

**PRESENTATION ON FORMATION/BENEFIT/DE-BONDING OF
100% EXPORT ORIENTED UNIT**

Eligibility :

Units undertaking to export their entire production of goods and services (except permissible sale in DTA) may be set up under 100% EOU for manufacturing of goods including repair, re-making, re-conditioning, re-engineering and rendering of services.

Trading Units not covered.

Feasibility :

Feasibility may be assessed considering the following items:

- Product
- Govt/Central/State Clearance
- SSI Registration
- Competition
- Any fiscal barrier like anti-dumping etc.
- Quota Restriction
- Location
- Availability of Raw Materials
- Man Power
- Environment Clearance
- Capital Goods (Imported/Indigenous) and Cost Involved
- ETP
- Power

Commercial Viability :

- Financing Pattern
- Minimum Investment Criteria
- Availability of Market etc.

Investment Criteria :

Units having minimum investment of Rs. 1 Crore in Plant and Machinery shall be considered under this scheme.

However, this criteria shall not apply to existing units and units in EHTP/STP/BTP, Handicrafts/Agricultural/ Floriculture /Aquaculture/Animal Husbandry/Information Technology, Services, Brass Hardware, Hand Made Jewellery and such other sectors as may be decided by the BOA.

Minimum investment should take place on coming into production of the unit.

Premises :

EOU shall have separate earmarked premises for separate LOP (Letter of Permission).

EOU may be approved on leased premises. If lease is obtained from private parties, it shall have a validity period of five years from the date of LUT subject to the satisfaction of Development Commissioner about the genuineness of the lease.

If lease is obtained from Govt. Department/Undertaking/ Agency, 5- year period shall not be applicable

Approval/Application and Renewal of Application :

Three copies in Appendix 14-I-A may be submitted to the Development Commissioner along with DD for Rs.5,000/- favoring Pay & Accounts Officer, Ministry of Commerce & Industry, payable at New Delhi.

Application other than service sector (except R&D, Software and IT enabled services, or any other service activity as may be delegated by BOA) shall be approved or rejects within 15 days by the units' Approval Committee as per the criteria in Appendix 14-I-B and sector specific conditions relating to the approval given in Appendix 14-I-C. In other cases approval may be granted by Development Commissioner after clearance by BOA.

If any EOU requires Industrial Licence, may be granted approval by Development Commissioner after clearance from BOA and Department of Industrial Policy and Promotion within 45 days.

At the time of approval of EOU units shall get LOP/LOI (Letter of Permission/Letter of Intent) as per the format given in Appendix 14-I-E that would be construed as licence for all purpose, shall specify the item(s) of manufacture/service activity, annual capacity, projected annual export for the first five years in dollar terms, NFE, limitations if any regarding sale of finished goods, by-products and rejects in DTA and such other matter as may be necessary and also impose such conditions as may be required.

The LOP/LOI shall have initial validity of 3 years, which may be further extended for 3 years. Extension beyond 6 years shall be considered in exceptional circumstances on case to case basis by BOA. Once the unit commences production, LOP/LOI shall be valid for a period of five years, which may further be extended by Development Commissioner for a period of 5 years at a time.

Legal Undertaking :

After approval of LOP/LOI, the unit shall execute a legal undertaking with the Development Commissioner as per the format given in Appendix 14-I-F.

Before approval of LOP/LOI, the officer from the DC Office will visit the premises of the proposed EOU and ensure the genuineness of the unit and its lease deed.

After approval of LOP, the DC office will send a verification letter to the Deputy/ Assistant Commissioner of Central Excise/Customs to verify the genuineness of the unit alongwith the lay out plan of the unit e.g. separate earmarked should have only one input/output entry etc. The LUT executed by the unit shall be accepted only after receipt of the verification report from Deputy/ Assistant Commissioner having jurisdiction over the premises of the proposed EOU Unit.

This is just to make both the departments responsible for genuineness of the unit. Unit is amendable to bonding by Custom Authorities.

All EOUs should have permanent e-mail ID in the absence of which further import/export/DTA sale shall not be permitted by Development Commissioner.

Issuance of Green Card to 100% EOU

After execution of LUT concerned Development Commissioner issue Green Card to 100% EOU valid for a period of Five Years. Green Card contains the particulars of the unit, its name, address, Location and details of product manufactured.

Net Foreign Exchange Earnings (NFE) :

NFE shall be calculated on cumulatively for a block of five year from the commencement of commercial production as per below formula's:

Positive NFE = $A - B > 0$

How to Calculate NFE :

A = FOB value of exports by EOU/EHTP/STP/BTP (Free on Board)

B = Total of CIF value of all imported inputs/Capital Goods/Payments made in Foreign Currency by way of commission, royalty, fees, dividends, interest on internal borrowings/high sea sale or any other charges.

* If any goods are obtained from another EOU/EHTP/STP/BTP or from International Exhibition or bonded warehouse or precious metal procured from nominated agencies, the value of such goods shall also be included in B.

* The value of leased goods/free goods/loan goods, the CIF value of capital goods shall be included on pro rata under 'B' for the period it remains in the unit.

* The value of capital goods and lumpsum payment of Technical Know-how shall be taken @10% for a period of 10 years.

Penal Action :

Failure to ensure positive NFE or to abide by any of the terms & conditions of LOP/LOI/LUT or to abide by any of the terms & conditions of LOP/LOI/LUT shall render the unit liable to penal action under the provision of Foreign Trade (Development & Regulations) Act 1992 and the Rules and Orders made there under without prejudice to action under any other law/rule and cancellation or revocation of LOP/LOI/LUT.

Distinct Entity :

If any industrial enterprise is operating both as a domestic unit as well as EOU/EHTP/STP/BTP/SEZ, it shall have two distinct entity. Need not to be a separate legal entity but it should have separate books of accounts including separate bank account so that one can easily distinguish import/export or supplies effected by EOU/EHTP/STP/BTP/SEZ and other unit.

Warehousing

After acceptance of LUT by the development commissioner each individual unit should make an application to the Jurisdictional Deputy/ Assistant Commissioner of Customs/Central Excise for issuance of Private Bonded Warehouse under section 58& 64 of The Customs Act 1962. The application should accompanied by the following documents:

- a. Copy of LOP.
- b. Copy of LUT.
- c. Copy of Sale Deed/Lease.
- d. Industrial Licence/IEM.
- e. If leased premises NOC from the owner.
- f. Ground Plan.
- g. Manufacturing process flow chart.
- h. Undertaking regarding payment of cost recovery charges/MOT charges of the staff posted there.
- i. List of Imported and indigenous capital goods as approved by the Development Commissioner.
- j. List of Imported and indigenous raw material goods as approved by the Development Commissioner.
- k. Declaration regarding any penal action under Customs/Central Excise.

Execution of B-17-Bond (General Surety/Security)

B-17 Bond is all purpose Bond. The value of the Bond amount shall be worked out on the basis of projected requirement i.e. equivalent to 25% of duty leviable on the sanctioned requirement of capital goods plus the duty on raw materials to be held in stock for three months. The B-17 Bond should be backed either by 100% Surety or 5% Bank Guarantee. The units having Star Status under the provision of Foreign Trade Policy are not required to furnish any surety/bank guarantee, only self surety shall suffice.

Export and Import of Goods :

- a. An EOU/EHTP/STP/BTP may export all kinds of goods and services except items prohibited under ITC(HS)
- b. An EOU/EHTP/STP/BTP unit may import and/or procure from DTA or bonded warehouses in DTA/international exhibitions held in India without payment of duty on all types of goods, including capital goods required for its activities provided they are not prohibited in the ITC(HS). Import of second Hand Capital Goods is also permitted without any age limit. The permission required for import under any other law shall be applicable.
- c. Procurement and supply of export promotion material like brochure/literature, pamphlets, hoardings, catalogues, poster etc. upto 1.5% of FOB value of previous years exports shall also be allowed.

The permitted goods are :

- i. Raw Material, component, consumables, intermediates, spares and packing materials
- ii. Capital Goods whether new or second hand including inter alia the following and their spares
 - a. DG Sets, Captive Power Plants, Transformers
 - b. Pollution control equipment.
 - c. Quality Assurance equipment
 - d. Material handling equipment
 - e. UPS, Special racks for storage, Storage System, Modular furniture, Computer furniture, anti-static carpet, teleconference equipment, servo control system, air conditioner, air conditioning system, panel for electrical and special data transmission cable.
 - f. Security system
 - g. Tools, jigs, fixtures, gauges, moulds, dyes, instruments and accessories
 - h. Raw material for making capital goods for use within unit.
 - i. Prototypes and technical samples
 - j. Drawings, blue prints, charts etc.
 - k. Office equipment including PABX, Fax machines, projection system, computer, laptop, server
 - l. Any other item with the approval of BOA

The import of Capital Goods shall be allowed on self declaration basis

Duty Free Import of Capital Goods shall be subject to the following conditions :

- a. The goods shall be imported into EOU premises :

- i. An EOU unit may install one fan machine outside the premises subject to intimation to the jurisdictional excise/customs authorities
 - ii. An EOU unit may install maximum two computers in their registered /administrative office subject to the guidelines issued by excise/customs authorities
- b. The procedure as prescribed under Customs/Excise rule for EOUs will be followed and appropriate bond executed with customs/excise authorities. At present there is Customs Notification No. 52/2003 and Excise Notification No. 22/2003 for EOU.
- c. Goods other than capital goods must be utilized within three years from the date of import. However, in case of imported tea it should be consumed within six months.

Export of Goods and Services through Others :

An EOU may export goods manufactured/software developed by it through other exporter or any other EOU. Provided -

- a. The level of NFE or any other conditions relating to import and export as prescribed shall continue to be discharged by the EOU unit concerned.
- b. Goods should be directly delivered to the port of shipment

Entitlement For Supplies from DTA :

Supplies from DTA to EOU shall be regarded as deemed Exports. DTA supplier shall be eligible for all benefit available for deemed exports in Chapter 8 of Foreign Trade Policy. If DTA suppliers do not wish to avail the entitlement/benefit, the concerned EOU may avail those benefit on furnishing a suitable disclaimer from DTA supplier.

EOU unit shall be entitled to get deemed export DBK @ Brand Rate from concerned Development Commissioner. All industry Rate of DBK shall not be available.

Other Entitlements :

- i. Reimbursement from Central Sales Tax paid on inputs
- ii. Reimbursement of Duty Paid on fuels procured from domestic oil companies as per the rate of Draw back notified by DGFT from time to time
- iii. Exemption from payment of Income Tax as per the provision of Section 10B of Income Tax Act. (the benefit under this section shall be available upto the financial year 2008-09)
- iv. Exemption from Industrial Licencing for manufacturing of items reserved for SSI Sector

- v. Exports proceeds may be realized within 12 months
- vi. May retain 100% of exports earning in EEFC account
- vii. 100% FDI permitted through automatic route similar to SEZ
- viii. The units which are in existence for last three years having export turnover of Rs.5 Crore and more and having unblemished track record shall not be required to furnish bank guarantee at the time of import or going for job work.
- ix. The FOB value of export of an EOU can be clubbed with FOB value of exports of its parent company in the DTA or vice versa for the purpose of according star export house status

DTA Sale of Finished Products/Rejects/Waste/Scrap/Remnants and By Products :

DTA Sale of Finished Goods :

- a. EOU unit including software unit may sell upto 50% of FOB value of exports subject to fulfillment of positive NFE on payment of concessional duties in DTA.

Concessional Duties :

DTA sale at concessional duties shall not be permitted in respect of motor cars, alcoholic liquors, buks and tea (except instant tea) or by a packaging/labeling/segregation /refrigeration unit / compacting /micronisation / pulverization/ granulation / conversion of monohydrate form of chemical to anhydrous form or vice-versa and such other item as may be notified from time to time.

- b. Gems & Jewellery units may sell upto 10% of FOB value of exports subject to fulfillment of positive NFE in DTA.

DTA Sale of Rejects :

Rejects upto 50% of FOB may be sold in DTA at concessional rate of duty on prior intimation to customs authorities if not specifically prohibited in LOP. DTA sale of rejects upto 5% of FOB value exports shall not be subject to fulfillment of positive NFE.

DTA Sale of Waste/Scrap/Remnants :

DTA sale of Waste/Remnants accrued during production process may be sold in DTA as per the SION (Standard Input Output Norms) on payment of concessional duties within overall limit of 50% of FOB value of exports. Such sale shall not be subject to achievement of positive NFE. In respect of items not covered under SION,

concerned department may fix ad-hoc norms. The scrap/remnants may also be exported.

There shall not be duties/taxes on scrap/waste/remnants in case the same are destroyed with the permission of custom authorities.

For units manufacturing electronics hardware and software, the NFE and DTA sale entitlement shall be reckoned separately for hardware and software.

In case of new EOU advance DTA sale will be allowed not exceeding 50% of estimated exports for the first year but for pharmaceutical units estimated exports for the first two years shall be considered.

Sale of unutilized material :

1. Unutilized raw material whether imported or procured from DTA may be
 - a. Transferred to other EOU
 - b. Disposed off in DTA on payment of duty subject to approval of Customs authorities
2. Obsolete /Surplus Capital Goods may either be exported , transferred to another EOU or disposed off in DTA on payment of applicable duties. The benefit of depreciation shall be available .

No duty shall be payable in case of destruction of RM/Capital goods.

DTA Supplies which shall be counted towards fulfillment of positive NFE :

1. Supplies to Advance Licence holder/DFRC/Remission Certificate/EPCG Licence
2. Supplies against payment from EEFC A/c or against foreign currency received from overseas
3. Supplies to other EOU/EHTP/STP/BTP/SEZ
4. Supplies to bonded warehouse set up under Foreign Trade Policy / u/s 65 of Customs Act/Free Trade and Warehouse Zone provided payment received in Foreign currency
5. Supply of services(by service units) relating to exports paid for in free foreign exchange or for such services rendered in Indian Rupees which are otherwise considered as having been paid in free foreign exchange by RBI.

Sub-Contracting :

1. From EOU to Other units

- a. EOU units including gems and jewellery units may sub contract production process in DTA
 - b. Sub-contracting to other EOU/EHTP/STP/SEZ/BTP would be allowed without any limit
 - c. Scrap/Waste/remnants accrued during job work may be cleared on payment of duty from job worker premises
 - d. Permission of job work done from DTA cannot be denied on the basis that job worker is not registered with Central Excise.
 - e. Export through job worker premises is allowed provided such premises is registered with Central Excise
 - f. EOU may remove moulds, jigs, tools, fixtures, tackles, instruments, hangers, patterns, drawings to the job worker's premises subject to the condition that it should be returned back within stipulated period.
2. EOU may undertake job work on behalf of DTA exporter subject to the condition that these goods should be directly exported from EOU and export doc should be jointly filed in the name of EOU/DTA. For such exports, DTA shall be allowed from DBK by way of brand rate fixation.

Conversion of DTA Units into EOU:

Existing DTA unit may also apply for conversion into EOU/EHTP/STP/STP/BTP unit. No concession in duties and taxes would be available for plant & machinery and equipment already installed i.e. you shall not be entitled to get any benefit for the capital goods installed in the factory on payment of full duties and taxes.

The converted unit would be entitled to get benefit of Income Tax exemption u/s 10B for limited period to the tune of 10 years from the original commencement of manufacture or as prescribed u/s 10B whichever is earlier. If there is any outstanding export obligation under EPCG scheme, it will be subsumed in the export performance of the unit.

If there is any outstanding export obligation under Advance Licence, it will apply to the Advance Licencing Committee for reducing its export obligation in proportion to the material actually utilized for production and permitted to carry forward the material.

An EOU may be merged with EHTP/STP/STP and vice versa.

If the DTA unit has availed any CENVAT Credit on the capital goods procured before conversion into EOU and also utilized part of it for the clearance of its product into DTA, the same is not required to be demanded on its conversion into EOU. However, the balance CENVAT Credit would lapse on conversion and cannot be utilized after such conversion.

An EOU unit may be shifted to SEZ with the approval of Development Commissioner provided the EOU unit has achieved pro-rata obligation under the EOU scheme.

Revival of Sick Unit :

Allowed as per the guidelines of Appendix 14-I-M

- i. BOA may consider the extension for the fulfillment of NFE for 5 years
- ii. Raw Material/Capital Goods shall be carried forward at their original value
- iii. Revision of LUT
- iv. Takeover of assets and liabilities shall be considered by BOA.
- v. Transfer of Raw Material /Capital Goods to another EOU/SEZ unit.

Exit from EOU Scheme :

- a. EOU unit may opt for exit from the scheme subject to approval of Development Commissioner and payment of excise and customs duties
- b. Failure to achieve obligation shall attract penalties at the time of exit
- c. EOU may also opt for exit from the scheme on payment of duties on capital goods under the prevailing EPCH Scheme as a one time option
- d. The EOU shall intimate the DC and customs and central excise authorities about exit from the scheme in writing. After payment of duties assessed by the customs and central excise authority. The unit should obtain a 'No Dues Certificate' on the basis of which the unit shall apply to DC for final de-bonding.
- e. In case where unit is initially established as DTA unit with machine imported on payment of duties and subsequently converted in EOU, in such cases removal of capital goods shall be allowed duty free at the of de-bonding.

Similarly, capital goods procured under EPCG Scheme and after completely fulfilling the export obligation under the EPCG scheme gets converted into EOU, the unit would not be charged custom duty at the time of removal.

Depreciation Norms :

Depreciation upto 100% is permissible on SLM basis. Rate of depreciation for computer and computer peripherals shall be :

- a. 10% for every quarter in the first year
- b. 8% for every quarter in the second year

- c. 5% for every quarter in the third year
- d. 1% for every quarter in the fourth and fifth year

For Other Capital Goods :

- a. 4% for every quarter in the first year
- b. 3% for every quarter in the second and third year
- c. 2.5% for every quarter in fourth and fifth year
- d. 2% for every quarter thereafter.

The Special Economic Zone Act & Rules

The Special Economic Zone Act 2005

The Special Economic Zones Act, 2005

1. The SEZ Act 2005 (28 of 2005) received the assent of the President of India on the 23rd June 2005
2. Ministry of Commerce & Industry has issued a notification on 10.02.2006 and accordingly SEZ Act has come into force w.e.f. 10.02.2006
3. SEZ Rules have been notified by a notification issued by Ministry of Commerce & Industry on 10th February 2006

The SEZ Act has 8 Chapters and 3 Schedules :

- Chapter 1 : Definition
- Chapter 2 : Establishment of SEZ
- Chapter 3 : Constitution of Board of Approvals
- Chapter 4 : Development Commissioner
- Chapter 5 : Single Window Clearance
- Chapter 6 : Special Fiscal Provisions for SEZs
- Chapter 7 : Special Economic Zone Authority
- Chapter 8 : Miscellaneous

The First Schedule : List 21 Acts, Tax duties or Cess under these enactments are not applicable to SEZs

The Second Schedule : Incorporates modification to the Income Tax Act, 1961 as applicable to SEZs

The Third Schedule : Incorporates amendments to Insurance Act 1938, Banking Regulations Act, 1949 and Indian Stamp Act, 1899

Establishment of SEZs :

1. A SEZ can be established either jointly or severally by the Central Government, State Government or any person for manufacture of goods or rendering services or for both or as a FTWZ (Foreign Trade Warehousing Zone)
2. Any person who intends to set up can make a proposal to the state government concerned which in turn sends the proposal to Board of Approvals.
3. First time the option has been given to the developers to make a proposal directly to BOA also.
4. Central Government has been empowered to prescribe minimum area of land for a class or classes of SEZs.
5. Central Government is empowered to approve more than 1 developer in a SEZ

Objectives of SEZ :

The Central Government while notifying any area as SEZ shall be guided by the following :

1. generation of additional economic activity
2. promotion of exports of goods and services
3. promotion of investment from domestic and foreign sources
4. creation of employment opportunities
5. development of infrastructure facilities and
6. maintenance of sovereignty and integrity of India, the security of the State and friendly relations with foreign states

Single Window Clearance :

1. The Central Government has to constitute a committee for every SEZ to be called the Approval Committee
2. Approval Committee has been given the power to approve all the activities of Developers as well as SEZ units and is also required to monitor the export performance.

3. Single enforcement officer or Agency for notified offences
4. Investigation, inspection search or seizure after prior intimation to the Development Commissioner
5. State Government to designate one or more courts, with the concurrence of the Chief Justice of the High Court to try all suits of a civil nature arising in the SEZ and to try notified offences committed in the SEZ.
6. Appeal against Approval Committee decision to BOA provided
7. setting up of an Offshore Banking Unit (OBU) to be approved by RBI
8. Central Government may approve setting up of an International Financial Service Centre in a SEZ as per the guidelines as may be framed by the RBI, SEBI and IRDA

Special Fiscal Provisions For SEZs :

1. duty free goods for development of SEZ s as well as for setting up SEZ units
2. exemption from any duty of customs for the goods required by SEZ unit
3. supply from DTA to SEZ treated as physical export. Hence supplies from DTA to SEZ is entitled for all exports benefits like DEPB, duty drawback, Advance Licence etc.
4. exemption from Service Tax to SEZ unit and SEZ Developer
5. exemption from Central Sales Tax (CST) for SEZ units as well as for SEZ Developer.

Exemptions under Income Tax act:

1. Exemption from securities transaction tax as per section 26(1)(f) of the SEZ Act
2. Exemption from Income Tax to SEZ unit for 15 years (5+5+5) u/s 10AA of Income tax Act.
3. Existing SEZ units to get income tax exemption if 10 years IT benefit already availed.
4. Sale in the DTA on payment of full applicable duty

5. IT exemption extended to export of service which would include trading as well
6. SEZ developers given IT exemption for 10 consecutive assessment year out of first 15 years of its operations under section 80-I-AB of Income Tax Act.
7. OBU entitled for IT exemption for 10 years (5+5)
8. Unit of an International Financial Service Centre entitled for IT exemption for a period of 10 years (5+5)
9. for the purpose of IT exemption manufacture shall have the same meaning as assigned in the SEZ Act
10. exemption from capital gains in case of transfer of undertaking from an urban area to SEZ
11. exemption from MAT to SEZ developers and SEZ units
12. SEZ developers exempted from Dividend Distribution Tax
13. exemption of Interest Income of NRI in respect of deposits in OBUs.

Exemption From Taxes, Duties or Cess :

1. Any Goods or services exported out of or imported into or procured from the DTA by
 - a. a unit in SEZ or
 - b. a developershall be exempted from payment of taxes duties or cess under all enactments specified in the first schedule
2. First schedule includes 21 enactments
3. this list includes The Agriculture Produce Cess Act, The Coffee Act, The Rubber Act, The Tea Act, The Mica Act, The Textile Committee Act, The MPEDA Act, The Agriculture & Processed Food Export Cess Act, The spices Act etc.

Miscellaneous :

1. The Central Government may by notification direct any of the provisions of any other central act or any rules or regulations made thereunder or any notification or orders issued or directions given thereunder shall not apply to a SEZ or a class of SEZ of all SEZ.
2. State governments may notify policies for developers and units and take suitable steps for enactment of any law

- a. granting exemption from the state taxes, levies and duties to the developers or the entrepreneurs
 - b. delegating the power conferred upon any person or authority under any state act, to the Development Commissioner
3. the provisions of this Act shall have affect not withstanding anything in consistent therewith contained in any other law for the time being in force.
 4. a SEZ shall be deemed to be a Port, Airport, ICD, Land Stations and Land Customs Station, as the case may be, under Section 7 of the Customs Act
 5. Central Government empowered to carry out amendment in Insurance Act, 1938, Banking Regulation Act, 1949 and Indian Stamp Act, 1899.

Special Economic Zone, Rules 2006 :

Procedure for establishment of special economic zone

Rule 3.- Every proposal should be made in Form -A.

Rule-4. The state Government shall forward the proposal to the BOA along with its recommendation within 45 days.

Where the BOA approves the proposal received directly under Sec 3(3) the person shall be required to get the concurrence of the State Government within 6 months.

➤ Minimum Area Requirement

Rule 5(2) lays down the minimum area requirement for development of SEZ. The minimum area requirement stipulated for various categories of SEZ are :

Type Sates/UTs	Area	Area	for	Special
Multi-product hectares	1000 hectares			200
Multi-services	100 hectares		100 hectares	

Sector specific hectares	100 hectares	50
IT, gems and jewellery bio-tech, Non-conventional energy	10 hectares (and min. Built up area of 1 lakh Sq. mtr. for IT)	10 Hectares
FTWZ up	40 hectares (min. Built up area of 1 Lakh sq. mtr.)	40 hectares (min. built up area of 1 lakh sq. mtr.)

1. The special states are Assam, Meghalaya, Nagaland, Arunachal Pradesh, Mizoram, Manipur, Tripura, Himachal Pradesh, Uttranchal, Sikkim, Jammu & Kashmir and Goa or Union Territory
2. Development Commissioner of the SEZ shall be authority for demarcating the processing, non-processing area etc. in the SEZ. **At least 25% of the area shall be earmarked for developing processing area.**
3. the requirement of boundary wall or wire mesh fencing etc. is to be ensured by the Development Commissioner now.
4. the land or built up space in the processing area or FTWZ can be given on lease only to the entrepreneur holding a valid Letter of Approval.
5. The developer or Co-Developer shall have at least twenty six percent of the equity in the entity proposing to create business, residential or recreational facilities in a Special Economic Zone.

Where the Developer has Leasehold right over the identified area, the lease shall be for a period not less than Twenty year.

- Rule-11 SEZ shall be deemed to be a port, airport, inland container depot, land customs station etc. In case these facilities are to be used for cargo meant for DTA unit as well, storage for such cargo shall be in a separate enclosure.
- State Government shall endeavour to provide exemption from state and local taxes, levies and duties, including stamp duty and taxes levied by local bodies on goods required for authorized operations by a unit or developer on goods sold by a unit in the DTA.
- in addition states are required to provide exemption from electricity duty, providing water, electricity and such other

services as being required, delegation of powers to the Development Commissioner under the Industrial Disputes Act, declaration of SEZ as a public utility service under the Industrial Disputes Act, 1947 etc.

- states are required to provide single point clearance system to the developers and units under the State Act and Rules.
- The procedure for import and procurement of goods by the Developer is given in Rule 12 is required to execute bond-cum legal undertaking jointly with the Development Commissioner and specified officer
- unit can also set up for providing service or manufacturing service to overseas entities as per the procedure given in this rule. This is a new facility incorporated in the SEZ rules.
- the unit is required to execute a bond cum legal undertaking which shall be jointly accepted by the Development Commissioner and by the specified officer. No bank guarantee is required to be given.
- consolidated application will include seeking permission for setting up of unit, allotment of IEC number, allotment of land in the SEZ, water connection, RCMC, SSI registration, Registration with Central Pollution Control Board, power connection, building approval plan, sale tax registration, approval from Inspectorate of Factories, any other approval as may be required from State Govt. etc.

- There shall be no debit and credit. The bond cum Legal undertaking amount shall be monitored quarterly for the Developer and yearly for the SEZ units based on QPR or APR respectively.
- Duly completed Bond cum Legal Undertaking shall be deemed to have been accepted if no communications is received within seven working days from the date of its submission.
- every unit and the developer shall maintain records as given in this paragraph for a period of 7 years from the end of relevant financial year. SEZ unit, engaged both in manufacturing and trading activities, shall maintain separate records for trading and manufacturing activities \.
- the unit is required to submit APR. Hence the requirement of submitting QPR has been done away with. This is again a major simplification.

- SEZ developer is required to submit QPR
- An application for DEPB by a SEZ unit or SEZ Developer to be made to the Development Commissioner. However, in case domestic supplier wants to claim then it has the option of claiming from Regional Licensing Authority of DGFT or the Development Commissioner.

- no import or export of rough diamonds shall be permitted unless the shipment parcel is accompanied by KIMBERLEY PROCESS CERTIFICATE ISSUED BY THE DEVELOPMENT COMMISSIONER

- Assessment of import or domestic procurement by a Developer or a unit shall be on the basis of self –declaration and shall not be subjected to routine examination.

- the goods imported by the unit or the Developer shall be allowed to be transferred from the port or airport to the SEZ without examination by the Customs Authorities at the port or airport

- under this sub-rule, a provision has been made that if SEZ importer is not able to get the courier parcel duty free, the duty paid by the said importer shall be refunded by the specified officer.

- for the import of computer software or services through data communication or telecommunication links, the unit shall file consolidated Bill of Entry for a month within three working days of the closer of the month.

- drawback or DEPB credit against supply of goods by DTA supplier shall be admissible provided payment for the supply are made from the foreign currency account of the unit.

- inter-unit transfer of the goods within the same SEZ has been simplified considerably and the movement of the goods shall be allowed and such transaction shall be recorded in the regular books of accounts of the receiving unit or the Developer and the supplying unit and no Bill of Entry shall be required to be filed.

- exemption from payment of service tax on taxable services rendered to a Developer or a unit by any service provider for the authorized operation in a SEZ. This is a major change because as per the existing provision, service tax exemption is provided only for the services consumed within the SEZ.

- Destruction of goods within the SEZ has been allowed after advance intimation to the specified officer. Hence physical presence of the specified officer is not required. However, if destruction is to be carried out outside the SEZ then it can be carried out with the permission of the specified officer in the presence of the authorized officer as per Rule 39(2)
- rough diamonds have been allowed to be taken out for sub-contracting
- Gems & Jewellery units have been allowed exchange of gold or silver or platinum jewelery after adjusting permissible wastage or manufacturing loss allowed under the provisions of Foreign Trade Policy.
- Moulds , jigs or tools etc. have been allowed to be taken to the premises of sub-contractor till the period of sub-contracting arrangements. A quarterly verification report is to be submitted from Central Excise Officer.
- while taking out the goods samples is to be drawn and retained only for sensitive items which are sent out for sub-contracting, based on the risk profile or past performance of the unit. In case of Gems & Jewellery units there is no requirement of drawal of samples.
- A unit engaged in production or processing of agriculture or horticulture products, can remove goods for contract farming on the basis of the annual permission from the specified officer
- Rule 46 gives the procedure for exports and the procedure has been simplified considerably. Sub-clause (c) provides that the goods shall not be subjected to routine examination and let export order shall be given on the basis of self certification by the unit.
- units are required to achieve positive NFE over a period of 5 years
- significant changes have been carried out in Rule 53 for discharge of NFE. These are as follows :
 - a. Rule 53 (k) provides that service rendered by the service unit in the DTA and _____ 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 RBI shall be counted for NFE.
 - b. Rule 53(n) provides that supplies of goods to DTA against payment in foreign _____ exchange from the EEFC account of the DTA buyer or free foreign exchange _____ received from overseas shall be counted for NFE. Rule 53(o) provides that _____ supply of

goods against free foreign exchange by a FTWZ unit shall be counted for NFE.

➤ Rule 75 is an omnibus clause and provides as follows :

1.. “Self Declaration – Unless otherwise specified in these rules all inward or outward movement of goods into or from the Zone by the unit or Developer shall be based on self declaration made and no routine examination of these goods shall be made unless specific orders of the Development Commissioner or the Specified Officer are obtained.

This is a very important provision for the operation of the entire SEZ scheme.

➤ Rule 76 provides the list of services which are permissible under SEZ. This list of the services includes specifically “Trading” also. As per Section 10AA of the SEZ as given in the second schedule of the Act, income tax exemption is available for export of goods manufactured or article produced or for providing any service. The list of the services permissible is given in Rule 76.

➤ Hence Rule 76 brings about a significant change for encouraging export of services from SEZ.

➤ Form F – is a consolidated application form.