GST from DTA would be on payment of applicable GST and compensation cess. The refund of GST paid on such supply from DTA to EOU would be available to the supplier subject to such conditions and documentations as specified under GST rules and notifications issued there under. EOUs can also procure excisable goods falling under the Fourth Schedule of Central Excise Act, 1944 from DTA without payment of applicable duty of excise.

(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, with or without payment of duties/taxes as provided at Para 6.01 (d) (ii) and 6.01(d) (iii) above, 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 the premises of the unit.

(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 of such metals by the nominated agencies.

(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) Development Commissioner /Designated Officer in EOU/EHTP/STP/BTP units may allow, on a case to case basis, 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 with or without payment of duty and/ or taxes as provided at Para 6.01(d) (ii) and (iii) above, as the case may be 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. Development Commissioner /Designated Officer may also specify any other conditions.

6.02 Second hand Capital Goods

Second hand capital goods, without any age limit, may also be imported with or without payment of duty/ taxes as provided under Para 6.01(d)(ii) above.

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 with or without payment of duties/taxes as provided at Para 6.01 (d) (ii) and (iii) above, as the case may be 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.

(b) An EOU/ EHTP/STP/BTP 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 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 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. In addition sector specific provision of Appendix 6B of Appendices & ANFs, where a higher value addition and other conditions are given, shall be required to be followed. 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. The method of calculation of NFE in detail is given in para 6.10 of current Handbook of Procedures.

6.05 Applications & Approvals/Letter of Permission / Letter of Intent and Legal Undertaking

(a) (i) Application for setting up an EOU shall be considered by Unit Approval Committee (UAC)/ Board of Approval (BoA) as the case may be, as detailed in the Hand Book of Procedure. The powers of DC are defined in para 6.34 of HBP.

(ii) 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 Electronics & Information Technology, instead of DC, and by Inter-Ministerial Standing Committee (IMSC) instead of BOA.

(iii) 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.

(iv) On approval, a Letter of Permission (LoP) / Letter of Intent (LoI) shall be issued by DC / Designated officer to EOU/EHTP/STP/BTP unit. The validity of LoP/LoI shall be given in the Hand Book of Procedures.

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

Entire production of EOU/EHTP/STP/BTP units shall be exported. However, the following are allowed as exceptions subject to the conditions specified.

(a) (i) Units, other than those of gems and jewellery may sell finished goods manufactured by them as specified in LoP (including by-products, rejects, waste and scraps arising in the course of production, manufacture, processing or packaging of such goods) which are freely importable under FTP in DTA, subject to fulfillment of positive NFE, on payment of excise duty, if applicable, and/ or payment of GST and compensation cess along with reversal of duties of Customs leviable under First Schedule to the Customs Tariff Act, 1975 availed as exemption, if any on the inputs utilized for the purpose of manufacturing of such finished goods (including by-products, rejects, waste and scraps arising in the course of production, manufacture, processing or packaging of such goods). No DTA sale shall be permissible in respect of, pepper & pepper products, marble and such other items as may notified from time to time. This reversal of Customs Duty would be as per prevailing SION norms or norms fixed by Norms Committee (where no SION norms are fixed).

(ii) Such DTA sale shall also not be permissible to units engaged in activities of packaging / labeling / segregation / refrigeration / compacting / micronisation / pulverization / granulation / conversion of monohydrate form of chemical to anhydrous form or vice-versa.

(iii) 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).

(iv) 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.

(v) Such DTA sale shall also be subject to refund of any benefits under Chapter 7 of FTP availed by the EOU/supplier as per FTP, on the goods used for manufacture of the goods cleared into the DTA.

(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. However, sale in DTA in respect of services classified under Chapter Heading 9988 and 9989 under GST, but covered in LOP/para 11.31 of FTP as manufacturing of goods, will continue to be covered under para 6.07(a) above. At the time of DTA clearance, applicable GST and compensation cess as per GST classification would apply.

(c) Gems and jewellery units may sell upto 10% of FOB value of exports of the preceding year in DTA, subject to fulfillment of positive NFE. The unit shall pay applicable GST and compensation cess along with reversal of duties of Customs leviable under First Schedule of the Customs Tariff Act, 1975 availed as exemption, on inputs used in such jewellery.

(d) Unless specifically prohibited in LoP, rejects may be sold in DTA on payment of excise duty, if applicable, and/or payment of GST and compensation cess along with reversal of duties of Customs leviable under First Schedule of the Customs Tariff Act, 1975 availed as exemption on inputs on prior intimation to Customs authorities. 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 applicable duties and/ or taxes and compensation cess. 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. 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. The expression "no duties/ taxes" shall not include applicable taxes and cess under the GST laws.

(g) By-products included in LoP may also be sold in DTA subject to achievement of positive NFE, on payment of excise duty, if applicable, and/or payment of GST and compensation cess along with reversal of duties of Custom leviable under First Schedule to the Customs Tariff Act, 1975, if availed on inputs.

(h) In case of units manufacturing electronics hardware and software, NFE and DTA sale entitlement shall be reckoned separately for hardware and software.

(i) 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.

(j) 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 GST and compensation cess along with reversal of duties of Customs leviable under First Schedule of the Customs Tariff Act, 1975 availed as exemption if any.

6.08 Other Supplies counted for fulfilment of NFE

Following supplies effected from EOU / EHTP / STP / BTP units will be counted for fulfillment 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 Authorization / Advance Authorization 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 Authorization / 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.

6.09 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/BTP/SEZ unit subject to conditions mentioned in Para 6.19 of HBP.

6.10 Entitlement for Supplies from the DTA

- (a) Supplies from DTA to EOU/EHTP/STP/ BTP units for use in their manufacture for exports will be eligible for "benefits under Chapter 7 of FTP". DTA supplier shall be eligible for relevant entitlements under chapter 7 of FTP, besides discharge of export obligation, if any, on the supplier. The refund of GST paid on such supply from DTA to EOU would be available to the supplier subject to such conditions and documentations as specified under GST rules and notifications issued there under.
- (b) Suppliers of precious and semi-precious stones, synthetic stones and processed pearls from DTA to EOU shall be eligible for grant of Replenishment Authorizations 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, wherever applicable. 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 11.10 of HBP).
 - (ii) Exemption from payment of Central Excise Duty on goods, falling in Fourth Schedule of Central Excise Act, procured from DTA on such goods manufactured in India.

6.11 Other Entitlements

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

- (a) Exemption from industrial licensing for manufacture of items reserved for micro and small enterprises.
- (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; and
 - (ii) the unit is in existence for at least three years; and
 - (iii) the unit has achieved positive NFE / export obligation wherever applicable; and 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, CGST/ SGST/UTGST//IGST Acts, the Central Excise Act, the Foreign Trade (Development & Regulation) Act, 1992, 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 / willful mis- statement / suppression of facts or contravention of any of the provisions thereof.
- (e) Unit will also not be required to furnish bank guarantee at the time of import or going for job work in DTA, if it has achieved necessary certification as an Authorised Economic Operator (AEO) and 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 Foreign Trade (Development & Regulation) Act, 1992 and the Foreign Exchange Management Act.
- (f) 100% FDI investment permitted through automatic route similar to SEZ units.
- (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.

6.12 Inter Unit Transfer

- (a) Transfer of manufactured goods from one EOU/ EHTP/STP/BTP unit to another EOU / EHTP/ STP/ BTP unit is allowed on payment of applicable GST and compensation cess with prior intimation to concerned Development Commissioners of the transferor and transferee units as well as concerned Customs authorities, as per following procedure for movement of goods:
 - i. The supplier unit shall endorse on usual commercial documents, such as, tax invoice and delivery challan, the amount of duties of Custom leviable under First Schedule to the Customs Tariff Act, 1975 availed as exemption on inputs used in the manufacture of such finished goods (including by- products, rejects, waste and scraps arising in the course of production, manufacture, processing or packaging of such goods) supplied to another unit. The recipient unit shall pay such endorsed Customs duty besides his own liability of reversal of Customs duty as provided in Para 6.07 above, before clearance of such finished goods in DTA and as provided under DoR notifications/ circulars/ guidelines in this regard.

ii. Upon receipt of goods, the recipient unit shall submit endorsed copies of tax invoice to their jurisdictional Customs authority as well as to the jurisdictional Customs authorities of the supplier unit.

(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 on payment of applicable GST and compensation cess. Such transferred goods may also be returned by the second unit to the original unit in case of rejection or for any reason on payment of applicable GST and compensation cess.

(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.

6.13 Sub"Contracting

(a) (i) EOU/EHTP/STP/BTP units, including gems and jewellery units, may be 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, under take 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. However, such brand rate of drawback shall be as per Customs and Central Excise Duties Drawback Rules, 2017 and shall be limited to Customs duties and Central Excise Duties (in respect of eligible items covered under Schedule IV of Central Excise Act, 1944).

(ii) Import of goods for execution of export order placed on EOU by foreign supplier on job work basis, would be allowed with or without payment of duties and/or taxes as provided under Para 6.01(d)(ii) above subject to condition that no DTA clearance shall be allowed.

(iii) Sub-contracting of both production and production processes may also be under taken 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 and/or taxes, as provided under Para 6.07 above on transaction value or destroyed in presence of Customs authority 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.

6.14 Sale of Unutilized Material and Capital Goods

(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 intimation to Customs authorities on payment of applicable duties and/ or taxes and compensation cess. In addition, exemption of duties of Customs leviable under First Schedule of the Customs Tariff Act, 1975 availed, if any on the goods , at the time of import will also be payable. This sale would be further subject to compliance of applicable import conditions such as requirement of import Authorisation; or

(iii) Exported.

(iv) 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 be exported or transferred to SEZ unit, transferred to another EOU/EHTP/STP/BTP/on payment of applicable GST and compensation cess or disposed of in DTA on payment of applicable GST and compensation cess and duties of Customs leviable under First Schedule of the Customs Tariff Act, 1975. Benefit of depreciation 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 other than the applicable taxes under GST laws incase 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 left over items.

(d) Disposal of used packing material will be allowed on payment of duty on transaction value.

6.15 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 6.07, 6.08, 6.09, 6.12, 6.13of 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 6.07, 6.08, 6.09, 6.12, 6.13of FTP and para 6.29(a), (b),

(c) and (d) of HBP shall not, however, apply to such activities.

6.16 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 authorities.

(c) Goods or parts thereof, on being imported / indigenously procured and found defective or After payment of duty and clearance of all dues, unit shall obtain "No Dues Certificate" from Customs otherwise unfit for use or which have been damaged authorities. On the basis of "No Dues Certificate" or become defective subsequently, may be returned against refund of purchase value/ against replacement or destruction. In the event of replacement, goods may be received 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.

6.17 Exit from the Scheme

(a) With approval of DC/Designated officer of EHTP/ STP/BTP, an EOU/EHTP/STP/BTP unit may opt out of scheme. Such exit shall be subject to payment of applicable Excise and Customs duties and on payment of applicable IGST/ CGST/ SGST/ UTGST and compensation cess, if any, 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 applicable duties and taxes and compensation cess on capital goods under the prevailing EPCG Scheme for DTA Units. This will be subject to fulfillment 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 the scheme shall intimate DC of EOU/Designated officer of EHTP/STP/BTP and Customs authorities in writing. Unit shall assess duty liability arising out of exit and submit details of such assessment to Customs authorities. Customs 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 authorities. On the basis of "No Dues Certificate" so issued by the Customs authorities, unit shall apply to DC/Designated officer for final exit. In case there is no proceeding pending under FT(D&R) Act, as amended, DC/Designated officer shall issue final exit order within a period of 7 working days. Between "No Dues Certificate" issued by Customs authorities and final exit order by DC/Designated officer, unit shall not be entitled to claim any exemption for procurement of capital goods or inputs. However, unit can claim Advance Authorization / DFIA/ Duty Drawback as per its eligibility. In case the duty calculations and dues are disputed and take a long time, a BG / Bond / Installment 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/GST, and unit is subsequently converted to EOU, in such cases removal of such capital goods to DTA after exit 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 upon exit.

(g) An EOU / EHTP / STP / BTP unit may also be permitted by DC to exit under Advance Authorisation as one time option. This will be subject to fulfillment 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.

6.18 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 avail exemptions in duties and taxes as applicable.

(c) 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.

6.19 Monitoring of NFE

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

6.20 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 /Designated officer.
- (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.

6.21 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.

6.22 Export /Import by Post/ Courier

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

6.23 Administration of EOU / EHTP / STP / BTP units and Powers of DC/Designated Officer of EOU/EHTP/STP/SEZ

Details of administration of EOUs / EHTP / STP / BTP units and powers of DC/Designated Officer are given in HBP.