

## DRAFT SEZ RULES

TO BE PUBLISHED IN PART II, SECTION 3 SUB-SECTION (i) OF THE  
GAZETTE OF INDIA EXTRAORDINARY, DATED THE \_\_\_\_\_

MINISTRY OF COMMERCE AND INDUSTRY  
(DEPARTMENT OF COMMERCE)

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### Notification

New Delhi, the \_\_\_\_, \_\_\_\_\_, 2005

SO No: \_\_\_\_\_ - In exercise of the powers conferred by sub-section (1) of section 55 of the Special Economic Zones Act, 2005 ( \_\_\_\_\_ of 2005), the Central Government hereby makes the following rules, namely:-

	Precedent
<p><b>1. Short title and commencement.-</b> (1) These rules may be called the Special Economic Zones Rules, 2005.</p> <p>(2) They shall come into force on the date of their publication in the Official Gazette.</p> <p><b>2. Definitions.-</b> (1) In these rules, unless the context otherwise requires, -</p> <p>(a) "Act" means the Special Economic Zones Act, 2005;</p> <p>(b) "Authorized Officer" means an officer of Customs posted in the Special Economic Zone and duly authorized by the "Proper Officer" for a particular function or functions under the Act by way of a general order or special order;</p> <p>(c)"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, modernization, technological up gradation or expansion and also include handling equipment, packaging machinery and equipments, refractories for initial lining, refrigeration equipment,</p>	<p>Chapter 9 of Foreign Trade Policy (FTP)</p>

<p>power generating sets, machine tools, catalysts for initial charge, equipment and instruments for testing, research and development, quality and pollution control system, and 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;</p>	<p>-do-</p> <p>-do-</p>
<p>(d) "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 and includes an accessory or attachment to the component;</p> <p>(e) "consumable" means any item, which participates in or is required for a manufacturing process, but does not necessarily form part of the end product:</p>	<p>Definition – SEZ cus procedure regulation 03 <b><u>and PN 14/2003-cus dated 9-12-03</u></b></p>
<p>Provided that the items which are substantially or totally consumed during a manufacturing process will be deemed to be consumables;</p>	<p>Chapter 9 of FTP</p>
<p>(f) "custodian" means any person approved by the Proper Officer of Customs as defined under clause (p) of this rule under section 45 of the Customs Act 1962 (52 of 1962) for the custody of goods for loading of export cargo and unloading or storage of import cargo in the customs area.</p>	<p>SEZ Customs Regulations 2003</p>
<p>(g) "Customs Act" means the Customs Act, 1962 (52 of 1962);</p>	<p>-do-</p>
<p>(h) "drawback" for the purpose of any goods manufactured in India and exported to an SPECIAL ECONOMIC ZONE by a DTA supplier means the rebate of duty chargeable on any imported material or excisable goods used in the manufacture of such goods in India;</p>	<p>SEZ customs rules</p>
<p>(i) "Electronic Hardware Technology Park Unit" means a Unit approved under the Electronic Hardware Technology Park Scheme notified by the Central Government;</p>	<p>Appendix 14II-O of handbook</p>
<p>(j) "Export Oriented Unit" means a Unit approved as an</p>	

<p>Export Oriented Unit under the Foreign Trade Policy;</p> <p>(k) “Foreign Trade Policy” means the Foreign Trade Policy notified from time to time by the Central Government under section 5 of Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);</p> <p>(l) “Handbook” means the Handbook of procedures published under the Foreign Trade policy under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);</p> <p>(m) “infrastructure” means facilities needed for development, operation and maintenance of an Special Economic Zone and would include industrial, commercial and social amenities like development of land, roads, buildings, sewerage and effluent treatment facilities, port, including Inland Container Depot or Container Freight Station, warehouses, airports, railways, transport system, generation and distribution of power, gas and other forms of energy, telecommunication, hospitals, hotels, educational institutions, leisure and entertainment facilities, residential and commercial complex, water supply and sanitation or other facilities as may be notified by Central Government;</p> <p>(n) “Nominated Agency” means the Metals &amp; Minerals Trading Corporation Ltd, the Handicraft and Handloom Export Corporation, the State Trading Corporation, the Projects and Equipment of India Limited and any other agency authorized by the Reserve Bank of India;</p> <p>(o) “non-processing area” means an area of the Special Economic Zone, but does not include the processing area;</p> <p>(p) “processing area” means an area in the Special Economic Zone, demarcated by Development Commissioner;</p> <p>(q) “Proper Officer” means Joint or Deputy or Assistant Commissioner of Customs posted at Special</p>	<p>SEZ custom regulation</p> <p>SEZ customs rules</p> <p>-do-</p> <p>new</p> <p>chapter 9 FTP</p> <p>-do-</p> <p>-do-</p> <p>SEZ customs regulation</p>
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<p>Economic Zone;</p> <p>(r) "raw material" means: (i) Basic materials which are needed for the manufacture of goods, but which are still in a raw, natural, unrefined or un-manufactured state; and (ii) for a manufacturer, any materials or goods which are required for manufacturing process, whether they have actually been previously manufactured or are processed or are still in a raw or natural state;</p> <p>(s) "service" – (to be <b><u>identified and prescribed</u></b>) <b><u>Trading to be included separately</u></b></p> <p>(t) "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 and include a component or an accessory;</p> <p>(u) "status holder" means an exporter recognized as such under the Foreign Trade Policy under the Foreign Trade (Development and Regulation) Act 1992 (22 of 1992);</p> <p>(v) "Software Technology Park Unit" means Software Technology Park Unit approved under the Software Technology Scheme notified by the Central Government.</p> <p>(2) All other words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.</p>	<p>03</p> <p>-do-</p>
<p style="text-align: center;">CHAPTER – I</p> <p style="text-align: center;">ESTABLISHMENT OF SPECIAL ECONOMIC ZONES</p>	
<p><b>3. Proposal of setting up of Special Economic Zones.-</b> Every proposal under sub-section (2) to (4) of section 3 of the Act shall be made in the form and manner given in Form – A as appended to these rules.</p>	
<p><b>4. Forwarding of proposals to Board.-</b> The State Government shall forward the proposals under sub-section (2) and (4) of section 3 of the Act to the Board (addressed to</p>	

<p>the Member Secretary of Board in the Department of Commerce) with its recommendations, within forty-five days of its receipt, confirming the requirements under sub-rule(8) of rule 5:</p> <p>Provided that where the Board approves a proposal received under sub-section (3) of section 3 of the Act, the person shall obtain concurrence of the State Government within six months from the date of such approval with regard to the requirements mentioned in sub-rule (8) of rule 5.</p>	
<p><b>5. Requirements for establishment of Special Economic Zone.-</b> (1) The requirements and other terms and conditions subject to which the Board may approve, modify or reject a proposal for establishment of Special Economic Zone in terms of sub-section (8) of section 3 of the Act shall be as under: -</p> <p>(i) The Minimum area requirement for a class or classes of Special Economic Zone shall be:-</p> <p>(a) <b>Multi Product Special Economic Zone</b> - One Thousand Hectares</p> <p>(b) <b>Sector specific Special Economic Zones, including port or airport based Special Economic Zone-</b> One Hundred Hectares</p> <p>Provided that in case the Special Economic Zone is proposed to be set up in Assam, Meghalaya, Nagaland, Arunachal Pradesh, Mizoram, Manipur,, Tripura, Sikkim, Jammu &amp; Kashmir, Himachal Pradesh or Uttranchal the minimum area requirement shall be Two Hundred Hectares and Fifty Hectares respectively for Class (a) and (b);</p> <p>Provided further that in case the Special Economic Zone is proposed to be set up for Information Technology and Gems &amp; Jewellery Sectors, the minimum area requirement shall be Ten Hectares but hundred percent of the identified areas shall be for developing the processing area and the social infrastructure required, if any, shall be setup within the</p>	<p>Appendix 14II-O of handbook</p> <p>New</p> <p>Chapter 7A of FTP</p> <p>New</p>

<p>processing area for exclusive use of the persons authorized to enter processing area only.</p>	<p>Appendix 14II-O</p>
<p>(b) The minimum area for Free Trade and Warehousing Zone shall be Forty Hectares with of a built up area One-lakh sq. mtrs.</p>	<p>New</p>
<p>Provided that the Free Trade and Warehousing Zones may also be set up as a part of a Special Economic Zone also whether existing or new.</p>	<p>Appendix 14II-O</p> <p>-do-</p>
<p>(ii) There shall be no minimum area requirement for notifying any additional area as a part of an existing Special Economic Zone provided such areas are contiguous to the existing areas.</p>	<p>New - as per BOA decision</p>
<p>Provided however, that in case such areas for expansion, not being less than Fifty Hectares are not contiguous but are within fifty kilometers radial distance from the existing Special Economic Zone may also be allowed,</p>	<p>-do-</p>
<p>(2) In a multi-product Special Economic Zone, at least twenty five percent area of the identified area shall be earmarked for developing the processing area;</p>	<p>Appendix 14II-O of handbook</p>
<p>(3) For other Special Economic Zones, at least seventy five percent of the area shall be earmarked for developing processing area;</p>	
<p>(4) The Developer shall obtain required approvals from the concerned Central or State Government Departments or agencies, as may be required;</p>	
<p>(5) Any Developer or Co-Developer shall have at least twenty-six percent equity in entity proposing to create commercial, residential and recreational facilities in a Special Economic Zone;</p>	
<p>(6) The Developer shall furnish an undertaking to the effect that he shall abide by local laws and rules and regulations or bye-laws in regard to area planning and sewerage disposal and pollution control and shall comply with industrial and labour laws and such other rules and regulations, as may be</p>	<p>Mfd. Goods or imported goods cleared from the port are exempt even today</p>

locally applicable;

(7) Before recommending any proposal for setting up of Special Economic Zone, the concerned State should have either enacted its State legislation for Special Economic Zone or notified its Special Economic Zone policy supported by requisite notifications to provide for the following requirements, namely:-

- (a) exemption from all State and local taxes and levies including duties and taxes levied by local bodies on goods required for authorized operations by units and Developer, and the goods sold by the units in Domestic Tariff Area except the goods procured from domestic tariff area sold as it is;
- (b) full exemption in electricity duty and tax on sale of electricity for self generated and purchased power;
- (c) allow generation, transmission and distribution of power within Special Economic Zone;
- (d) water and electricity and other services shall be provided as required;
- (e) for units and workers employed by the Developer including co-developer, the powers under the Industrial Disputes Act, 1947 and other related Acts shall be delegated to Development Commissioner;
- (f) the Special Economic Zone shall be declared as a Public Utility Service under Industrial Disputes Act, 1947;
- (g) A single point clearances system shall be provided to the Special Economic Zone Developer and Units under State Acts and rules
- (h) For providing the Environmental Clearances through approval committee an empowered officer of the State Pollution Control Board shall be nominated and such clearances shall be deemed to have been given within 30 days of the date of receipt of duly completed application by

<p>the approval committee ;</p> <p>(9) While recommending a proposal for setting up of Special Economic Zone to Board, State Government shall indicate whether the area incorporated in the proposed Special Economic Zone is free from environmental prohibition.</p>	
<p><b>6. Letter of Approval for Developer.-</b> (1) The Central Government shall, within 30 days of communication received by it under sub-section (9) of section 3 of the Act, grant a letter of approval in Form B as appended to these Rules to the person or the State Government concerned or in Form C, as appended to these rules, if the approval is for providing infrastructural facilities in the Special Economic Zone, incorporating additional conditions, if any, specified by Board while approving the proposal.</p> <p>(2) The letter of approval for Developer shall be valid for a period of three years within which time effective steps shall be taken to implement the approval:</p> <p style="padding-left: 40px;">Provided that Board may extend this validity period for a further period of two years, on merits.</p>	
<p><b>7. Details to be furnished for issue of Notification.-</b> The Developer shall furnish particulars under sub-section (1) of section 4 of the Act to the Central Government with regard to the area referred to in sub-section (2) or sub-section (4) of section 3 of the Act, hereinafter referred to as identified area, with proof of legal right and possession and free of all encumbrances as certified by the State Government:</p> <p style="padding-left: 40px;">Provided that where Developer has only lease hold right over the identified area, the lease period shall be for a minimum period of 20 years.</p> <p><b>8. Notification of Special Economic Zone.-</b> After the submission of details as required under rule 7 and other details, if any, required for by the Central Government and on fulfillment of the conditions of Letter of Approval, Central Government shall notify the identified area as Special Economic Zone, under sub-section (1) of section 4 of the Act.</p>	<p>No. 33 of SEZ customs regulation</p> <p>New</p>
<p><b>9. Grant of Approval for Authorized Operations.-</b> The Developer along with land details shall also submit the details of operations proposed to be undertaken in the Special</p>	<p>Appendix 14II-O of HB</p>



<p>Economic Zone availing exemptions, drawbacks and concessions in terms of the provisions of Section 26 of the Act, to the Board for Approval:</p> <p>Provided that no approval from the Board shall be required for undertaking any operations in the processing area and the material required for such operations may be allowed by the Approval Committee;</p> <p>Provided further that Export Processing Zones or Free Trade Zones which were converted into Special Economic Zones shall obtain approval from Board for development of additional infrastructure.</p> <p><b>10. Permission for procurement of items.</b> – The Approval Committee may permit goods and services, required for the authorized operations under rule 9.</p> <p>Provided that when the goods and services, required for the authorized operations under rule 9. availing exemptions, drawbacks and concessions in terms of the provisions of Section 26 of the Act have been allowed to a developer or co-developer, as the case may be, the said exemptions, drawbacks and concessions shall also be available to the contractors appointed by such developer or co-developer and all documents in such cases shall bear the name of the Developer or the Co-Developer along with the contractor,</p> <p>Provided, further that the all the liabilities and responsibilities for proper utilization of such goods shall remain that of the developer or co-developer, as the case may be and all the documents shall be filed jointly in the name of the developer or co-developer and the contractor;</p>	<p>New</p>
<p><b>11. Processing area and Free Trade and Warehousing Zone.-</b> (1) Free Trade and Warehousing Zones may be created as stand alone Special economic Zones or as part of the Multi Product Special Economic Zones. The processing area and Free Trade and Warehousing Zone shall be fully secured by boundary wall or wire mesh fencing having a height of at least two meters and 40 centimeters above plinth level with top sixty centimeters barbed wire fencing with mild steel angle with specified entry and exit points, subject to the satisfaction of Development Commissioner:</p> <p>Provided that once notified, any space including land in the processing area or Free Trade and Warehousing Zone</p>	

<p>can be allotted or given on lease only to the entrepreneurs holding a valid letter of permission issued by the Development Commissioner and the same shall remain valid only during the validity of the letter of permission;</p> <p>Provided further that any transfer by way of sub-lease or any other mode shall be valid only if the same is made to a person holding a valid letter of permission issued by the Development Commissioner;</p> <p>Provided, however, that the land may be allotted on lease basis to a person desiring to create infrastructural facilities for use by the prospective Units;</p> <p>Provided further that no land in any Special Economic Zone shall be sold by the Developer to any other person;</p> <p>(2) In terms of provisions of Section 53 of the Act, the SEZ shall from the date notified in this behalf be deemed to be a Port, Airport, ICD, Land Customs Station under Section 7 of the Customs Act;</p> <p>Provided that Proper Officer may declare any area/s in the Special Economic Zone for loading and unloading of import export cargo:</p> <p>Provided further that in case the said Port, Airport, ICD, Land Customs Station area is to be used for loading and unloading of import or export cargo meant for Domestic Tariff Area importers and exporters also, storage for such cargo shall be in a separate enclosure and deliveries for such cargo shall be allowed by SEZ Customs based on Bills of entry assessed by the Asst. or Deputy Commissioner of Customs having territorial jurisdiction over the said Customs Station.</p> <p><b>12. Transfer of Letter of Approval.</b> - The requirements under sub-section (5) and sub-sections (7) to (10) of section 3 of the Act shall, mutatis – mutandis, apply for selection of a person for transfer of Letter of Approval of Developer under clause (a) of sub-section (9) of section 10 of the Act.</p>	<p>New</p>

CHAPTER – II APPROVAL OF UNITS		
<p><b>13. Proposal for unit approval.</b> - (1) A consolidated application form for the following shall be made to the Development Commissioner in Form D as appended to these rules, in Five copies.</p> <ol style="list-style-type: none"><li>1. Setting up of unit in Special Economic Zone</li><li>2. Annual permission for sub-contracting</li><li>3. Allotment of Import Exporter Code Number</li><li>4. Allotment of Land/Industrial Sheds in the Special Economic Zone.</li><li>5. Water connection.</li><li>6. Registration-cum-Membership Certificate</li><li>7. Small Scale Industries Registration</li><li>8. Registration with the Central Insecticides Board</li><li>9.. Registration with Central Pollution Control Board (a) for recycling/re-refining non-ferrous metal waste/ Used oil/waste oil</li><li>11. Power connection</li></ol> <p>(2) The Development Commissioner shall scrutinize and place the proposal for consideration of the Approval Committee.</p> <p>(3) The Development Commissioner shall place proposals received under clauses (c) and (e) of sub-section (2) of section 9 of the Act before Board for consideration.</p> <p><b>14. Consideration of proposals.</b> - (1) The Approval Committee may approve, modify or reject a proposal placed before it under sub-rule (2) of Rule13 within 15 days of its receipt.</p> <p>(2) The Approval Committee shall approve the proposal if it fulfills the following requirements: -</p> <ol style="list-style-type: none"><li>(i) the proposal meets with the positive net foreign exchange earning requirement as provided in the rule 57</li><li>(ii) availability of space and other infrastructure support applied for are available in the Special Economic Zone; as confirmed by the Developer</li></ol>	<p>7.7(a) of FTP</p> <p>Appendix 14I-C of HB</p>	

in writing;

Provided that the formal Letter of Approval shall be issued only after the proof of possession is produced by the applicant entrepreneur;

Provided further that the registered lease agreement/lease deed shall be submitted to the Development Commissioner concerned within six months of the issue of the Letter of Permission.

(iii) the proposal fulfills following sector specific requirements, namely :-

(a) the Unit shall be for export high-grade iron ore that is sixty-four per cent. Fe Iron Ore and above, except iron ore of Goa origin Redi origin would be subject to annual quantity allocation by the Board;

(b) no sub-contracting or job work of polyester yarn shall be permitted in Domestic Tariff Area or in Export Oriented Unit or in Units in other Special Economic Zone:

Provided, however that this restriction shall not apply for the units which intend to send the fabric, made by them out of polyester or texturised yarn, for sub-contracting but the third party exports shall not be permitted;

(c) No proposal shall be considered for:-

(i) the recycling of plastic scrap or waste;

(ii) **[the extension of existing approval for the existing units engaged in recycling of plastic scrap or waste;]**

(iii) enhancement of the approved import quantum to the existing Units engaged in recycling of plastic scrap or waste.

**(d)** Reprocessing of garments or used clothing or secondary textiles materials and other recyclable textile materials. into clipping or rags or industrial

To be decided

Appendix 14I-B of HB

wipers or shoddy wool or yarn or blankets or shawls;

(e) No proposal for import of secondhand goods for recycling shall be permitted.

Provided that reconditioning, repair and reengineering may be permitted subject to the condition that exports shall be on one to one basis and all the reconditioned/repared/re-engineered product or scrap/remnants/waste shall have to be re exported and none of these goods shall be allowed to be sold in the Domestic Tariff Area.

(f) The applicant undertakes to fulfill the environmental and pollution control norms, as may be applicable;

(g) The residence proof, namely, passport or ration card or driving licence or voter identity card or any other proof of the proprietor or the partners of partnership firms or Directors of the Company, as the case may be, to the satisfaction of Development Commissioner.

(h) The Income tax return of the promoters or Partners or audited balance sheet in case of companies for the last three years.

(i) if any adverse case under Special Economic Zone or Export Oriented Unit Scheme is pending against the promoters, having a bearing on the merits of the proposal.

(3) The Board shall approve, modify or reject a proposal placed before it under sub-rule (3) of rule 13, within 45 days of its receipt:

Provided that Approval Committee or Board, as the case may be, shall record the reasons, in writing, where it approves a proposal with modifications or where it rejects a proposal and Development Commissioner shall communicate such reasons to the person making the proposal.

7.31 (b) of  
HB

(4) The Units in Free Trade and Warehousing Zones shall be allowed to hold the goods on account of the foreign supplier also for dispatches as per the owner's instructions and shall be allowed trading with or without labeling, packing or re-packing without any processing whatsoever.

Provided that Refrigeration for the purpose of storage and assembly of CKD/SKD kits shall also be allowed but the same shall not be treated as amounting to manufacture by the Free Trade and Warehousing units undertaking the said activities.

Provided further that these Units may also re-sell or re-invoice or re-export the goods imported by them;

Provided further that all purchases by the overseas and domestic buyers from the units set up in the Free Trade & Warehousing Zone shall be in the convertible foreign currency only;

(5) Units may also be setup for providing manufacturing services to Overseas Entities subject to following conditions:

(a) Capital goods, raw materials including consumables sub-assemblies, components, semi-finished goods shall be supplied by the Overseas Entity free of cost;

(b) Capital goods for setting up such facilities may also be supplied on loan basis or lease basis, however, notional value of such capital goods shall be taken into account for calculation of net foreign exchange earnings

(c) finished goods shall be immediately exported out of the country or transferred to the Customs Bonded Warehouse to be maintained by the Overseas entity;

Provided that any supplies of finished goods shall be only as per the instructions of the Overseas entity and the Commercial Invoices for the same shall be issued by the Overseas entity;

<p>(d) the Unit shall collect its service charges for extending the manufacturing services in convertible foreign exchange directly from the said overseas entity;</p> <p>(e) in case the said manufacturing facility is used by the Unit for carrying out production on its own account, separate accounts shall be maintained for the manufacturing and service activity.</p> <p>Explanation: - Overseas Entity means a non resident or foreign person and includes a company not incorporated in India</p> <p>(6) Units may also be set up in the Special economic Zone or the Free Trade and Warehousing Zone for undertaking mechanical assembly of the ITA-1 goods;</p> <p><b>15. Conversion of Export Oriented Units or Software Technology Park Units or Electronic Hardware Technology Park Units.</b> - The Approval Committee may consider and permit conversion of Export Oriented Units or Software Technology Park Units or Electronic Hardware Technology Park Units into Special Economic Zone Unit provided it fulfils the requirements under rule 14 for approval of new Units.</p> <p>Provided that on such conversion such units shall have to shift their operations into Special economic Zone</p> <p><b>16. Appeal against rejection by Approval Committee.</b> - Any person aggrieved by an order passed by Approval Committee under proviso to sub-rule (3) of rule 14 may prefer an appeal to Board (addressed to the Member Secretary of the Board) within 45 days from the date on which the order was issued, in Form E as appended to these rules, accompanied by a copy of the order appealed against and a fee of rupees two thousand and five hundred only.</p>	
<p><b>17. Letter of Approval for Unit.-</b> (1) On approval of a proposal under rule 14, Development Commissioner shall issue a Letter of Approval in <b>Format F</b> as appended to these rules for setting up of Unit:</p> <p>(2) The Letter of Approval shall specify the items of</p>	<p>Para 7.7.4 of HB</p>

<p>manufacture or particulars of service activity including trading service or free trade and warehousing zone unit, projected annual export and Net Foreign Exchange Earning for the first five years of operations, limitations, if any on Domestic Tariff Area sale of finished goods, by-products and rejects and other terms and conditions, if any, stipulated by Board or Approval Committee.</p>	<p>7.7.6 of HOB</p>
<p>Provided that Approval Committee shall consider proposal for broadbanding, diversification, change in the items of manufacture or service activity, taking into consideration the requirements under rule 14 for approval of new Units.</p>	<p>See old provision in Para 7.7.7 HB</p>
<p>(3) the entrepreneurs holding Letter of Approval issued under sub-rule (1) only shall be permitted to set up Unit in processing area of the Special Economic Zone or Free Trade and Warehousing Zone as the case may be:</p>	
<p>Provided that proposal for setting up of Unit in Special Economic Zone or Free Trade Warehousing Zone shall be entertained only after the processing area of Special Economic Zone or Free Trade Warehousing Zone has been notified under rule 11.</p>	
<p>(4) The Letter of Approval shall be valid for one year for commencement of production or service/trading/FTWZ activity and the Unit shall intimate date of commencement of production or activity to Development Commissioner :</p>	<p>Para 7.7.5 of HB</p>
<p>Provided that further extension for a period not exceeding one year may be granted by the Development Commissioner for valid reasons to be recorded in writing.</p>	
<p>(5) If the Unit has not commenced the production or service activity within the validity period under sub-rule (5), the said Letter of Approval shall deemed to have been lapsed with effect from the date on which its validity expired.</p>	<p>-do-</p>
<p>(6) The Letter of Approval shall be valid for five years from the date of commencement of production or service activity and it shall be construed as a licence for all purposes related to authorized operations, however, after completion of 5 years from the date of commencement of production, Development Commissioner may, at the request of the Unit, extend validity of the Letter of Approval for a further period of</p>	<p>-do-</p>



<p>five years, at a time.</p> <p>Provided that the unit shall submit a No Dues Certificate from the SEZ Developer and other Service Providers at the time of seeking renewal.</p> <p>(7) If an industrial enterprise is operating both as a Domestic Tariff Area unit as well as Special Economic Zone Unit, it shall have two distinct identities with separate accounts including separate bank accounts and it shall not be necessary for an Special Economic Zone unit to be a separate legal entity:</p> <p>Provided that the foreign companies can also set up manufacturing units as their branch operations in the SEZs provided that they are stand alone entities.</p>	<p>Para 7.30 of HB</p>
<p><b>18. Cancellation of Letter of Approval.-</b> (1) If Approval Committee has reasons or cause to believe that the entrepreneur has persistently contravened any of the terms and conditions of the approval, the Development Commissioner shall issue a notice to the entrepreneur, valid for 30 days to show cause, as to why the Letter of Approval should not be cancelled:</p> <p>Provided that Approval Committee shall give an opportunity to the entrepreneur during the notice period under sub-rule (1), to hear it personally, if so desires.</p> <p>(2) After considering reply to the notice under sub-rule (1) and explanations, if any, offered during the personal hearing, Approval Committee may by an order issued by Development Commissioner cancel the Letter of Approval or may discharge the notice, as it may deem fit.</p>	
<p><b>19. Curtailment or withdrawal or cancellation of exemptions and concessions.-</b> (1) Where the Letter of Approval has been cancelled under section 16 of the Act, read with sub-rule (2) of rule 18, Development Commissioner may, by an order, curtail, withdraw or cancel any exemption, drawback and concession granted to the Unit.</p> <p>(2) Without prejudice to the provisions of sub-section (2) of section 16 of the Act, the order under sub-rule (1) shall contain the following requirements:-</p>	

(i) Within a period of three months from the date of cancellation of the Letter of Approval, Unit whose Letter of Approval has been cancelled, may –

(a) export or transfer against EPCG Licence or duty free licence/s the capital goods and spares, raw materials, components, consumables, which were imported or procured from Domestic Tariff Area and finished goods held in stock.

or

(b) remove to Domestic Tariff Area the capital goods spares, raw materials, components, consumables, and finished goods held in stock on payment of applicable customs duties:

Provided that raw materials, components, consumables and spares procured from Domestic Tariff Area held in stock at the time of cancellation of Letter of Approval, on which any export entitlements were availed, shall be removed to the Domestic Tariff Area on payment of additional duty equivalent to the export entitlements availed:

Provided further that goods on which no export entitlements or duty exemption were availed on their procurement from Domestic Tariff Area, shall be removed to Domestic Tariff Area, without payment of duty.

Provided further that in case the entrepreneur whose Letter of Approval has been cancelled fails to comply with the conditions of removal of all goods within prescribed period as provided in sub-rule 2 above, for recovery of dues as required under Section 16(2) of the Act, the Development Commissioner shall take over possession of such goods and dispose off the same through Public Auction subject to the condition that the sale proceeds of such Auction shall be deposited in a designated account and apportionment of such proceeds shall take place in the manner approved by the Central Government.

(3) The Unit whose Letter of Approval has been cancelled has failed to meet positive net foreign exchange earning as required under rule 57, penalty may be imposed by the adjudicating authority under sub-rule 2(b)(viii) of rule 21.

<p><b>20. Appeal to Board.-</b> (1) Any person aggrieved by an order passed under rule 18 may prefer appeal, if any, within forty-five days from the date on which the order is issued on such person to the Board (addressed to the Member Secretary of the Board) in the <b>Form E</b> as appended to these rules, accompanied by a copy of the order appealed against and a fee of rupees two thousand five hundred drawn by a demand draft drawn in favour of _____:</p> <p>Provided that the Board may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the aforesaid period, allow such appeal to be preferred within a further period of thirty days.</p> <p>(2) The Board may, after giving to the appellant a reasonable opportunity of being heard, if he so desires, and after considering written explanations offered in the appeal and after making such further inquiries, if any, as it may consider necessary, make such orders as it thinks fit, confirming, modifying or reversing the order appealed against, or may remit back the case to the Approval Committee with such directions as it may think fit, for re-consideration of the order, after taking additional evidence, if necessary:</p> <p>Provided that the order issued under rule 19 shall be modified or reversed in accordance with the order of Board under sub-rule (2).</p> <p>(3) The order made by the Board in appeal shall be final.</p>	
<p><b>21. Functions of Development Commissioner.-</b> (1) the Special Economic Zone shall be under the administrative control of Development Commissioner appointed under sub-section (1) of section 11 of the Act.</p> <p>(2) The Development Commissioner shall exercise the following powers and discharge the following functions in respect of the Unit and the Developer under the Act.</p> <p>(a) Grant of Importer-Exporters Code number subject to the following procedure:- (i) An application for grant of Importer-Exporter Code number shall be made to Development Commissioner in <b>Form-D</b> as appended to these rules:</p>	<p>Para 7.32.3 of HB</p>

Provided that the units already possessing an IEC issued by the jurisdictional DGFT need not obtain fresh IEC and shall get the SPECIAL ECONOMIC ZONE unit incorporated as branch in the existing IEC from the issuing DGFT office.

- (ii) the Development Commissioner shall issue Importer-Exporter Code in **Form-G** as appended to these rules, with a copy of Importer-Exporters Code to the concerned banker as per details given in the application form;
- (iii) a consolidated statement of Importer-Exporter Code issued by Development Commissioner shall be sent to the offices of the Exchange Control Department of Reserve Bank of India as per the form given in **Form- H** as appended to these rules;
- (iv) an Importer-Exporter Code allotted to an applicant shall be valid for all its branches, divisions, units, factories as indicated in the Importer-Exporters Code;
- (v) where an Importer-Exporter Code is lost or misplaced, Development Commissioner may consider request for grant of a duplicate copy of Importer-Exporter Code, if it is accompanied by an First Information Report (FIR) and an affidavit;
- (v) If an Importer-Exporter Code holder Unit or Developer does not wish to operate the allotted Importer-Exporter Code, he may surrender the same by informing Development Commissioner and the Development Commissioner may immediately cancel the Importer-Exporter Code and electronically inform the Director General for onward transmission to the Customs and Regional Licensing office of the Director General of Foreign Trade;
- (vi) The Foreign Trade (Regulation) Rules 1993 under the Foreign Trade (Development and Regulation) Act, as notified by Central Government shall also apply to the suspension and cancellation of Importer-Exporter Code

Para  
7.32.3 of  
HB

under these rules.

(b) Grant of approval on all matters relating to authorized operations of Unit, including the following, namely:-

- (i) to approve change in name of a company or the implementing agency and change from a company to another company provided that the implementing agency or company undertakes to take over the assets and liabilities of the existing Unit;
- (ii) to approve merger of two or more Units;
- (iii) to do valuation of software exports declared on Software Export Declaration (**SOFTTEX**) forms;
- (iv) to issue eligibility certificates for grant of employment VISA to foreign technicians employed in Special Economic Zone;
- (v) to grant or renew status holder Certificate in favour of Unit provided it does not involve clubbing of Free on Board value of exports of its parent company in the Domestic Tariff Area;
- (vi) to grant registration for Unit and Developer;
- (vii) to issue Green Card, in the form – K as appended to these Rules on execution of Bond-cum-Legal Undertaking.
- (viii) To approve enhancement of capacity of production or quantum of service activity approved
- (ix) to exercise such powers and discharging of functions in relation to Export Oriented Units as provided under the Foreign Trade Policy;
- (ix) to adjudicate in matters of contravention of provisions of the Act and Rules in accordance with the Rules and procedures as notified by Central Government;
- (x) to call for information required for monitoring

<p>performance of a Unit or a developer by the Approval Committee; and</p> <p>(xi) to exercise such other powers and discharge such other functions as may be assigned to the Development Commissioner by the Central Government under clause (e) of sub-section (2) of section 12 and by Board under clause (f) of sub-section (2) of section 12.</p>	
<p><b>22. Offshore Banking Unit.</b> - (1) The application for setting up and operation of Offshore Banking Unit in Special Economic Zone may be made to the Reserve Bank of India in the application format as appended to these rules, prescribed under the Banking Regulation Act, 1949. The application must be accompanied by additional information as would be needed for processing the application.</p> <p>(2) The terms and condition subject to which an Offshore Banking Unit may be set up and operated in the Special Economic Zone are as appended to these rules.</p> <p><b>23. International Financial Services Centre.</b> – The Central Government may after consulting the Reserve Bank of India, the Security and Exchange Board of India, the Insurance Regulatory and Development Authority and such concerned other Authority, notify, the requirements and guidelines for setting up of International Financial Services Centre in the Special Economic Zone and requirements for setting up and operation of Units in an International Financial Services Centre in the Special Economic Zone.</p>	<p>OBU guidelines of RBI</p>
<p style="text-align: center;">CHAPTER – III</p> <p><b>AUTHORIZED OPERATIONS - EXEMPTIONS AND CONCESSIONS</b></p> <p><b>24.</b> The authorized operations under sub-section (2) of section 4 and sub-section (9) of section 15 of the Act shall be carried out as per the terms and conditions and procedures specified under these rules.</p>	

**25. Terms and conditions for availing exemptions and concessions.** - (1) Grant of exemption and concession to the Unit or Developer shall be subject to the following conditions namely. -

- (i) the Unit shall execute Bond-cum-Legal Undertaking in Form I as appended to these rules, with regard to its obligations regarding proper utilization and accountal of goods including capital goods, spares, raw materials, components and consumables including fuels, imported or procured duty free of and on earning of Positive Net Foreign Exchange Earning as provided under these rules;
- (ii) the Bond-cum-Legal Undertaking may be jointly accepted by Development Commissioner or any other officer authorized by him in this regard and by the Proper Officer;
- (iii) the Developer and Co-Developer shall execute the Bond-cum-Legal Undertaking in Form J with regard to their obligations regarding proper utilization and accountal of goods including goods procured or imported by a contractor duly authorized by the said Developer or Co-Developer as the case may be;

provided that the Bond-cum-Legal Undertaking executed by the Unit or the Developer including Co-Developer shall cover one or more of the following activities, namely: -

- (a) the movement of goods between port or airport of import and export and Special Economic Zone;
  - (b) the authorized operations, as applicable to Unit and developer;
  - (c) temporary removal of goods or goods manufactured in Unit for the purposes of repairs or testing or calibration or display or processing or sub-contracting of production process or production or other temporary removals into Domestic Tariff Area without payment of duty;
  - (d) re-import of exported goods.
- (iv) Procedure for execution of Bond-cum-Legal Undertaking shall be as under:-

Para 7.6 of FTP and 7.8 of HB

Para of SEZ customs regulation

**26.** Supplies from the Domestic Tariff Area to a Special Economic Zone Developer or Unit for their Authorized operations shall be treated as Physical Exports and all export entitlements for physical exports under the provisions of the Foreign Trade Policy, Customs Act including the Rules made there under, Central Excise Act and Rules made there under shall be admissible for such supplies. For example the Export entitlements includes Drawback and entitlements of Duty Entitlement Passbook or advance license or Duty Free Replenishment Certificate or counting of proceeds as export earnings or counting of proceeds as fulfillment of export obligation under any scheme or towards Target Plus Scheme entitlement and includes rebate granted under the provisions of Central Excise Act 1944 & Rules made there under. It is further clarified that since these supplies to SEZ are treated as exports, the suppliers shall be eligible for refund of non usable accumulated Cenvat Credit on the inputs contained in such supplies, as per the provisions of the Cenvat Credit Rules 2004 .

ITC(HS)

Provided that the manner and procedures under which a Developer or Unit may avail exemptions and concessions and drawback or other entitlements under section 26 of the Act shall be as provided as under:

(2) **Drawback Claims:** Similar to regular drawback claims the triplicate copy of the assessed Bill of Export shall be treated as the drawback claim and processed in the Customs Section of the SEZ. The Proper Officer shall be the disbursing authority for the said Claims The jurisdictional Commissioner of Customs in consultation with the Pay & Accounts Officer shall make arrangements for issue of authorisation and drawback cheque books (wherever EDI facilities are not available for directly crediting the said amount to the Bank Accounts of the exporters. It should be ensured that the claims are processed and amounts disbursed within the time limit prescribed by CBEC. In case of EDI Ports, the drawback amounts should be sanctioned within 3 working days and in case of such locations where the Shipping Bills are manually processed, drawback amount shall be sanctioned within 5 working days failing which interest at the rate notified by the Dept. of Revenue for this purpose shall be payable for the period of delay.

(3) **DEPB Credit:** An application for grant of credit for



supplies from DTA to SEZ can be made by the DTA Unit or the SEZ Unit. The DTA unit may claim the benefits either from the Licensing Authority or the Development Commissioner concerned. In case, claim has been filed with the Licensing Authority, the Licensing Authority while allowing the benefits to the DTA unit will simultaneously endorse a copy of the communication to the concerned Development Commissioner along with the details of export documents against which benefits have been allowed for confirmation of the transaction involved. In case, the DTA supplier prefers claim with the Development Commissioner, the Development Commissioner will verify the Denied Entity List (DEL) status of the supplier from the DGFT website before allowing DEP B benefits. The SEZ unit will file application with the Development Commissioner concerned.

Provided that the application for grant of credit shall be made in the 'Ayaat Niryaat form' along with the following documents:

- (1) Bank receipt (in duplicate)/demand draft evidencing payment of application fee in terms of Appendix 21B.
- (2) A copy of bill of exports issued by Customs in the SEZ.
- (3) A copy of invoice showing FOR value of supply, DEP B entitlement on such supply and total value realized from such sale.
- (4) Bank certificate of realization in the form given in Appendix 22B.
- (5) In case an SEZ unit opts to apply for the DEP B benefit for such supplies received, a disclaimer certificate from DTA unit declaring that the DTA unit shall not claim any benefit and authorising the SEZ unit to claim DEP B benefits on such supplies".

**27. General Conditions of Import and Export** (1) The import and export shall be free, except in cases where they are specifically prohibited under these rules or otherwise regulated by the Central Government, from time to time.

(2) Items prohibited for imports are:-

- (a) Hazardous waste or substances containing or contaminated with hazardous waste as specified

in schedule 8 of Hazardous Waste (Management and Handling) Amendment Rules, 1989, as amended;

- (b) Beef in any form and products containing beef in any form;
- (c) Meat and edible meat offal, fresh, chilled or frozen of wild animals;
- (d) Pig fats, free of lean meat and poultry fat, not rendered or otherwise extracted, fresh, chilled, frozen, salted, in brine, dried or smoked;
- (e) All forms of wild animals including their parts and products;
- (f) Animal fats and oils including those of fish or marine mammals and their fractions, whether or not refined, but not chemically modified;
- (g) Ivory and ivory products and wastes;
- (h) Other items, as may be notified by Central Government from time to time under the provisions of Foreign Trade (Development & Regulation) Act 1992

(3) The imports of Poppy Seeds shall be governed by the following conditions:-

- (i) Import of Poppy seeds permitted only from Australia, Austria, France, China, Hungary, Netherlands, Poland, Slovenia, Spain, Turkey and Czech Republic or as may be permitted by Central Government.
- (ii) The SPECIAL ECONOMIC ZONE Importer shall produce an appropriate certificate from the competent authority of the exporting country that Opium Poppy have been grown licitly and legally in that country, as per requirements of International Narcotics Control Bureau.
- (iii) All import contracts for this item shall compulsory be registered with the Narcotics Commissioner, Gwalior prior to import.

(4) Import of Textile and textile articles is permitted subject to the condition that they shall not contain any of the hazardous dyes whose handling, production, carriage or use is prohibited by the Government of India under the provisions of

clause (d) of sub-section (2) of section 6 of the Environment (Protection) Act, 1986 (29 of 1986) read with relevant rule(s) framed there under. For this purpose, the import consignments shall accompany a pre-shipment certificate from the notified agencies. In cases where such certificates are not available, while the imports for exports shall be freely allowed, the consignment will be cleared into the Domestic Tariff Area for any purposes only after testing the same by agencies notified by Central Government.

(5) If any specific permission is required for import under any other law, the import shall be allowed with the approval of Board.

(6) Items prohibited for exports are:-

(a) All forms of wild animals including their parts and products;

(b) Exotic birds except the following species of exotic birds:

(i) Albino budgerigars;

(ii) Budgerigars;

(iv) Bangali finches;

(iv) White finches;

(v) Zebra finches;

(vi) Jawa sparrow;

(c) Beef;

(d) Human skeletons;

(e) Peacock tail feathers including handicrafts and articles made thereof;

(f) Manufactured articles and shavings of shed antlers of chital and sambhar;

(g) All items of plants included in Appendix I and Appendix II of the Convention on International Trade in Endangered Species (CITES), wild orchid as well as, plants as specified in Schedule 2 Appendix 2 of ITC (HS) Classification of Export and Import Items Book;

<p>(h) Tallow, fat and or oils of any animal origin excluding fish oil;</p> <p>(i) Wood and wood products in the form of logs, timber, stumps, roots, bark, chips, powder, flakes, dust, pulp and charcoal except sawn timber made exclusively out of imported logs or timber;</p> <p>(j) Sandalwood in any form, but excluding: -</p> <ol style="list-style-type: none"> <li>(1) Finished Handicraft products of sandalwood.</li> <li>(2) Machine finished sandalwood products.</li> <li>(3) Sandalwood oil.</li> <li>(4) Sandalwood de-oiled spent dust.</li> <li>(5) Those forms of sandalwood as specified.</li> </ol> <p>(k) Red Sanders wood in any form, whether raw, processed or unprocessed, except value added products;</p> <p>(l) Other items, as may be notified by Central Government from time to time;</p>	<p>Paragraph 7.10.1 of HB</p>
<p>Provided that if any specific permission is required for import or export under any other law, such import or export shall be allowed with the approval of Board.</p>	
<p>(7). Free Warranty spares, whether indigenous or imported, of plant, equipment, machinery, automobiles or any other goods may be exported along with the main equipment or separately, but within the contracted warranty period of such goods.</p>	<p>Para 7.2 (a) of FTP</p>
<p>(8) Unit may export free samples without any limit, including samples made in wax or silver or non-precious metal alloy or rubber moulds through all permissible mode of export including through courier agencies or through post.</p>	<p>Para 7.11.1 of HB</p>
<p>(9) Export of Special Chemicals or Organisms or Materials or Equipment and Technologies (SCOMET) is not encouraged and shall be subject to fulfillment of the conditions as notified by Central Government as amended from time to time.</p>	<p>Para 7.11.3 of HB</p>
<p>(10) Unless otherwise specifically provided, import and export shall be valid from or to any country:</p>	<p>Para</p>

<p>Provided however that the Export of following items to Libya are prohibited:</p> <ul style="list-style-type: none"> <li>(i) Pumps of medium or large capacity whose capacity is equal to or larger than 350 cubic meters per hour and drivers (gas turbines and electric motors) designed for use in the transportation of crude oil and natural gas;</li> <li>(ii) Equipment designed for use in crude oil export terminals: Loading buoys or single point moorings (spm) Flexible hoses for connection between underwater manifolds (plem) and single point mooring and floating loading hoses of large sizes (from 12" to 16");</li> <li>(iii) Equipment not specially designed for use in crude oil export terminals but which because of their large capacity can be used for this purpose; Loading pumps of large capacity (4000 m3/h) and small head (10 bars). Boosting pumps within the same range of flow rate. Inline, pipeline, inspection tools and cleaning devices (i.e. pigging tools) (16" and above). Metering equipment of large capacity (1000 m3/h and above);</li> <li>(iv) Refinery equipment; Boilers meeting American Society of Mechanical Engineers 1 standards. Furnaces meeting American Society of Mechanical Engineers 8 standards. Fractionation column meeting American Society of Mechanical Engineers Appliances 8 standards. Pumps meeting American Petroleum Institute 610 standards. Catalytic reactors meeting American Society of Mechanical Engineering 8 standards. Prepared catalysts, including the following; Catalysts containing platinum Catalysts containing molybdenum;</li> </ul> <p>Spare Parts destined for the items in (i) to (iv) above:</p> <p>Provided further that Import or export of arms and related materials from or to Iraq is prohibited:</p>	<p>7.10.5 of HB</p> <p>Para 7.10.6 of HB</p> <p>Para 7.10.8 of HB</p> <p>Para 7.10.2 of HB</p> <p>Para 7.26.4 of HB</p>
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Provided further that the Central Government may, by notification in the official Gazette restrict or prohibit export to and import from any country.

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regulation

**29. Import and Procurement.** - (1) the Developer may import or procure from the Domestic Tariff Area without payment of duty or procure from Domestic Tariff Area after availing export entitlements or procure from other Units in the same Special Economic Zone or Units in Special Economic Zones or from Export Oriented Unit or Software Technology Park Unit or Electronic Hardware Technology Park Unit, all types of goods and services, including capital goods, new or second hand, including materials for making capital goods required for authorized operations or in connection therewith, except items prohibited under these rules;

Provided however that no duty free material shall be allowed for the operation of social infrastructure created in the non processing area(s) of the Special Economic Zone.

(2) The Unit may also import or procure from Domestic Tariff Area goods including semi finished jewellery or services required for authorized operations, including capital goods;

(3) The Unit may also source, on the basis of a firm contract, the capital goods, without payment of duty, from a domestic or foreign leasing company and in such cases the Unit and the domestic or foreign leasing company shall jointly file documents for import or procurement, as the case may be:

Provided that the value of imported capital goods financed through leasing companies or obtained free of cost and or on loan basis shall also be taken into account for the purpose of calculation of Positive Net Foreign exchange Earning under rule 57.

(4) The Unit may import or procure from Domestic Tariff Area, without payment of duty, all types of goods and services for creating a central facility for use by Units in Special Economic Zone and such facility for software development can also be accessed by Units in the Domestic Tariff Area for export of software.

(5) The Gem and Jewellery Unit may source gold or silver or

platinum through the Nominated Agencies:

Provided that Units obtaining gold or silver or platinum from Nominated Agencies on loan basis shall export gold or silver or platinum jewellery within 90 days or within such days as may be notified by the Central Government.

Explanation: The units can convert such loan into outright purchase by paying the outstanding loan amount plus interest provided they exercise this option within 90 days from the date of release of precious metal and on such conversion, 90 days export period shall not apply.

(6) The Unit may import or procure goods and services from Domestic Tariff Area without payment of duty for setting up, including expansion, operation and maintenance of the Unit.

(7) The goods already imported or shipped or arrived before the issue of Letter of Approval shall be eligible for duty free clearance provided customs duty has not been paid and goods have not been cleared from Customs.

(8) No import or export of rough diamonds shall be permitted unless the shipment parcel is accompanied by Kimberley Process (KP) Certificate issued by the Development Commissioner.

(9) In case of doubt as to whether any goods or services are required by Unit or Developer for authorized operations or in connection therewith, the decision of the Development Commissioner shall be final.

(10) Where goods or parts thereof, imported or procured from Domestic Tariff Area are found to be defective or otherwise unfit for use or which have been damaged or become defective after such import or procurement, may be sent out for repairs or returned to be replaced or destroyed.\*

Provided that in case of replacement, goods may be brought back from the foreign suppliers or their authorized agents in India or the indigenous suppliers:

Provided further that destruction shall not be permitted in the case of precious and semi-precious stones and precious metals.

Provided further that in case of return of goods procured indigenously from DTA shall be allowed freely where no export entitlement has been received / availed / claimed or on return/refund of equivalent amount of export entitlement which has been received / availed / claimed.

**(11)** In all cases of imports and domestic procurement except domestic procurement claiming exports entitlements, the assessment shall be based on the declaration made by the SEZ importer and no examination shall take place in routine.

Provided however that if the examination becomes necessary based on a prior intelligence or any other reason the same shall be carried out by the Authorized Officer(s) only after obtaining written permission from the Proper Officer;

(12) The examination of imports, exports or domestically procured cargo, if any required shall be carried out at the gate or if the same is not possible in a Customs Area so notified by the Proper Officer for this purpose and no examination shall be carried out in the Unit's premises unless requested by the unit and specifically permitted in writing by the Proper Officer.

(13) Wherever, under these rules it is required to move the SEZ cargo under the Customs Escort, the escort charges as notified by the Department of Revenue in the Ministry of Finance shall be payable in advance.

**30.** (1) The Unit or Developer may import goods into Special Economic Zone port or Special Economic Zone – Inland container Depot, or through:

- (a) ports or airports;
- (b) land customs stations;
- (c) inland container depots;
- (d) foreign post offices;
- (e) authorized couriers;

(2) Goods imported through ports or airports, land customs stations, inland container depots shall be allowed to be transferred in Full cargo load (FCL) or Less than Container Load (LCL) cargo by direct transfer from such port or airport or Inland container Depot, land customs station to the SEZ



(3) The import of IT enabled services including software shall also be allowed through data communication link, internet, e-mail or any other electronic mode.

(4) The Unit or Developer may procure goods required for authorized operations without payment of duty from bonded warehouses in the Domestic Tariff Area set up under the Foreign Trade Policy and or under the Customs Act or from International Exhibitions held in India.

(5) There shall be no routine examination of the import consignments by Customs authorities at the port or airport and the goods shall be allowed to be transferred without examination provided that customs authorities may examine the consignment if there is specific adverse information or intelligence after obtaining orders of Assistant Commissioner or Deputy Commissioner of Customs, in writing.

(6) All import cargo consigned to Special Economic Zone Port or Special Economic Zone - Inland container Depot shall be transhipped by the carrier or its agent directly to the Special Economic Zone port or Special Economic Zone – Inland container Depot, as the case may be.

(7) Where import cargo destination is other than the Special Economic Zone port or Special Economic Zone - Inland container Depot, delivery shall be allowed at the destination port or airport on the strength of Bill of Entry assessed by Special Economic Zone Customs without any Transshipment Bond;

Provided however that in case of high value cargo parcels imported through the airport, the transfer of imported cargo may be allowed by way of handing over the parcels to the Custodian specifically appointed by the Proper Officer in this regard who shall transfer it to a designated Customs Area located inside the Processing Area duly notified by the Proper Officer for further delivery to the SEZ importers.

**31.** (1) Direct delivery shall be permitted at the place of import for clearance of goods imported by Units and Developer from all ports or airports or land customs stations or inland container depots as is being done in the case of import of perishable or lifesaving drugs.

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SEZ  
customs  
regulation

(2) Procedure for Imports

The Unit or Developer, here-in-after referred to as SEZ Importer, shall follow the following procedure, namely:-

- (b) the SEZ Importer shall file Bill of Entry for home consumption in quintuplicate giving therein, description with specially stamped endorsement as "Special Economic Zone Cargo" along with Bill of Lading or Airway Bill and invoice and packing list with Authorized Customs Officer who shall register and assign a running annual serial no. and assess the Bill of Entry, on the basis of transaction value, which shall not require any Counter signature of the Proper Officer :

Provided that where the Bill of Entry is not assessed on the date of filing itself, the goods shall be allowed to be transferred to SEZ Importer on the basis of the registered Bill of Entry, if an endorsement to this effect has been made by the Authorized Officer.

Provided further that where the goods including Capital Goods are supplied free of cost or on loan or lease basis, the Bill of Entry shall be filed jointly in the name of the SEZ unit and the supplier.

- (c) The **registered** or assessed Bill of Entry shall be submitted to the proper officer at the place of import and the same shall be treated as permission for transfer of goods to the SEZ Importer.
- (f) In case of sealed full container load (FCL) container, the goods shall be transferred to Special Economic Zone on the basis of registered or assessed Bill of Entry after verification of the seal, without customs escorts.
- (g) In case of other cargo, goods shall be allowed to be transferred to Special Economic Zone on the basis of registered or assessed Bill of Entry either under customs escort or under transshipment procedure, depending on the option of SEZ Importer:

Provided that no separate documents or Transshipment Bond shall be required to be filed and the transshipment permission shall be stamped on the fifth copy of the Bill of Entry.

(h) On arrival of goods as Full Container Load cargo, seal shall be verified at the Special Economic Zone gate of entry and in case of goods arriving in Less than Container Load cargo, verification of marks and numbers shall be carried out at random. Provided where verification of marks and numbers of Less than Container Load cargo cannot be undertaken at Special Economic Zone gate of entry, the goods shall be allowed to be taken directly to the premises of the SEZ Importer or to the premises of the custodian, as the case may be, and verification undertaken there. Provided further that in the cases of truck sealing the customs seal on the truck may be verified at the SEZ gate.

(i) SEZ Importer shall submit fifth copy of Bill of Entry bearing endorsement of the Customs officers in Special Economic Zone that the goods have been received in Special Economic Zone, to the officer in charge of the airport or port or inland container depot or land customs station or post office or public or private bonded warehouses, as the case may be, within forty-five days from the date of clearance of goods from such airport or port or inland container depot or land customs station or post office or public or private bonded warehouse, as the case may be, failing which the officer in charge of such airport or port or inland container depot or land customs station or post office or public or private bonded warehouse, as the case may be, shall write to the Proper Officer for raising demand of duty from the SEZ Importer.

(j) Endorsement regarding verification of marks and numbers in case of Less than Container Load cargo or inspection of seal in the case of FCL cargo/sealed truck by the Custom Officer of Special Economic Zone and the receipt of the

No. 4(6) of SEZ customs regulation

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<p>goods by the SEZ Importer shall be deemed to be out of charge of the goods.</p> <p>(k) SEZ Importer shall obtain the notional out-of-charge of goods as in clause (h) from authorized officer of the SEZ Customs on the same day if the goods are brought during the working hours or immediately on the next working day in case the goods are brought beyond working hours.</p> <p>(l) Where goods are imported through courier –</p> <ul style="list-style-type: none"><li>(i) the customs Officer in Special Economic Zone shall assess the goods ;</li><li>(ii) the courier shall deliver the goods under customs escort or to the custodian for delivery of goods to SEZ Importer;</li><li>(iii) In case the Special Economic Zone is located away from the station where the goods have been imported by the Courier the goods shall be transhipped to SEZ Importer under normal transshipment procedure.</li></ul> <p>Provided that where due to any reasons whatsoever the SEZ Importer is not able to get the courier parcels duty free, the duty paid by the said Importer on such eligible goods shall be refunded by the Proper Officer as if the imported duty paid goods have been re-exported to the Special Economic Zone;</p> <p>Provided further that such refund by way of duty drawback shall not exceed ninety eight percent of the customs duties paid on such courier parcels by the Courier on behalf of the SEZ Importer.</p> <p>(m) The goods imported shall not be subject to examination in routine, except in case of prior intelligence or adverse information, with the prior written approval of Proper Officer.</p>	<p>customs regulation</p>
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(3) Procedure for delivery through the Port, Inland Container Depot the Custodian's Designated Customs Area in case of High Value Parcels imported by Gem & Jewellery Units, located in Special Economic Zone shall be as under: -

(i) where goods are consigned to an Inland Container Depot located in Special Economic Zone, transfer of goods shall be by the carrier appointed for the purpose and the goods shall be delivered to Inland Container Depot in Special Economic Zone by the container line or custodian.

(ii) after receipt of goods in Special Economic Zone Inland Container Depot delivery of goods shall be made by the custodian of the Inland Container Depot after verification of marks and numbers of packages of Less than Container Load cargo and verification of seal of Full Container Load cargo in the premises of the custodian on the basis of assessed Bill of Entry.

(iii) filing of advance Bill of Entry may not be required before arrival of the goods in Special Economic Zone and SEZ Importer may, at his option, file the Bill of Entry before or after arrival of goods:

Provided that where verification cannot be undertaken in the premises of the custodian or the SEZ importer so requests, goods shall be allowed by the Proper Officer to be taken to the premises of the SEZ Importer and thereafter the goods may be verified there.

(iv) there shall be no examination of the goods and the goods shall be deemed to be out of charge on the day of handing over of the goods to the SEZ Importer.

(4) Procedure for Import by Post shall be as under:

(1) Where goods are imported by post, SEZ Importer shall follow the procedure specified in sub-rule (2) and shall file the Bill of Entry with the Custom officers in Special Economic Zone with clear marking as "Postal Imports" and subject to following conditions, namely: -

(i) the post-office registration number as indicated in

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regulation

the intimation letter issued by the post office shall be taken as the import general manifest and item number of the Bill of Entry.

- (ii) the Copy of intimation letter received from the post office shall be pasted on the reverse side of the original Bill of Entry.
- (iii) where Special Economic Zone is situated away from the foreign post office, goods shall be moved to Special Economic Zone under customs escort or shall be handed over to the custodian of Special Economic Zone or deliver to the units or its authorized representative after sealing of the parcel.

(5) Gems and jewellery units may import precious goods, namely gold or silver or platinum or gem and jewellery as personal baggage through authorized passenger subject to the following procedure, namely: -

- (i) the authorized passenger bringing the precious goods shall declare the goods with the customs authorities at the airport in the arrival hall in the declaration form as specified by Commissioner of Customs in charge of the airport along with a duly acknowledged copy of intimation submitted to the customs officer in Special Economic Zone.
- (ii) the authorized passenger shall hand over the goods duly packed indicating name and address of the consignee Unit and accompanied by invoice and packing list to the customs authorities for detention in the warehouse under the detention receipt.
- (iii) the customs officer of the airport shall detain the goods and issue detention receipt.
- (iv) the Unit shall file Bill of Entry in quintuplicate along with a copy of invoice and packing list and declaration with the customs officer in Special Economic Zone and the detention receipt number issued by the customs officer at the airport shall be treated as Import General Manifest and item number.

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(v) After assessment of Bill of Entry, original Bill of Entry shall be retained by the custom officer in Special Economic Zone and the remaining copies shall be handed over to the representative of the Unit for presenting at the airport detention counter where goods shall be allowed clearance after receiving the original detention receipt and authorization from the Unit and after making entries in the warehouse register and detention receipt register and after obtaining signatures from the authorized representative of the Unit.

(vi) After release, the goods shall be moved to Special Economic Zone under customs escort or deliver to the units or its authorized representative after sealing and allowed admission into Unit after verification of marks and numbers of packages and notional "out of charge" will be given by the Authorized officers of the Special Economic Zone.

(vii) The goods detained at the airport may be allowed to be transported by the custodian and the unit may take delivery from the custodian as for normal imports:

Provided that the Unit may import goods other than gem and jewellery items in non-commercial quantity as personal baggage by following the procedure under sub-rule (2).

(6) For the import of IT enabled services including computer software through data communication or telecommunication links, the Unit shall file Bill of Entry within twenty four hours of such import along with invoice and other relevant documents and shall obtain notional 'out of charge' from the customs officer in Special Economic Zone, subject to the following conditions, namely: -

(i) Import documents shall be routed through banks.

(ii) Value of software shall be verified by Development Commissioner.

(iii) Instructions, if any, issued by the Reserve Bank of India, from time to time, in this behalf shall be

followed.

(7) (a) The Unit may re-import goods exported and found to be defective or damaged by the overseas buyer or in case of failure of the buyer to take delivery of the goods by following the procedure under sub-rule (2) and subject to the following conditions, namely: -

- (i) the identity of goods is established at the time of re-import ; and
- (ii) the goods are re-imported within warranty period or AMC validity or a period of one year from the date of export whichever is higher .

(b) The defective goods under sub-rule (10) of rule 28 shall be allowed admission in Special Economic Zone by way of import or replacement through authorized dealer of the overseas supplier in India, subject to the following conditions, namely: -

- (i) The goods found to be defective or damaged or otherwise found to be unfit for use may be re-exported or supplied back in the Domestic Tariff Area; or
- (ii) Where overseas supplier or the Domestic Tariff Area supplier of goods does not insist for re-export or for supply back to the Domestic Tariff Area of goods, the re-export or supply back to Domestic Tariff Area of the goods shall not be insisted upon provided the goods are either destroyed with the permission of the Proper Officer, or handed over to the authorized dealer in the Domestic Tariff Area replacing the goods without payment of duty, as if the goods were imported into the Domestic Tariff Area.

(c) In case of cut and polished diamonds imported or procured from Domestic Tariff Area, replacement may be permitted subject to the following conditions, namely: -

- (a) the replacement in a year shall be up to ten percent of the exports value of studded jewellery in the previous year;



(b) For diamonds and gemstones weighting more than 1/4<sup>th</sup> carat, linkage will have to be established with the relevant Bill of entry or procurement document from Domestic Tariff Area and replacement shall be allowed within one year from the date of import / procurement only;

(c) For diamonds and gemstones of 1/4<sup>th</sup> carat and below, it will not be necessary to have the linkage with the relevant Bill of Entry or Domestic Tariff Area procurement document and replacement will be permitted on the basis of valuation by jewellery expert Appraiser:

Provided that all removals and replacements under this sub-rule shall be allowed only with the permission of Authorized Officer.

#### 31. Procedure for procurements from Domestic Tariff Area.-

(1) (a) Supplies from Domestic Tariff Area to SEZ importer are treated as exports and the Domestic Tariff Area supplier supplying goods to SEZ Importer shall remove the goods, as in the case of normal exports, under bond or duty paid goods under claim of rebate on the cover of Modified ARE-1 (Form-S) as appended to these rules, in quintuplicate bearing running serial number beginning from the first day of the financial year.

(b) Goods brought only availing Central Excise Duty exemption without any export entitlement shall be allowed admission into Special Economic Zone on the basis of Modified ARE-1 (appended to these rules as form )

(c) However, the goods brought under claim of any export entitlements shall be allowed entry on the basis of the Modified ARE-1 & an assessed Bill of Export giving therein description of goods, to be filed by the supplier or on his behalf by the SEZ Importer before arrival of goods & assessed by the Authorized Officer of Customs;

(c) A copy of the Modified ARE-1 (appended to these rules as form and/or copy of Bill of Export as the

case may be, with an endorsement that goods have been admitted in full into Special Economic Zone shall be forwarded to the Central Excise Superintendent having jurisdiction over the Domestic Tariff Area supplier within forty-five days, failing which the Superintendent shall raise demand of duty against the domestic tariff area supplier;

(d) Where goods arrive before filling of Bill of Export, goods shall be released to the SEZ importer only after completion of procedures under clause (b)

(e) Where a Bill of Export has been filed under claim of Duty Drawback or Duty Entitlement Pass Book or Duty Free Replenishment Certificate or Advance Licence Scheme the SEZ Importer shall claim the same from the jurisdictional Development Commissioner and in case the SEZ Importer does not intend to claim entitlement of Duty Drawback or Duty Entitlement Passbook or Duty Free Replenishment Certificate or Advance Licence, a disclaimer to this effect shall be given to the Domestic Tariff Area Supplier and on the basis of this disclaimer entitlement of Duty Drawback or Duty Entitlement Passbook or Duty Free Replenishment Certificate or Advance Licence Scheme may be claimed by Domestic Tariff Area Supplier from the Development Commissioner or their jurisdictional Regional Licencing Authority ;

*Explanation:* - (i) Duty Drawback shall have the same meaning assigned to it in the Customs and Central Excise Duties Drawback Rules, 1995 or as may be notified by the Central Government.

(ii) Duty Entitlement Pass Book or Duty Free Replenishment Certificate or Advance Licence shall have the same meaning assigned to them under the Foreign Trade Policy or as may be notified by the Central Government.

(f) the Bill of Export will be assessed in the same manner as it is assessed in the case of export of goods under claim of Duty Drawback or Duty Entitlement Passbook scheme credit or no claim, as the case may be, and instruction issued under respective scheme shall apply, *mutatis mutandis*,

for these goods and valuation of such goods shall be done as provided under Customs Act and Rules made there under;

Provided that at the time of assessment, it shall be specifically examined whether the goods are required for authorized operations by the Unit or Developer

- (g) On arrival of the domestically procured goods at the SEZ Gate, the Authorized Officer of Customs shall examine the goods in respect of description and quantity and marks and other relevant particulars given in the Modified ARE-1 (appended to these rules as form )/Invoice, Bill of Export and packing list and also as per the examination norms laid down in respect of export goods in cases where the goods are being procured under claim of an export entitlement;
- (h) Duty Drawback or Duty Entitlement Pass Book credit against supply of goods by Domestic Tariff Area supplier shall be admissible provided payments are made from the Foreign Currency (FC) account of the buying Unit and the payments are made through banking channels;
- (i) A copy of the Bill of Export and ARE-I with endorsement of Special Economic Zone customs on it that goods have been admitted in full in the Special Economic Zone shall be treated as proof of export;
- (j) Where the goods are to be procured by SEZ Importer from a unit not registered with the Central Excise authorities, trader or merchant exporter, the procedure under sub-rule (1) & (2) above shall apply, *mutatis mutandis*, except that the goods shall be brought to the Special Economic Zone under the cover of an Invoice and the Modified ARE-1 (appended to these rules as form ) shall not be required.

(2) The SEZ importer may also procure goods from Domestic Tariff Area without availing any duty concession or

export entitlements on the basis of invoice or transport documents, if any. issued by the supplier;

Provided that such invoices or transport documents shall be endorsed to the effect that no duty concession and/or export entitlement has been availed on the said supplies

*Explanation:* - Export entitlements means entitlements for physical exports from the Domestic Tariff Area under the provisions of the Customs Act 1962, Central Excise Act 1944, the Foreign Trade Policy and the rules made under the said Acts.

(3) Procedure for procurement from warehouse shall be as under: -

- (a) where goods are procured from warehouse, the SEZ Importer shall file Bill of Entry, giving therein complete description of the goods such as model and make and serial number and specification with the Customs officer in Special Economic Zone;
- (b) the SEZ Importer shall submit the duly assessed Bill of Entry assessed by the Customs officer to the officer in charge of the warehouse from where the SEZ Importer intends to procure the goods;
- (c) officer in charge of the warehouse shall allow clearance of the goods from the warehouse for supply to the SEZ Importer without payment of duty on the cover of ex-bond Shipping Bill and on the basis of Bill of Entry duly assessed by the customs officer in Special Economic Zone.
- (d) where the re-warehousing certificate by way of endorsement by the Customs officer in Special Economic Zone on the copy of ex-bond Shipping Bill is not received by the officer in charge of warehouse within forty-five days from the date of clearance of the goods from the warehouse, the Officer in charge of the warehouse shall proceed to demand duty from the supplier;
- (e) the SEZ Importer shall obtain notional "out of charge" of goods on the same day if the goods are

<p>brought during the working hours, or immediately on the next working day in case goods are brought beyond working hours:</p>	
<p>Provided that for procurement of goods from Nominated Agency located in Special Economic Zone, the procedure as specified by Proper Officer shall be followed and there shall be no requirement of assessment of Bill of Entry or transfer of the goods under the cover of ex-bond Shipping Bill.</p> <p>(4) The SEZ Importer may also procure goods from international exhibitions held in India following the procedures under sub-rule (3).</p> <p>(5) The SEZ Importer may also procure goods or services, without payment of duty from Export Oriented Unit or Software Technology Park Unit or Bio-Technology Park Unit by following procedures under sub-rule (3).</p> <p>(6) The SEZ Importer may procure goods and services from another Unit located in the same or another Special Economic Zone, subject to following conditions, namely:-</p> <ul style="list-style-type: none"><li>(i) receiving Unit or Developer shall file Bill of Entry for home consumption in quintuplicate giving therein, description along with a invoice and packing list with the customs officer in Special Economic Zone;</li><li>(ii) on the basis of such assessed Bill of Entry, the goods shall be allowed to be removed or transferred to the receiving Unit under transshipment permit;</li><li>(iii) there shall be no requirement to file any additional documents or bond(s) for the purpose of transshipment of goods and the transshipment permission shall be stamped on the Bill of Entry itself;</li><li>(iv) the supplying Unit shall submit the re-warehousing certificate to the Proper Officer having jurisdiction over the supplying unit within forty five days, failing</li></ul>	

which the proper Officer of the supplying Unit shall write to the jurisdictional Proper Officer having jurisdiction over the receiving Unit for demand of duty from the receiving Unit;

- (v) where supplying and receiving Units or Developer are located in the Special Economic Zone, the movement of goods including raw materials shall be allowed subject to maintenance of accounts by the receiving Unit or Developer or supplying Unit and no Bill of Entry shall be required to be filed.

(7) Procurement of cut & polished diamonds and precious & semi precious stones from DTA:

The Gem & Jewellery units are permitted to procure cut & polished diamonds and precious & semi precious stones from DTA without any specific permission, as per following procedure: –

- (i) The parcel shall be brought into the Zone in a sealed condition by the authorized representative of the unit / CHA who shall present the invoice clearly marked original, duplicate and triplicate to the Preventive Officer at the gate.
- (ii) The Preventive Officer will register the invoice at the gate and will give an endorsement on the original and duplicate copies of invoice “Passed in one sealed parcel to unit under Registration number---”.
- (iii) Thereafter, the parcel can be taken to the unit for export production based on this registered invoice bearing the entry gate customs seals and registration number for which the unit shall maintain separate account;
- (iv) In order to claim REP entitlements by the supplier, the duplicate copy of the invoice with the endorsement of the gate officer shall be forwarded to the supplier for submission to the zone administration.

32. The exemption from payment of service tax on taxable services of any description as defined in section 65 of the

Finance Act, 1994 (32 of 1994) provided to a Developer or a Unit (including a Unit under construction) by any service provider, in relation to their authorized operations from all of service tax leviable thereon under section 66 of the said Act, shall be available when consumed within the Special Economic Zone provided that the Developer and Unit shall maintain proper account of receipt and utilization of said taxable services.

Provided that payment of service tax on taxable services as listed in Appendix provided to a Developer or a Unit (including a Unit under construction) by any service provider, in relation to their authorized operations from all of service tax leviable thereon under section 66 of the said Act, shall be available when consumed outside the Special Economic Zone

**33.** The exemption from levy of taxes on sale or purchase of goods, other than newspapers, under the Central Sales Tax Act, 1956 (74 of 1956) shall be available on goods meant for undertaking authorized operations by the developer or the entrepreneur:

Provided that the dealer selling goods in the course of inter-state trade or commerce to a registered dealer under sub-section (6) or under sub-section (8) or under sub-section (1) of section 5 of the said Central Sales Tax Act, 1956 furnishes a declaration for the purposes of sub-section (8) of section 8 of Central Sales Tax Act, 1956 in Form – I (**Form Q**), duly countersigned and certified by Development Commissioner that the goods sold are for authorized operations by the Developer or the Unit, as the case may be.

**34. Admission of goods.-** Subject to provisions of section 7 of the Act and terms and conditions under **rule 26**, any goods, imported or procured from Domestic Tariff Area, required for authorized operations or in connection therewith, here-in-after referred to as goods, shall be admitted into Special Economic Zone without payment of duty:

Provided that -

- (i) The goods imported or procured from Domestic Tariff Area shall be brought into the premises of Unit, unless otherwise permitted;
- (ii) Goods including motor vehicle for personal use of, or

consumption by, officials or workers or staff or owners of the Unit or Developer shall not be admitted into Special Economic Zone without payment of duty;

(iii) Proper officer may, for reasons to be recorded in writing, permit goods, which are of frequent entry nature but are not required for carrying out authorized operations, to be admitted into or exit out of Special Economic Zone without payment of duty;

(iv) Hazardous goods may be admitted into specially designated area or installation of Special Economic Zone subject to such safeguards as may be specified by Proper Officer.

**35. Utilization of goods.** - The goods admitted into a Special Economic Zone shall be used by the Unit or the Developer only for carrying out authorized operations but if the goods admitted are utilized for purposes other than for authorized operations or if Unit or Developer fails to render account of the goods as provided under these Rules, such goods shall be chargeable to duty, as if these goods have been removed for home consumption.

Provided that in case a Developer or SEZ unit is unable, for valid reasons, to utilize the goods, and services, imported or procured from DTA, it may be transferred to other EOU/SEZ/EHTP/STP units or disposed off in the DTA on payment of applicable duties and submission of import license by DTA unit, wherever applicable or exported. Such transfer from SEZ unit to another SEZ/EOU/EHTP/STP unit would be treated as import for the receiving unit.

**36. Co-relation of import consignment with corresponding export consignment.** - The Unit shall account for the entire quantity of goods imported or procured duty free, by way of export, sales or supplies in Domestic Tariff Area or transfer to other Special Economic Zone or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Units or bonded warehouses and balance held in stock:

Provided that at no point of time Unit shall be required to co-relate every import consignment with its export or transfer to other Special Economic Zone or Export Oriented Units or



Electronic Hardware Technology Park or Software Technology Park Units or sales in Domestic Tariff Area or supply to bonded warehouses and goods held in as stock and Unit may adopt 'First-in-First-Out' method and a consignment which has been received first, shall deemed to have been utilized first for this purpose and in such cases correlation of every import consignment with transfer to other Special Economic Zone or Export Oriented Units or Electronic Hardware Technology Park or Software Technology Park units or sales in Domestic Tariff Area and goods held in stock with the corresponding export consignment shall not be required.

**37. Filing of documents for admission and removal.-** All documents for admission of goods into and exit out of Special Economic Zone shall be filed before the Authorized Officer of Customs.

**38. Duration of Stay. -** (1) the goods admitted to Special Economic Zone shall be utilized in accordance with the Act and Rules or exported or disposed off in terms of the provisions of these Rules within the validity period of the Letter of Approval issued under sub-rule (7) of **rule 17**.

(2) On failure to utilize or dispose off goods as provided under sub-rule (1), such goods shall be liable to payment of duty together with interest at the rate 15% or as may be notified by Central Government from the date of duty free import or procurement from Domestic Tariff Area till the date of payment of duty as if the goods have been removed to Domestic Tariff Area on the date of expiry of the said validity period under sub-rule (1).

**39. Inter- Special Economic Zone or Intra- Special Economic Zone transfer or loaning.-** The Unit or Developer may transfer or provide on loan basis to Unit or Developer within the same Special Economic Zone or in other Special Economic Zone or to Export Oriented Units or to a unit in Electronic Hardware Technology Park or to a Unit in Software Technology Park, goods including capital goods admitted into Special Economic Zone or goods manufactured or produced or partly processed or semi-finished goods and services, without payment of duty, subject to the following conditions, namely:-

(i) The transferee or loanee Unit or Developer is

entitled for duty free procurement of the goods for its authorized operations.

- (ii) The supplying and receiving Unit or Developer, as the case may be, shall maintain proper account of goods transferred or of goods given or taken on loan.
- (iii) The goods transferred or given on loan basis shall not be counted towards Net Foreign Exchange Earning requirements.
- (iv) The transferred goods other than the raw material procured from Domestic Tariff Area transferred shall be accounted as import by the receiving unit while the value of the same would be deducted from the import value of the transferring unit.
- (v) Transfer or loaning of goods to Units or developers in other Special Economic Zones or to Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Units shall be subject to permission of the Proper Officer.

**40. Destruction of goods.-** (1) After advance intimation to the Proper Officer, the Unit may destroy, without payment of duty, goods including capital goods, procured from Domestic Tariff Area or goods imported or goods manufactured or produced by the Unit including rejects or waste or scrap or remnants within Special Economic Zone;

Provided that environmental clearance of the mode of such destruction shall be the responsibility of the Unit.

(2) Where it is not possible to destroy goods within the Special Economic Zone, destruction of goods under sub-rule (1) shall be carried out, outside Special Economic Zone with the permission of Proper Officer and in the presence of customs officer authorized by the Proper Officer:

Provided that destruction of precious and semi-precious stones and precious metals shall not be allowed.

**41. Movement of goods to and from non-processing area.-** The movement of goods to and from non processing area to a processing area and from one processing area of

<p>Special Economic Zone to a different processing area of the same Special Economic Zone shall be on the cover of Serial numbered challans pre-authenticated by the owner or Managing Director or working partner or the company secretary or by any person duly authorized in this behalf by the company or firm, as the case may be, and the complete description of goods shall be provided on the challan.</p>	
<p><b>42. Sub-Contracting.-</b> (1) The Unit, including gem and jewellery Unit may subcontract a part of its production or production process through units in the Domestic Tariff Area or through other Special Economic Zone or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Units with annual permission of the Proper Officer, subject to following conditions, namely: -</p> <ul style="list-style-type: none"> <li>(a) The finished goods or semi-finished goods including studded jewellery, taken outside Special Economic Zone for sub-contracting shall be brought back to Unit within 90 days, or within such days as may be notified by Central Government;</li> <li>(b) No cut and polished diamonds and precious and semi-precious stones (except rough diamonds, precious or semi-precious stones having zero duty) shall be allowed to be taken outside the Special Economic Zone for sub-contracting;</li> <li>(c) The gems and jewellery unit may receive plain gold or silver or platinum jewellery from Domestic Tariff Area or from Export Oriented Unit or from Unit in the same or other Special Economic Zone in exchange of equivalent content of gold or silver or platinum contained in the said jewellery after adjusting permissible wastage/manufacturing loss allowed under the provisions of the Foreign Trade Policy;</li> <li>(d) In sub-contracting or in exchange under clause (c) wastage shall be permitted as may be notified by the Central Government provided the wastage allowed to DTA job worker or against exchange alongwith wastage incurred by the SEZ Unit in further manufacture and/or processing of jewellery</li> </ul>	<p>No. 25 of SEZ regulation and 7.21.1 to 7.21.5 of HB</p>

shall not exceed the prescribed norms;

- (e) The Domestic Tariff Area Unit undertaking sub-contracting or supplying jewellery against exchange of gold or silver or platinum shall not be entitled to export entitlements:

Provided that Units, including gem and jewellery Units may sub-contract part of the production or production process through other Units in the same Special Economic Zone without permission of Customs officer subject to the condition that both supplying and receiving Unit shall maintain proper account of the goods.

Provided further that while allowing the units to sub-contract part of the production it shall be ensured that the value of sub-contracted production does not exceed the value of goods produced by the unit within its own premises.

(2) The scrap or waste or remnants generated through sub-contracting may be cleared from the sub-contractor's premises on payment of applicable duty or destroyed in the presence of Customs or Excise authorities or returned to the Unit provided that the wastage to the extent of manufacturing loss as permitted by the Approval Committee need not be brought back to Unit.

Provided that destruction shall not be permitted of gold or silver or platinum or diamond or precious and semi precious stones.

(3) The export of finished goods from the sub-contractor's premises shall be permitted, provided the premises are registered with the Central Excise authorities:

Provided that where the sub-contractor is an Special Economic Zone or an Export Oriented Unit or an Electronic Hardware Technology Park or an Software Technology Park Unit, no such excise registration shall be required and export shall be effected either from the sub-contractor's premises or from the premises of Unit.

(4) The export from the sub-contractor's premises shall not be allowed through third parties.

(5) The Unit may remove, with the permission of Proper

Officer, moulds or jigs or tools or fixtures or tackles or instruments or hangers and patterns and drawings to the premises of sub-contractors subject to the condition that these shall be brought back to the premises of unit on completion of the sub-contracting period.

(6) Raw materials components and consumables excluding fuel may be sent along with these goods, or separately.

(7) The Development Commissioner may permit subcontracting abroad part of the production process.

(8) The goods may be exported from overseas sub-contractor's premises subject to following conditions:

- (a) sub-contracting charges shall be declared in the export declaration forms and invoices and other related documents;
- (b) the export proceeds shall be fully repatriated in favour of Unit.

**43. Sub-contracting for Domestic Tariff Area unit for export.-** The Unit may, on the basis of annual permission from the Proper Officer, undertake sub-contracting for export on behalf of Domestic Tariff Area exporters, subject to following conditions, namely :-

- (a) All the raw material including semi-finished goods & consumables including fuel shall be supplied by Domestic Tariff Area unit;
- (b) Finished goods shall be exported directly by the sub-contracting unit on behalf of Domestic Tariff Area unit;

Provided that in case of subcontracting on behalf of a EOU/EHTP/STP/BTP units the finished goods may be allowed to go back to the said EOU/EHTP/STP/BTP unit;

- (c) Export document shall be jointly in the name of Domestic Tariff Area unit and the unit;
- (d) Unit in Domestic Tariff Area shall be eligible for refund of duty paid on the inputs by way of All Industry Rate of Duty drawback.

**44.** Procedure for sub-contracting in Domestic Tariff Area or in Units in other Special Economic Zones or in Export Oriented Unit or in Electronic Hardware Technology Park unit or in Software Technology Park Unit or sub-contracting abroad:

(1) Unit may take goods including finished or semi-finished or semi-processed goods, including studded jewellery or inputs to the sub-contractor's premises – (a) for sub-contracting any production process; or (b) part of the production, without payment of duty, subject to following conditions, namely:-

- (a) Unit shall wherever possible apply for the permission at the time of project approval itself. Based on such initial approvals the proper officer shall grant annual renewals for such sub-contracting of part of the production or part of the process(es).
- (b) Where the permission has not been taken at the time of project approval or a new permission is sought, the unit shall file an application containing the name and address of the sub-contractor(s), Central Excise registration number in the case of the Domestic Tariff Area sub-contractor, if registered, and details of the processes to be carried out or quantum of production sought to be carried out at the sub-contractor's premises and self certified input output ratio for the said processes.
- (c) after examination of details under sub clause (b), the Proper Officer may grant annual permission for sub-contracting any production process or sub-contracting part of the production, as the case may be;
- (d) the Unit, removing into the Domestic Tariff Area, raw materials, consumables excluding fuel and components imported or domestically procured without any processing for sub-contracting shall furnish bank guarantee to Proper Officer to cover the duty foregone on such materials being taken out;

Provided that Bank guarantee shall not be required by a unit whose turnover is Rs. 1crore or above or where the unit is in the SEZ for more than a period of three years with an unblemished track record

The SEZ customs may make necessary random checks either at the job worker's premises or after receipt of goods from the job worker at the SEZ gate as regards the verification of goods which were sent and received.

Provided that for gem and jewellery Units, there shall be no requirement of drawal of samples:

Provided further that where the precious metal in bullion form, having marking of fineness or purity or make or serial number is taken out of Special Economic Zone for sub-contracting, appraisement of precious metals shall not be mandatory.

(e) Unit shall remove the goods on the cover of serial numbered challans pre-authenticated by the owner or Managing Director or working partner or the company secretary or by any person duly authorized in this behalf by the company or firm, as the case may be and complete description of goods shall be provided on the challan;

(f) customs officer at the Special Economic Zone gate shall note down the identification marks of the goods for verification of the goods being received back after subcontracting:

Provided that where sensitive items are sent out for sub-contracting, based on risk profile or past performance of the unit, if required sample may be drawn and retained by the Proper Officer.

(g) the goods sent out for sub-contracting shall be returned to unit within one hundred and twenty days from the date of removal or within such period as may be extended by the Proper Officer for reasons to be recorded in writing for granting such extension;

(h) in case of the failure to receive back the goods within the period under sub clause (f), action shall be taken by the Proper Officer to recover duty as applicable.

(2) Proper Officer may permit the unit to export the finished goods directly from the sub-contractor's premises subject to following conditions, namely: -

- (i) the sub-contractor is an Export Oriented Unit or an Electronic Hardware Technology Park Unit or an Special Economic Zone Unit or a Domestic Tariff Area Unit which is registered with the Central Excise Department;
- (ii) export of finished goods from the sub-contractor's premises shall not be allowed through third party;
- (iii) sample of goods exported from the sub-contractors premises shall be sent to the Proper Officer for establishing identity of the goods exported with the sample drawn at the time of taking out of the goods to the sub-contractor;
- (iv) shipping Bill for duty free goods shall be processed at the port of export as in the case of normal export and shipping bill shall be filed in the name of unit and sub-contractor;
- (v) goods for such export shall be removed from the sub-contractor's premises under bond:

Provided that after sub-contracting abroad, the goods shall either be returned to unit for carrying out further processing or may be sold to buyers in that country or any third country.

(3) Waste or scrap or remnants generated during processes at the sub-contractor's premises shall either be returned to unit or shall be cleared on payment of duty as if the said waste or scrap or remnants have been cleared by unit and such waste or scrap or remnants may be destroyed at the sub-contractor's premises in the presence of jurisdictional central excise officer provided the sub-contractor is Central Excise registrant and in case of clearance of waste or scrap at sub-contractor's premises on payment of duty or



<p>destruction therein, the same shall be in accordance with the Standard Input Output Norms (SION) notified for the Duty Exemption Entitlement Scheme under the Foreign Trade Policy or as fixed by Approval Committee:</p> <p>Provided that the scrap or waste or remnants generated at the sub-contractors premises abroad may either be returned to the unit or may be disposed of abroad.</p> <p>(4) Sub-contracting by unit within the same Special Economic Zone shall be subject to the following conditions: -</p> <p>(i) the Unit may undertake sub-contracting of the production or production process for another Unit in the same Special Economic Zone and movement of goods shall be on the cover of serially numbered challans and maintenance of records by the Units;</p> <p>(ii) raw material imported or procured by Unit for manufacture of capital goods may be transferred to another unit for the purpose of manufacture or fabrication of capital goods for use by the unit which had imported or procured the raw materials.</p>	
<p><b>45. Contract Farming.-</b> Unit engaged in production or processing of agriculture or horticulture products, may, on the basis of annual permission from the Proper Officer, remove to Domestic Tariff Area farm, inputs, namely, seeds and fertilizers and chemicals for pre and post harvest treatment such as micro nutrients, plant and growth regulators and other organic and inorganic substances used for plant nutrition, insecticides, fungicides, weedicides, herbicides and the following equipments, namely: -</p> <ol style="list-style-type: none"> <li>1. Filters;</li> <li>2. Dripliers, Driplines and Drip-fittings;</li> <li>3. Micro sprinklers and misters;</li> <li>4. Agriculture sprinklers;</li> <li>5. Fertilizer Tanks;</li> <li>6. Valves;</li> <li>7. Fertilizer pumps and chemical injections;</li> <li>8. Crates, drums and preservation media (Such as acetic acid and vinegar);</li> <li>9. Grading Tables;</li> <li>10. Green House equipment, accessories, heated</li> </ol>	<p>Para 7.21.9 of HB</p>

<p>rooting tables, propagation trays, seeding machines;</p> <p>11. Plants or parts thereof, seeds, saplings, tubers, bulbs, Rhizomes, root cuttings, all types of grafts, tissue culture material and other vegetatively propagated material utilized for sowing or planting;</p> <p>12. Growing media such as Peat Moss (including peat litres) whether or not agglomerated), Pearlite/ Verniculate, Rockwool, Coca peat, Hydrocorn, Foam based medium and other cultivation medium:</p> <p>Provided that the removal of items shall be subject to following conditions, namely: -</p> <p>(a) Supply of inputs by Unit to the contract farm(s) shall be subject to the input-output norms approved by Board.</p> <p>(b) There shall be contract farming agreement between the unit and the Domestic Tariff Area farmer(s);</p> <p>(c) The Unit has been in existence for at least two years and engaged in export of agriculture or horticulture products;</p> <p>(d) Unit which has not been in existence at least for two years shall furnish bank guarantee equivalent to the duty foregone on the capital goods or inputs proposed to be taken out, to the Proper Officer till it completes two years.</p>	
<p><b>46. Exports.</b> - (1) The Unit may export goods and services as per the terms and conditions of Letter of Approval including agro-products, partly processed goods, sub-assemblies and components except prohibited items and Unit may also export by-products, rejects, waste scrap arising out of the manufacturing process.</p> <p>(2) The Unit, other than trading, Free Trade &amp; Warehousing or service Unit may export to Russian Federation in Indian Rupees against repayment of State Credit or Escrow Rupee Account of the buyer, subject to clearance from the Reserve Bank of India clearance, if any.</p> <p>(3) Software Unit may undertake export, including export of professional services, using data communication links or do</p>	<p>Para 7.2(a) of Foreign Trade Policy and Para 7.9.1 to 7.9.6 of HB</p>

physical exports, which may be also through courier service.

(4) The Foreign Trade Policy restrictions on State Trading Enterprises shall not apply to Special Economic Zone manufacturing Units.

Provided that export of iron ore shall be subject to conditions as may be laid down by the Central Government from time to time.

(5) Minimum export price and requirements of export in consumer pack shall apply in case of raw materials procured indigenously and exported without further processing or manufacturing activities.

(6) The export of textile items shall be covered by bilateral agreements, if any.

(7) The wood based Units shall comply with the direction of Hon'ble Supreme Court contained in its order dated 12.12.1996 in Writ (civil) No, 202 of 1995- T.N.Godavarman Thirrumulppad v/s Union of India and others with WP (Civil) no 171 of 1996 in regard to use of timber or other wood.

(8) Unit may export free samples without any limit, including samples made in wax moulds or silver mould or rubber moulds through all permissible mode of export including through courier agencies or through post.

**47. Procedures for Export.** - (1) The procedure for export from Special Economic Zone through Seaports or Airports or Inland Container Depot (ICD) or Container Freight Station (CFS) or Land Customs Station or by Post or by Courier or Personal Carriage, as the case may be, shall be as under: -

(a) The Unit shall file Shipping Bill, in quadruplicate, to Authorized Officer of Customs in the Special Economic Zone together with relevant documents, namely, invoice and packing list and **GR Form** (in duplicate):

Provided that there shall be exemption from declaration in the **GR or SDF or PP or SOFTEX forms** in respect of export value up to US\$ twenty five thousand or for export value as may be notified by the Reserve Bank of India, from time to time.

No. 13 of  
SEZ  
regulation

GR=Exchange  
Control  
Declaration  
(GR) Form

SDF=Form  
filed with  
shipping  
bills filed  
through

<p>(b) The Shipping Bill shall be registered, assigned a running serial number and assessed by the said Authorized Officer of Customs in Special Economic Zone in the manner and procedure as is followed in case of normal exports without any requirement of the counter signature;</p> <p>(c) The goods shall not be examined in routine and 'Let Export Order' shall be given on the basis of self certification by the Unit:</p> <p>Provided that goods may be sealed after examination, as per the norms prescribed for normal exports, at the option of the Unit, by the Authorized Customs Officers of the Special Economic Zone.</p> <p><i>Explanation:</i> - Self certification means the certification regarding sealing of container or package of goods under export given by the Unit and includes the certificate regarding contents and sealing of the container or package given by the owner or the working partner or the Managing Director or the Company Secretary of the said Unit or any person authorized in this behalf by the owner or company or working partner, as the case may be, on the copies of Shipping Bill stating that the package or container in respect of goods under export have been sealed in his presence</p> <p>(d) The goods may be examined only in case of intelligence or information and only after getting the permission of Proper Officer, in writing;</p> <p>(e) The Unit may export through Inland Container Depot located in the Special Economic Zone, by transfer of goods directly to any port or airport or Inland Container Depot;</p> <p>(2) The procedure for export of Gem and Jewellery shall be as under:-</p> <p>(i) at the time of export of jewellery, the shipping bill and the invoice alongwith packing list presented to the Customs authorities shall contain the description of the items and their weight and purity of gold or silver or platinum and the type of Gem and Jewellery stone that is diamond, ruby, sapphire, cubic zircon etc. used for studding and</p>	<p>Electronic Data Interchang e(EDI) system</p>
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studding weight in carats and free on board price rate of the jewellery item and quantity in pieces and the total value;

- (ii) the Unit may export jewellery on the basis of a notional rate certificate issued by the Nominated Agency. This rate will be based on the prevailing Gold or US Dollar rate and the US Dollar or Indian Rupees rate in the notional rate certificate:

Provided that the certificate issued by the Nominated Agency shall not be older than three working days of the date of shipment or as may be notified by Central Government;

- (iii) the Unit obtaining gold or silver or platinum from the Nominated Agency on loan basis shall export gold or silver or platinum jewellery within 90 days from the date of release except if the precious metal was purchased outright from the Nominated Agency;

Explanation: The units can convert such loan into outright purchase by paying the outstanding loan amount plus interest provided they exercise this option within 90 days from the date of release of precious metal. 90 days export period will not apply in such cases.

- (iv) the Unit may fix the price and repay the gold loan within 180 days from the date of export or as may be notified by Central Government:

Provided that the price shall be communicated to the Nominated Agency for issue a certificate showing the final confirmation of the rate to the bank negotiating the document.

**(3) Procedure for export of software shall be as under:-**

- (i) the software Unit may export software or processed data or data analysed including call center services via data link or internet or e-mail or through other electronic mode and Softex Form duly certified by Development Commissioner under Foreign Exchange Management (Export of

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customs  
regulation

<p>Goods and Services) Regulation, 2000, shall be submitted to the authorized dealer within the period specified under Foreign Exchange Management Act 1999. (42 of 1999);</p> <p>(ii) the Unit engaged in export of services including software may provide consultancy services “on site” abroad subject to submission of details of the contract or purchase order and foreign exchange remitted and the persons deputed abroad, to the customs officers in the Special Economic Zone;</p> <p>(iii) the consultancy fee received by Unit for providing on site consultancy services in convertible foreign exchange shall be counted for the purpose of calculating positive Net Foreign Exchange Earning under <b>rule 57</b>.</p> <p>(4) The Unit may export goods by post subject to the normal procedure applicable to export through Foreign Post Office.</p> <p>(5) Export through couriers shall be allowed only through authorized couriers, registered with the Commissioner of Customs having jurisdiction over the gateway airport and the procedure specified in the Courier Export and Import (Clearance) Regulations, 1998 shall be followed. Provided that Goods shall be allowed to be handed over to the courier by the custodian as per the procedure specified by the Proper Officer.</p> <p>(6). The Unit may export goods to be carried by the foreign bound passengers authorized by the Unit in this behalf as personal baggage, subject to following conditions, namely.-</p> <p>(i) Unit shall submit the shipping bill along duly certified by the bank and invoice and <b>GR-I</b> with the customs officers in Special Economic Zone;</p> <p>(ii) the Shipping Bill shall be assessed by the Customs Officers in Special Economic Zone in the same manner as is done in the case of normal exports;</p> <p>(iii) the goods shall be transferred from Special Economic Zone to the airport under the cover of assessed shipping bill by the authorized agency</p>	<p>No. 18 of SEZ regulation</p> <p>No. 15 of SEZ regulation</p>
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approved by the Proper Officer or under escort of Authorized Officer;

- (iv) the consignment shall be deposited with the warehouse in the airport against a "detention receipt" issued by the Customs officers at the airport;
  - (v) the consignment shall be handed over to the authorized passenger at the time of departure on submission of original detention receipt;
  - (vi) the Unit shall submit the proof of export issued by the Customs officer at the airport within a period of 15 days from the date of removal of goods from the Special Economic Zone to the Proper Officer;
  - (vii) In the case of Special Economic Zones and Airports where facility of custodian is available, the goods shall be transferred and delivered to the authorized passenger by the custodian.
  - (viii) export by personal baggage in non-commercial quantities shall be allowed subject to the procedure applicable in case of Gem and Jewellery.
- (b) Personal carriage of spare parts by foreign bound passenger shall be allowed in case the spare parts are required for repairs of exported goods at customer site and following documents shall be submitted as proof of export, namely:-
- (i) permission letter from Customs for exports; and
  - (ii) invoice with value (for payment or free of charge).
- (c) Personal Carriage of any goods for exports by authorized passenger on Document Against Acceptance (DA) or Cash On Delivery (COD) basis may be allowed provided the Unit submits following documents, namely:-
- (i) copy of Shipping Bill; and

(ii) bank Certificate of export and realization of proceeds.

(d) Personal carriage of gem and jewellery items of the value not exceeding US\$ two million or other goods not exceeding rupees five lakhs in value, for holding or participating in overseas exhibitions shall be permitted with approval of the Development Commissioner and subject to the following conditions, namely:-

(i) Unit shall declare personal carriage of such goods to the Customs while leaving the country and obtain necessary endorsement; and

(ii) Unit shall bring back goods or repatriate the sale proceeds within 45 days from the date of closure of exhibition through normal banking channel or within such days as may be notified by Central Government.

For Personal carriage of goods by foreign bound passenger, the following documents shall be submitted by SEZ units as proof of exports.

- (a) Copy of the shipping bill filed by the SEZ units;
- (b) A copy of the Currency Declaration Form filed by the Foreign buyer with the Customs at the time of his arrival;
- (c) Foreign Exchange Realisation/ Encashment Certificate from the Bank;

Provided that in cases of Personal carriage of parts by foreign bound passenger shall also be allowed in case the same are required for repairs of exported goods at customer site, the permission letters from Customs for exports and Invoice with value (for payment or free of charge) shall be submitted.

(7) The Unit may set up showrooms or retail outlets at the International Airports for sale of goods in accordance with the procedure laid down by Customs authorities and items remaining unsold after a period of 60 days, or for period as may be notified by Central Government shall be exported or

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SEZ  
regulation

No. 17 of  
SEZ





- (vi) the re-imported goods shall be allowed admission free of duty in unit subject to establishment of identity of the goods with reference to the attested export documents provided however, that the examination of goods in such cases shall be restricted to 10% of the consignments at random;
- (vii) the Unit shall submit proof of inward remittance in respect of goods sold in the exhibition.

(11) (a) The Unit may export goods and services, through a merchant exporter or status holder or other Export Oriented Unit or Special Economic Zone or Electronic Hardware Technology Park Unit or Software Technology Park Unit subject to following conditions, namely.-

- (i) goods or software shall be manufactured or developed in the Unit concerned;
- (ii) requirements of positive Net Foreign Exchange Earning or any other conditions relating to authorized operations shall continue to be discharged by the Unit;
- (iii) export orders so procured shall be executed within the provisions of these Rules and the goods shall be directly transferred from Unit to the port or airport of shipment;
- (iv) fulfillment of positive Net Foreign Exchange Earning by Unit shall be reckoned on the basis of the price at which the goods or services were supplied by unit to the status holder or merchant exporter or other Export Oriented Unit or Special Economic Zone unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit;
- (v) all export entitlements, including recognition as status holder would accrue to the exporter in whose name the foreign exchange earnings are realized:

Provided that such export shall be counted towards fulfillment of obligations only of Special Economic Zone Unit.

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SEZ  
customs  
regulation

(b) Procedure for export through a merchant exporter or status holder shall be the following, namely.-

- (i) goods shall be exported directly from Special Economic Zone;
- (ii) export document shall contain the name of the merchant exporter or the status holder and the unit;
- (iii) merchant exporter or status holder, as the case may be, at the time of assessment of Shipping Bill in the Special Economic Zone shall submit a disclaimer that no export entitlement is being or shall be availed by him on the goods so exported.

(12) The SEZ unit may transfer goods, namely, goods imported or procured from Domestic Tariff Area to other Special Economic Zone units or Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit, subject to following procedures, namely.-

- (i) the receiving Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit shall file Bill of Entry for warehousing, in quintuplicate along with invoice and packing list with Customs Officers in Special Economic Zone where the SEZ unit is located along with copy of Letter of Approval and bonding licence;

provided that in case the receiving unit is a Special Economic Zone unit, bill of entry for home consumption shall be filed in place of bill of entry for warehousing

- (ii) on the basis of such Bill of Entry assessed by Special Economic Zone Customs, goods shall be allowed to be cleared to receiving Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Park Unit or Special Economic Zone unit;



Park Unit or Bio-Technology Park Unit shall submit re-warehousing certificate duly signed by the Proper officer having jurisdiction over the receiving Export Oriented Unit or Software Technology Park Unit or Bio-Technology Park Unit within a period of forty five days from the date of clearance to the officer of the customs authorized in this behalf by Proper Officer;

- (iv) where Export Oriented Unit or Software Technology Park Unit or Bio-Technology Park Unit fails to submit the re-warehousing certificate within the period of forty-five date of clearance of goods, customs officer in the Special Economic Zone shall take up the matter with the Proper Officer of the receiving Unit to initiate recovery proceeding against such Export Oriented Unit or Software Technology Park Unit or Bio-Technology Park Unit, as the case may be;
- (iv) where goods admitted into unit from Domestic Tariff Area, on which entitlement under Duty Exemption Pass Book Scheme or Duty Drawback has been availed are removed as such or after subjecting it to a process not amounting to manufacture to an Export Oriented Unit or Software Technology Park Unit or Bio-Technology Park Unit directly by Unit or through a unit in the same Special Economic Zone or another Special Economic Zone, the Customs duty equal to entitlement availed under Duty Exemption Pass Book Scheme or Duty Drawback shall be paid.
- (v) In case where goods admitted into unit from Domestic Tariff Area, on which only excise duty concession had been availed and any other exports entitlement was not availed at the time of entry, the duty payable shall be the Customs duty equivalent to the duty concession so availed;

**48. Sales in Domestic Tariff Area.-** (1) The Unit may sell

Para 7.8 of

<p>goods and services including rejects or wastes or scraps or remnants or broken diamonds or by products arising out of manufacturing process or in connection therewith in Domestic Tariff Area on payment of Customs duties under section 30 of the Act:</p> <p>Provided that –</p> <p>(a) Domestic Tariff Area sale under sub-rule (1), as such, of goods imported or procured from the Domestic Tariff Area shall be on submission of import licence, wherever applicable;</p> <p>(b) Domestic Tariff Area sale under sub-rule (1) of goods manufactured and rejects or scrap or waste or remnants arising there-of or in connection there-with and services rendered by Unit shall be without restrictions:</p> <p>Provided further that Central Government may notify restrictions, as they deem fit on all or any class of such goods mentioned in clause (b) of proviso.</p> <p>(2) Domestic Tariff Area sale by service or trading Unit or by Units undertaking manufacturing and services or trading activities against a single Letter of Approval though shall be subject to the condition that in case of failure to achieve positive Net Foreign Exchange earnings cumulatively in five years the unit undertaking trading activities shall in addition to the duties and penalties imposed, if any, be liable to pay interest on the Customs duties which would have been payable under the Warehousing provisions of the Customs Act but for the unit's location in the Special Economic Zone.</p> <p>(3) Scrap or dust or sweeping of gold or silver or platinum may be sent to Government of India Mint or Private Mint from Unit and returned in standard bars in accordance with the procedure specified by Customs authorities or may sold in the Domestic Tariff Area on payment of duty on the gold or silver or platinum content in the said scrap:</p> <p>Provided that the value of samples of gold or silver or platinum sweepings or scrap or dust taken at the time of clearance and sent to Government Mint or Private Mint for assaying and assessment shall be finalized on the basis of reports received from the Government Mint or Private Mint,</p>	FTP and 7.15.1 to 7.15.4
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as the case may be.

(4) Duty shall be levied on the gold or silver or platinum dust or scrap or sweepings cleared into Domestic Tariff Area at following rates as may be amended by the Central Government from time to time, :-

(a) Gold in any form including liquid gold at the rate of rupees two hundred fifty per ten grams.

(b) Silver in any form at the rate of rupees five hundred per Kilo gram.

*Explanation:* the expressions Gold in any form including liquid gold and Silver in any form shall include medallions and coins, but shall not include jewellery made of gold or silver and foreign currency coins.

Para 4 of appendix 14I-C of HB

(5) Surplus power generated in a SEZ Developer's Power Plant in the SEZ or Unit's captive power plant or diesel generating set may be transferred to Domestic Tariff Area on payment of duty on consumables and raw materials used for generation of power on the basis of norms worked out for raw materials and consumables approved by Board and subject to the following conditions, namely:-

(a) Proposal for sale of surplus power received by the Development Commissioner shall be examined in consultation with the State Electricity Board, wherever considered necessary:

Provided that consultation with State Electricity Board shall not be required for sale of power within the same Special Economic Zone.

(b) Norms for production of unit of power shall be approved by the Approval Committee;

(c) Sale of surplus power to other Unit or Developer in the same or other Special Economic Zone or to Export Oriented Unit or to Electronic Hardware Technology Park Unit or to Software Technology Park Unit, shall be without payment of duty;

(d) For sale of surplus power in Domestic Tariff Area Unit shall obtain permission from the Proper

Officer and the State Government authority concerned;

(e) Duty on sale of surplus power to the Domestic Tariff Area shall be as provided for in sub-rule (5).

(6) Valuation and assessment of the goods cleared into Domestic Tariff Area shall be made in accordance with Customs Act and rules made there under.

**49. Procedure for Sale in Domestic Tariff Area.-** (1) Domestic Tariff Area buyer shall file Bill of Entry for home consumption giving therein complete description of the goods namely make and model number and serial number and specification along with invoice and packing list with the customs officers in the Special Economic Zone.

(2) Notwithstanding anything contained in sub-rule (1), Bill of Entry for home consumption may also be filed by Unit on the basis of authorization by Domestic Tariff Area buyer.

(3) Valuation of the goods cleared into Domestic Tariff Area shall be determined in accordance with provisions of Customs Act and rules made there-under as applicable to goods when imported into India.

Provided that where the goods are supplied in Domestic Tariff Area by a manufacturing service provider on the instructions of an Overseas entity, the Bill of Entry shall be filed by the domestic buyer on the basis of transaction value as per the commercial invoice issued by the Overseas entity.

(4) Where goods procured from Domestic Tariff Area by Unit are supplied back to the Domestic Tariff Area as it is or without substantial manufacturing, such goods shall be treated as re-imported goods and shall be subject to such procedure and conditions as applicable in the case of normal re-import of goods from outside India:

Provided that where such goods are supplied back to the Domestic Tariff Area as it is or after subjecting them to a process not amounting to manufacture and where the import duty on such goods is "Nil" and on procurement of such goods no export entitlements were allowed, Unit may supply back such goods to Domestic Tariff Area on the basis of invoice only and filing of Bill of Entry in such cases shall not

Rule 9 of  
SEZ  
customs  
rules 2003



be required.

*Explanation:* - Supplies from the Domestic Tariff Area to a Special Economic Zone Developer or Unit for their Authorized operations shall be treated as Physical Exports and all export entitlements for physical exports under the provisions of the Foreign Trade Policy, Customs Act including the Rules made there under,

**50. Domestic Tariff Area removals - abatement of duties in certain cases.-** (1) The Unit may remove capital goods to Domestic Tariff Area after use in Special Economic Zone on payment of duty as under:-

- (a) Duty shall be levied on such goods on the depreciated value thereof and at the rate in force on the date of filing of the Bill of Entry;
- (b) Depreciation in value shall be allowed for the period from the date of commencement of production or where such capital goods have been received in the Unit after such commencement of production from the date such goods have come into use for production to the date of presentation of Bill of Entry for home consumption;
- (c) Depreciation up to hundred per cent. is permissible for computer and computer peripherals in five years and for other capital goods in ten years;
- (d) Depreciation shall be allowed in straight line method as specified below, namely.-
  - (i) for computer and computer peripherals for every quarter in the first year at the rate of ten per cent. for every quarter in the second year at the rate of eight per cent. for every quarter in the third year at the rate of five per cent. for every quarter in the fourth and fifth year at the rate of one per cent;
  - (ii) for capital goods other than computer and computer peripherals for every

quarter in the first year at the rate four for every quarter in the second year at the rate of three per cent. for every quarter in the third year at the rate of three per cent. for every quarter in the fourth and fifth year at the rate of two and half per cent. and thereafter for every quarter at the rate of two percent.

*Explanation.-* (i) For the purpose of computing rate of depreciation for any part of a quarter the full such quarter shall be taken into account; and”;

(1) there shall be no upper limit for such depreciation and depreciation up to hundred per cent could be allowed;

(2) removal of all used packing materials, such as cardboard boxes or polyethylene bags except metal containers shall be allowed without payment of duty provided the value of such packing material was included in the CIF value of the goods imported or procured into the Special Economic Zone;

(3) goods supplied by a Unit to Domestic Tariff Area on payment of duty may be brought back to the Unit for the purpose of repair within a period of six months from the date of clearance, or within such period as may be extended by the Proper Officer or within warranty period whichever is higher, on payment of duty on the value of repairs subject to the condition that identity of goods is established to the satisfaction of Proper Officer;

(4) removal of goods on which any export entitlements were availed at the time of procurement goods may be supplied back to the Domestic Tariff Area on payment of duty equivalent to the export entitlements availed if the identity of goods being supplied back to the f Tariff Area is established to the satisfaction of Proper Officer:

Provided that where no export entitlements are availed, such goods may be supplied back to the Domestic Tariff Area without payment of duty.

**(ii)** Supplies from the Domestic Tariff Area to a Special Economic Zone Developer or Unit for their Authorized operations shall be treated as Physical Exports and all export entitlements for physical exports under the provisions of the

Rule 10 of  
SEZ  
customs  
rules 2003  
and Para  
24 of SEZ  
regulation

Foreign Trade Policy, Customs Act including the Rules made there under.

**51. Temporary Removals to Domestic Tariff Area.-** (1) The Unit may temporarily remove following goods to Domestic Tariff Area without payment of duty, namely: -

- (a) Capital goods and parts thereof for repairs and return thereof;
- (b) Sample goods for display, export promotion, exhibition and return thereof;
- (c) Goods for job work, test, repair, refining and calibration and return thereof;
- (d) Laptop or notebook computers or video projection systems for use by an authorized employee of a Unit or developer;
- (e) Any other goods with the prior approval of the Authorized Officer;

(2) Unit may transfer the goods to Domestic Tariff Area or abroad for repair or replacement or testing or calibration, quality testing and Research & Development purposes under intimation to Proper Officer and on maintenance of records.

(3) Unit may transfer goods for quality testing or Research & Development purpose to any recognized laboratory or institution, without payment of duty, on giving an undertaking to the customs for return of goods:

Provided that if goods have been consumed or destroyed in the process of testing or at the time of research and development a certificate from the laboratory or institution to that effect shall be furnished to the Proper Officer.

(4) Unit may remove following goods from Special Economic Zone to Domestic Tariff Area without payment of duty: -

- (a) Goods imported and admitted into Special Economic Zone after payment of duty of Customs as applicable are cleared into Domestic Tariff Area without any processing subject to the

condition that identity of goods is established to the satisfaction of the Proper Officer;

- (b) Used packing materials except metal containers;
- (c) Computer and computer peripherals, including printer and plotter and scanner and monitor and key board and storage units donated with approval of the Proper Officer to recognized non-commercial educational institutions or registered charitable hospitals or public libraries or public funded research and development establishments or organizations of Government of India or Government of a State or Union Territory after two years of admission of goods and use by Unit, whether imported or procured from Domestic Tariff Area;
- (d) Removal into Domestic Tariff Area of waste materials of the following items:-
  - (i) waste of fish or crustaceans or mollusks or other aquatic invertebrates;
  - (ii) castor oil cakes manufactured from the indigenous castor oil seeds on indigenous plant and machinery;
  - (iii) guar meal manufactured wholly from indigenous guar seeds;
  - (iv) yarn waste (including thread waste) or garneted stock or cotton-carded or combed;
  - (v) yarn of jute and goods of jute manufactured wholly from indigenous raw materials.

(5) Unit may send capital goods abroad for repair and return and foreign exchange payment required for such repairs shall be allowed.

**52. Procedure for temporary removals in Domestic Tariff Area.-** (1) Removal of goods for the activities covered under sub-rule (1) to (3) of rule 52 shall be undertaken by the Unit on the cover of serially-numbered pre-authenticated challans, authenticated by the Managing Director or owner or working partner or the Company Secretary or by any person duly authorized in this behalf by the Company or owner or working partner:

Rule 10 of  
SEZ  
customs  
rules 2003

Provided that

(i) before making use of pre-authenticated serial numbered challans, the serial numbers of the same shall be intimated to Proper Officer or to the Special Economic Zone custom officers designated for this purpose.

(ii) identification marks, namely, make and model and serial number and specification of the goods received back after such test or repair or calibration or re-engineering or re-conditioning match with those mentioned in the pre-authenticated challan issued by the authorized representative of unit and signed by the Authorized Officer of Customs posted at the SPECIAL ECONOMIC ZONE gate at the time of taking out such goods into Domestic Tariff Area;

(iii) details of all such removals shall be put up by the said Authorized Officer of posted at the SPECIAL ECONOMIC ZONE gate to the Proper Officer on the next working day;

(iv) goods shall be brought back to the Special Economic Zone within 120 days from the date of taking the goods out of the Special Economic Zone or within such extended period as deemed fit by Proper Officer;

(1) If a Unit fails to return the goods to Special Economic Zone within the period specified in sub-rule (iv), unit shall pay the duty applicable on such goods:

Provided that on removal of goods, as such, where no entitlement of Duty Drawback or Duty Entitlement Pass Book or Duty Exemption or fulfillment of export obligation have been claimed or availed and on transfer of goods for quality testing or Research and Development purpose to any recognized laboratory or institutions as provided in the Foreign Trade Policy, no duty shall be payable where the goods have been consumed or destroyed in the process of testing and a certificate from the laboratory or institution is furnished to the Proper Officer.

(2) Subject to the provisions in sub-rule (1) and (2), unit

<p>may remove goods, including capital goods, to another unit in the same or in another Special Economic Zone, or to Export Oriented Unit or to Electronic Hardware Technology Park Unit or to Software Technology Park Unit or to a domestic tariff area unit for test or repairs or calibration or re-engineering or re-conditioning and return:</p> <p>Provided that transfer of goods within the same Special Economic Zone shall be undertaken on maintenance of records by the supplying and receiving units.</p> <p>(3) Unit may take out lap top computers and video projection system(s) out of the Special Economic Zone temporarily for use by the authorized employees of such unit subject to following procedure, namely: -</p> <ul style="list-style-type: none"> <li>(a) Unit shall account for the laptop computers or video projection system(s);</li> <li>(b) Unit shall issue a certificate authorizing the employee by name and giving the full specification, namely, serial number and model number and make of the laptop computers and video projection system intended to be taken outside the processing area temporarily and a copy of the certificate shall be endorsed to Proper Officer and acknowledgement received by unit;</li> <li>(c) Unit shall maintain a record of such certificate of authorization issued under clause (b) for temporary removal of laptop computer or video projection system.</li> </ul>	
<p><b>53. Removal of goods to Export Oriented Unit or Software Technology Park or Electronic Hardware Technology Park.-</b> (1) Unit may remove goods or provide services to another Unit in the same Special Economic Zone or in other Special Economic Zone or to an Export Oriented Unit or to a unit in Software Technology Park or to a unit Electronic Hardware Technology Park without payment of duty:</p> <p>Provided that goods admitted from Domestic Tariff Area after availing entitlement under Duty Exemption Pass Book Scheme or Duty Drawback are removed as such or after subjecting them to a process not amounting to</p>	<p>Para 7.19.1 to 7.19.4 of HB and Para 21 of SEZ customs regulation and Para 11 of SEZ rules.</p>

manufacture, to an Export Oriented Unit or Software Technology Park or Electronic Hardware Technology Park Units directly by unit or through any unit in the same Special Economic Zone or another Special Economic Zone, duty equal to entitlement availed under Duty Exemption Pass Book Scheme or Duty Drawback shall be paid on such removal:

Provided further that clearance of goods by a unit to another unit in the same Special Economic Zone shall be allowed subject to the supplying and receiving units maintaining records of such transaction.

(2) Unit may transfer goods and services including capital goods and spares imported or procured from Domestic Tariff Area to other Export Oriented Unit or Special Economic Zone or Electronic Hardware Technology Park or Software Technology Park Unit without payment of duty, such transfer from unit to another Special Economic Zone or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Unit shall be treated as import for the receiving unit.

**54. Authorized operations by the Developer.-** (1) The Developer may import or procure goods from Domestic Tariff Area without payment of duty for authorized operations, subject to the following conditions, namely.-

- (i) After obtaining specific activity approval under sub-section (2) of section 4 of Act from Board, the Developer shall make an application to the Development Commissioner along with list of goods and services, including machinery, equipments and construction materials required for authorized operations, hereinafter referred to as goods, duly certified by a Chartered Engineer for approval by the Approval Committee;
- (ii) The Developer shall declare the place of storage of goods within the Special Economic Zone to Proper Officer. In case the storage is outside the processing area, the storage of goods shall be subject to the satisfaction of the Proper Officer and shall be as per procedure specified by him;

Para 33 of  
SEZ  
customs  
regulation

<p>(iii) The Developer shall execute Bond-cum-Legal Undertaking in Form J as appended to these rules, with Proper Officer, binding to utilize goods within a period of one year or such period, as may be extended by the Proper Officer;</p> <p>(iv) If developer fails to utilize goods as provided under clause (iii) of sub-rule (1), he shall pay, on demand, an amount equal to the duty as leviable on the said goods along with interest at the rate of fifteen per cent per annum from the date of import or procurement of said goods or as may be notified by Central Government, on the said duty;</p> <p>(v) The Developer shall maintain proper account of import or procurement, consumption and utilization of goods and submit quarterly returns to Proper Officer in such form, as may be specified by him;</p> <p>(vi) The Developer shall produce a certificate of utilization of goods from an independent Chartered Engineer, other than who has given a certificate for the purpose of clause (i) of sub-rule (1), to Proper Officer every six months of importation or procurement of goods;</p> <p>(vii) The Developer shall not remove goods from Special Economic Zone except with the permission of Proper Officer and on payment of duty applicable on such goods.</p>	
<p>(2) The Developer shall have a demarcated area in Special Economic Zone, where goods imported or procured from Domestic Tariff Area for authorized operations shall be kept for inspection by customs officers, before such goods are brought into use.</p> <p>54. Developer or Unit may export or transfer capital goods and spares including construction equipment that have become obsolete or surplus to another Developer, Special Economic Zone Unit or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Unit or dispose of in the Domestic Tariff Area on payment of duties with entitlement of depreciation as provided under</p>	<p>5(6) of SEZ customs rules</p>



<p>these rules;</p> <p>Provided that such goods may also be allowed to be cleared under the prevailing Export Promotion Capital Goods (EPCG) scheme under the Foreign Trade Policy.</p> <p><b>55.</b> Rules and procedures related to Units on import or procurement of goods and services, their admission and use, shall be applicable, mutatis-mutandis, for Developer, except that in case of Developer, goods imported or procured from Domestic Tariff Area shall be allowed to be moved or utilized for the purposes of authorized operations in the non-processing area of Special Economic Zone.</p>	
<p><b>56. Other Entitlements.-</b> (1) Supplier of precious and semi-precious stones and synthetic stones and processed pearls from Domestic Tariff Area to Units shall be eligible for grant of Replenishment License as provided under the Foreign Trade Policy and Handbook:</p> <p style="padding-left: 40px;">Provided that the application for the Replenishment Licence shall be made to the Development Commissioner.</p>	<p>Para 7.17.4 of HB</p>
<p>(2) Free on Board Value of export can be clubbed with Free on Board value of export of parent company in the Domestic Tariff Area or vice versa for the purpose of according Star Export House status.</p> <p>(3) The Unit may retain hundred per cent. of their export proceeds in their Foreign Currency (FC) account.</p> <p>(4) Software units may be allowed to use the computer system for training purpose (including commercial training) subject to the condition that no computer terminal shall be installed outside Special Economic Zone premises for the purpose.</p> <p>(5) The Unit shall be exempted from obtaining Industrial Licensing for manufacture of items reserved for Small Scale Industries (SSI) sector.</p> <p>(6) The Unit may install one fax machine at a place of its choice, outside the Special Economic Zone, subject to intimation of its location to the Proper Officer.</p> <p>(7) The Unit may install personal computers not exceeding</p>	<p>Para 7.20.4 of HB</p> <p>Para 7.20.7 of HB</p> <p>Para 7.20.9 of HB</p> <p>Para 7.20.11 of HB</p> <p>Para 7.20.13 of HB</p> <p>Para</p>

<p>two in number imported or procured duty free in the registered or administrative office.</p> <p>(8) For IT and IT enabled services, persons authorized by the software units may access the facility installed in unit through communication links.</p>	<p>7.20.15 of HB</p> <p>Para 7.20.16 of HB</p>
<p style="text-align: center;">CHAPTER - IV</p> <p style="text-align: center;">FOREIGN EXCHANGE EARNING – REQUIREMENTS AND MONITORING</p>	
<p><b>57. Net Foreign Exchange Earnings.-</b> (1) The Unit shall achieve Positive Net Foreign Exchange to be calculated cumulatively for a period of five years from the commencement of production according to the following formula:</p> <p style="text-align: center;">Positive Net Foreign Exchange = A – B &gt;0</p> <p>Where:</p> <p>A: is Free on Board (FOB) value of exports, including exports to Nepal &amp; Bhutan against freely convertible currency, by the Unit and the value of following supplies of their products: -</p> <ul style="list-style-type: none"> <li>(a) supply of goods against Advance Licence or Advance Licence for annual requirement or Duty Free Replenishment Certificate under the Duty Exemption or Remission Scheme or Diamond Imprest Licence under the Foreign Trade Policy;</li> <li>(b) supply of capital goods to holders of licence under the Export Promotion Capital Goods (EPCG) scheme;</li> <li>(c) supply of goods to projects financed by multilateral or bilateral agencies or funds as notified by the Department of Economic Affairs, Ministry of Finance under International Competitive Bidding in accordance with the procedures of those agencies or funds, where the legal agreements provide for tender</li> </ul>	<p>Para 7.12.1 to 7.12.4 of HB</p>

evaluation without including the customs duty;

- (d) supply of capital goods, including those in unassembled or 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 ten per cent. of the free on rail value to fertilizer plants;
- (e) 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;
- (f) supply of goods to the power projects and refineries not covered in (f) above;
- (g) supply of marine freight containers by the Export Oriented Unit (Domestic freight containers – manufacturers) provided the said containers are exported out of India within six months or such further period as permitted by the Customs;
- (h) supply to projects funded by United Nations agencies;
- (i) supply of goods to nuclear power projects through competitive bidding as opposed to International Competitive Bidding;
- (j) supply made to bonded warehouses set up under the Foreign Trade Policy or under the Customs Act;
- (k) supply against special entitlements of duty free import of goods;
- (l) export of services by services units including services rendered within SPECIAL ECONOMIC ZONE or DTA paid for in free foreign exchange or such services rendered in Indian Rupees which are otherwise considered as having been paid for in free foreign

exchange by Reserve Bank of India;

- (m) supply of Information Technology Agreement (ITA-1) items and notified zero duty telecom or electronic items, namely, Color Display Tubes (CDT) for monitors and Deflection components for colour monitors or any other items as may be notified by the Central Government;
- (n) supply to other units in the same or other Special Economic Zone or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Units provided that such goods and services are permissible for import or procurement by such units:
- (o) Supply of goods to Domestic Tariff Area against payment in Foreign Currency from EEFC account of the DTA buyer or Free Foreign Exchange received from overseas.
- (p) Supply of goods against Free Foreign Exchange by a Free Trade & Warehousing Zone Unit

Provided that Central Government may, by notification in the official gazette, modify, add or omit any entry under this sub-rule:

Provided further that for supplies against Advance Licence or Duty Free Replenishment Certificate under the Duty Exemption or Remission scheme or Duty Exemption Pass Book scheme or Export Promotion Capital Goods scheme, the licence holder shall be registered with the Proper Officer and where the said licence holder is registered for import with a seaport or airport or Inland Container Depot other than the Special Economic Zone, the said licence holder shall get a Release Advice (RA) or a Telegraphic Release Advice (TRA) issued from proper officer in charge of the said seaport or airport or Inland Container Depot of registration in favour of the Proper Officer.

- (o) The supplies to Export Oriented Unit or Software Technology Park or Electronic Hardware Technology Park or Bio-Technology Park Unit shall be against procurement certificate, as

applicable and the supplies under clause (d) to (g), (i) and (j) of sub-rule (1) shall be as per the terms and conditions of the respective duty exemption notified by the Central Government, in the Ministry of Finance.

And

B: Consist of sum of the following:-

(a) sum total of the Cost Insurance and Freight (CIF) value of all imported inputs used for authorized operations during the relevant period and the Cost Insurance and Freight value of all imported capital goods including goods purchased on high seas basis even though paid for in Indian Rupees and the value of all payments made in foreign exchange by way of export commission, royalty, fees, dividends, interest on external commercial borrowings during the first five year period or any other charges;

(b) Value of goods obtained from another Special Economic Zone or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Unit or from bonded warehouses or procured from international exhibitions held in India or precious metals procured from nominated agencies, shall be included in B;

(c) The Cost Insurance Freight value of the goods and services, including pro-rata Cost Insurance Freight of capital goods, imported duty free or leased from a leasing company, received free of cost and or on loan basis or on transfer for the period they remain with unit;

*Explanation:* - "Inputs" means raw materials, intermediates, components, consumables, parts and packing materials.

**(2)** For annual calculation of Net Foreign Exchange, value of imported capital goods and lump sum payment of foreign technical know-how fee shall be amortized at the rate of ten percent every year from the first year to tenth year.

**58. Monitoring of performance.-** (1) Performance of the Unit shall be monitored by the Approval Committee as per the

Para  
7.14.1 to

<p>guidelines given in Annexure as appended to these rules.</p> <p>(2) Performance of Developer shall be monitored by Approval Committee on the basis of quarterly performance report furnished by developer under sub-rule <b>(4) of rule 25.</b></p> <p>(3) In the event of Approval Committee finding that a unit has not achieved positive Net Foreign Exchange Earning or failed to abide by any of the terms and conditions of the Letter of Approval or Bond-cum-Legal Undertaking, without prejudice to action which may be taken including cancellation of Letter of Approval, the said unit shall be liable for penal action by the Adjudicating Authority under <b>sub-rule (2)(b)(viii) of rule-21.</b></p> <p><b>(3) Regularization Of Bonafide Default in NFE:</b> The cases of a bonafide default in fulfillment of export obligation may be regularized by the Approval Committee by payment of Customs duties proportionate to the unfulfilled portion of Net Foreign Exchange.</p>	<p>7.14.2 of HB and 15(1) and(2) of SEZ customs rules</p>
<p>CHAPTER – V MISCELLANEOUS</p>	
<p><b>59. Identity Cards.-</b> (1) The entry of persons to the processing area of the Special Economic Zone shall be regulated by the Development Commissioner through issue of identity cards.</p> <p>(2) The identity card shall be valid for five years and shall be issued, in the format given in Form R as appended to these rules, to the entrepreneurs and regular employees of units.</p> <p>Provided that when any employee who has been issued an identity card ceases to be in employment of the SEZ Unit or Developer, the said identity card shall be surrendered forthwith and shall be deemed to be invalid from such date;</p> <p>(3) Temporary identity card may be issued in the format given in Form S as appended to these rules, to casual visitors and contractors and a proper record of such entries shall be maintained at the SEZ gate;</p> <p>Provided that Development Commissioner may modify the guidelines on issue of permanent and temporary identity card depending on specific security requirements of Special</p>	

Economic Zone.	
<p><b>60. Foreign Exchange Remittances.-</b> Export value of goods, software and services may be realized and repatriated as per instructions of Reserve Bank of India issued from time to time.</p>	Para 7.20.8 of HB
<p><b>61. Revival of sick units.-</b> (1) A unit which has been declared sick by the appropriate authority shall submit a revival package through Development Commissioner to Board for consideration and the Board shall consider the extension in the period for fulfillment of Positive Net Foreign Exchange for a further period up to a maximum of five years at the prevalent norms.</p> <p>(2) On extension of the period, unutilized raw material and imported or domestically procured capital goods shall be allowed to be carried forward at their original value and the Bond-cum-Legal Undertaking executed by the unit shall be suitably revised.</p> <p>(3) In case a new entity is willing to takeover all the assets and liabilities of a sick unit, transfer of such assets and liabilities as provided under sub-rule (1) shall be considered by the Board and an application for such takeover may be submitted through Development Commissioner to Board.</p> <p>(4) The sick unit may transfer imported or domestically procured capital goods and raw material to a Unit in the same Special Economic Zone or a Unit in another Special Economic Zone or to Export Oriented Units or a Unit in Software Technology Park or to a Unit in Electronic Hardware Technology Park. For the buying Unit, it shall be treated as domestically sourced goods for the purpose of calculating Positive Net Foreign Exchange Earning.</p> <p>(5) Where a Unit is granted extension of period for fulfillment of Positive Net Foreign Exchange Earning under sub-rule (1), the space would continue to be in its possession.</p> <p>(6) Where a Unit exit from Special Economic Zone, it shall pay all the rental dues.</p> <p>(7) Where a Unit is taken over by another unit, the liability shall pass on to the new unit which is taking over the sick</p>	Para 7.34 and appendix 14I-M

<p>unit.</p> <p>(8) All adjudication proceeding shall remain in abeyance in case of revival or take over of sick unit approved by Board.</p>	
<p><b>62.</b> For the period when the Proper Officer is not posted in Special Economic Zone, an officer of customs, not below the rank of a Gazetted Officer of Customs, authorized by Development Commissioner shall discharge duties and functions of the Proper Officer.</p> <p><b>63. Exit of Units.-</b> (1) The Unit may opt out of Special Economic Zone with the approval of the Development Commissioner and such exit shall be subject to payment of applicable duties on the imported or indigenous capital goods, raw materials, components, consumables, spares and finished goods in stock:</p> <p>        Provided that if the unit has not achieved positive Net Foreign Exchange, the exit shall be subject to penalty that may be imposed by the Adjudicating Authority under sub-rule (2)(b)(viii) of rule 21.</p> <p>(2) The following conditions shall apply on the exit of the Unit:-</p> <p>        (i) Applicable duties would be paid, on the imported and indigenous capital goods, raw materials, components, consumables, spares and finished goods in stock and Unit may dispose off raw material, components, consumables etc. against duty free licenses and Unit may also export capital goods and components and parts and raw materials and consumables;</p> <p>        (ii) Penalty imposed by Competent Authority under Special Economic Zone Rules for non-fulfillment of the conditions of approval, would be paid and in case an appeal against an order-imposing penalty is pending, exit would be considered if the unit has obtained a stay order from Competent Authority and has furnished a Bank Guarantee for the penalty adjudicated by the appropriate authority unless the appellate authority makes a specific order exempting the unit from this requirement;</p>	<p>Para 7.33.1 to 7.33.4 of HB</p>



<p>(iii) In case the unit has failed to fulfill the terms and conditions of Letter of Approval and penal proceedings are to be taken up or are in process, a legal undertaking for payment of penalties, that may be imposed, would be executed with the Development Commissioner in <b>Form T</b> as appended to these rules;</p> <p>(iv) Unit shall continue to be treated as Special Economic Zone unit till the date of final exit.</p> <p>(3) 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 Central Government at price to be determined by that agency.</p> <p>(4) Development Commissioner may permit, a unit, as one time option, to exit from Special Economic Zone on payment of duty on capital goods under the prevailing Export Promotion Capital Goods Scheme under the Foreign Trade Policy subject to unit satisfying eligibility criteria under that Scheme.</p> <p>(5) Depreciation norms for capital goods shall be as given in sub-rule (1) of rule 50.</p>	<p>Para 7.33.5 to 7.33.8 of HB</p>
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(See sub-rules ---- of rules ----)

**The terms and conditions subject to which an Offshore Banking Unit (OBU) may be set up and operated in the Special Economic Zones (SEZs)**

**1. Eligibility Criteria**

Banks operating in India viz. public sector, private sector and foreign banks authorized to deal in foreign exchange are eligible to set up Offshore Banking Units. Such banks having overseas branches and experience of running Offshore Banking Units would be given preference. Each of the eligible banks would be permitted to establish only one Offshore Banking Unit in a Special Economic Zone, which would essentially carry on wholesale banking operations.

**2. Licensing**

Banks would be required to obtain prior permission of the RBI for opening an Offshore Banking Unit in a SEZ under Section 23(1)(a) of the Banking regulation Act, 1949. Given the unique nature of business of the Offshore Banking Units, Reserve Bank would stipulate certain licensing conditions such as dealing only in foreign currencies, restrictions on dealing with Indian rupee, access to domestic money market, etc. on the functioning of the Offshore Banking Units. The parent bank's application for branch licence should itself state that it proposes to conduct business at the Offshore Banking Unit branch in foreign currency only.

No separate authorisation with respect to the Offshore Banking Unit branch would be issued under the Foreign Exchange Management Act. As currently in vogue with respect to designating a specific branch for conducting foreign exchange business, the parent bank may designate the branch in SEZ as an Offshore Banking Unit branch. A separate Notification No. FEMA71/2002-RB dated September 7, 2002 issued by the Exchange Control Department (ECD) of RBI on Offshore Banking Units is enclosed.

**2.3 Capital**

Since Offshore Banking Units would be branches of Indian banks, no separate assigned capital for such branches would be required. However, with a view to enabling them to start their operations, the parent bank would be required to provide a minimum of US\$ 10 million to its Offshore Banking Unit.

**2.4 Reserve Requirements**

**2.4.1 CRR**

RBI would grant exemption from CRR requirements to the parent bank with reference to its Offshore Banking Unit branch under Section 42(7) of the RBI Act, 1934.

**2.4.2 SLR**

**Off-shore Banking Units located in SEZs are not required to maintain SLR under Section 24(1) of the Banking Regulation Act, 1949. (Proposed)**

## **2.5 Resources and deployment**

The sources for raising foreign currency funds would be only external. Funds can also be raised from those resident sources to the extent such residents are permitted under the existing exchange control regulations to invest/maintain foreign currency accounts abroad. **FCNR/NRE Accounts could also be maintained with OBUs** (proposed). Deployment of funds would be restricted to lending to the Developers of Special Economic Zone, Units located in Special Economic Zones and to the **Export Oriented Units**. Foreign currency requirements of corporates in the domestic area can also be met by the Offshore Banking Units under the scheme of external commercial borrowing subject to FEMA regulations. The exposure of an Offshore Banking Unit in the DTA shall, however, not exceed 25 % of its total liabilities as at the close of the business of the previous working day, at any point of time.

## **2.6 Permissible Activities of Offshore Banking Units**

Offshore Banking Units would be permitted to engage in the form of business mentioned in Section 6(1) of the BR Act, 1949 as stipulated in the enclosed ECD Notification no. FEMA71/2002-RB dated September 7, 2002 and subject to the conditions of the licence issued to the Offshore Banking Unit branches. **OBUs may also undertake the following activities (new suggestions)**

- (i) lend outside India and take part in international syndications/consortiums at par with foreign offices;**
- (ii) invest in foreign currency denominated debt of Indian Units (Bonds);**
- (iii) extend facilities to subsidiaries/units of Indian entities located outside India.**

## **2.7 Prudential Regulations**

All prudential norms applicable to overseas branches of Indian banks would apply to the Offshore Banking Units. The Offshore Banking Units would be required to follow the best international practice of 90 days' payment delinquency norm for income recognition, asset classification and provisioning. The Offshore Banking Units may follow the credit risk management policy and exposure limits set out by their parent banks duly approved by their Boards.

The Offshore Banking Units would be required to adopt liquidity and interest rate risk management policies prescribed by RBI in respect of overseas branches of Indian banks as well as within the overall risk management and ALM framework of the bank subject to monitoring by the Board at prescribed intervals.

The bank's Board would be required to set comprehensive overnight limits for each currency for these branches, which would be separate from the open position limit of the parent bank.

## **2.8 Anti-Money Laundering Measures**

The Offshore Banking Units would be required to scrupulously follow "Know Your Customer (KYC)" and other anti-money laundering instructions issued by RBI from time to time. Offshore Banking Units may accept deposits from individuals subject to observance of KYC.

## **2.9 Regulation and Supervision**

Offshore Banking Units will be regulated and supervised by RBI through its Exchange Control Department, Department of Banking Operations and Development and Department of Banking Supervision.

### **2.10 Reporting requirements**

Offshore Banking Units will be required to furnish information relating to their operations as are prescribed from time to time by RBI.

### **2.11 Ring fencing the activities of Offshore Banking Units**

The Offshore Banking Units would operate and maintain balance sheet only in foreign currency and would not be allowed to deal in Indian Rupees except for having a special Rupee account out of convertible fund to meet their day to day expenses. These branches would be prohibited to participate in domestic call, notice, term, etc. money market and payment system. Operations of the Offshore Banking Units in rupees would be minimal in nature, and any such operations in the domestic area would be through the Authorized Dealer (distinct from Offshore Banking Units) which would be subject to the current exchange control regulations in force.

The Offshore Banking Units would be required to maintain separate nostro accounts with correspondent banks which would be distinct from nostro accounts maintained by other branches of the same bank. The A/c dealing with Offshore Banking Units would be subject to ECD regulations.

### **2.12 Priority sector lending**

The loans and advances of Offshore Banking Units would not be reckoned as net bank credit for computing priority sector lending obligations.

### **2.13 Deposit insurance**

Deposits of Offshore Banking Units will not be covered by deposit insurance.

### **2.14 Choice of SEZ**

Offshore Banking Units would be permitted in SEZs approved by Government of India, where according to Government policy, Offshore Banking Units can be set up.

**TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE  
GAZETTE OF INDIA EXTRAORDINARY, DATED THE JULY, 2005.**

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

New Delhi, dated the July, 2005

NOTIFICATION

G.S.R. (E).- in exercise of the powers conferred by sub-section (1) of section 8 of the Special Economic Zones Act, 2005 (28 of 2005), the Central Government hereby constitutes combined the Board of Approval consisting of -

- |     |                                                                                                                                 |                                 |
|-----|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| 1.  | Additional Secretary to the Government of India<br>Ministry of Commerce & Industry<br>Department of Commerce                    | Chair person, <i>ex-officio</i> |
| 2.  | Joint Secretary to the Government of India<br>Ministry of Finance<br>Department of Revenue                                      | Member, <i>ex-officio</i>       |
| 3.  | Joint Secretary to the Government of India<br>Ministry of Finance<br>Department of Revenue                                      | Member, <i>ex-officio</i>       |
| 4.  | Joint Secretary to the Government of India<br>Ministry of Finance<br>Department of Economic Affairs                             | Member, <i>ex-officio</i>       |
| 5.  | Joint Secretary to the Government of India<br>Ministry of Commerce & Industry<br>Department of Commerce                         | Member, <i>ex-officio</i>       |
| 6.  | Joint Secretary to the Government of India,<br>Ministry of Commerce & Industry<br>Department of Industrial Policy and Promotion | Member, <i>ex-officio</i>       |
| 7.  | Joint Secretary to the Government of India<br>Ministry of Science and Technology                                                | Member, <i>ex-officio</i>       |
| 8.  | Joint Secretary to the Government of India<br>Ministry of Small Scale Industries and<br>Agro and Rural Industries.              | Member, <i>ex-officio</i>       |
| 9.  | Joint Secretary to the Government of India<br>Ministry of Home Affairs                                                          | Member, <i>ex-officio</i>       |
| 10. | Joint Secretary to the Government of India<br>Ministry of Defence                                                               | Member, <i>ex-officio</i>       |
| 11. | Joint Secretary to the Government of India<br>Ministry of Environment and Forests                                               | Member, <i>ex-officio</i>       |
| 12. | Joint Secretary to the Government of India<br>Ministry of Law and Justice and<br>Company Affairs, Legislative Department        | Member, <i>ex-officio</i>       |
| 13. | Joint Secretary to the Government of India                                                                                      | Member, <i>ex-officio</i>       |

Ministry of Overseas Indian Affairs

- |     |                                                                                                                   |                                       |
|-----|-------------------------------------------------------------------------------------------------------------------|---------------------------------------|
| 14. | Joint Secretary to the Government of India<br>Ministry of Urban Development                                       | Member, <i>ex-officio</i>             |
| 15. | A nominee of the State Government concerned                                                                       | Member, <i>ex-officio</i>             |
| 16. | Director General of Foreign Trade or his nominee                                                                  | Member, <i>ex-officio</i>             |
| 17. | Development Commissioner concerned                                                                                | Member, <i>ex-officio</i>             |
| 18. | A professor in the Indian Institute of Foreign Trade                                                              | Member, <i>ex-officio</i>             |
| 19. | Director/Deputy Secretary to the Government<br>of India Ministry of Commerce & Industry<br>Department of Commerce | Member-Secretary<br><i>ex-officio</i> |

The Director General Export Promotion Council for EOUs and SEZ is also co-opted as a Member.

(Rahul Khullar )

**Joint Secretary to the Government of India**