



Export Oriented Units (EOUs) and Units in Export Processing Zones (EPZs), Electronic Hardware Technology Park Units (EHTP) and Software Technology Park Units (STP)

The Export Oriented Unit Scheme is laid down in the EXIM Policy issued by the Ministry of Commerce. The Government found it necessary to step up the growth of exports in order to bridge the increasing deficit in the balance of trade, running down of exchange reserves.

The basic objective underlying the scheme of 100% EOUs, as spelt out at its inception, and which is true even today, has been to generate additional production capacity for exports and thereby earn more foreign exchange for the country by providing appropriate policy framework, flexibility of operations and incentives.

Eligibility

Units undertaking to export their entire production of goods and services may be set up under the Export Oriented Unit (EOU) Scheme, Export Processing Zone (EPZ) Scheme, Electronic Hardware Technology Park (EHTP) Scheme or Software Technology Park (STP) Scheme. Such units may be engaged in manufacture, services, development of software agriculture including agro-processing, aquaculture, animal husbandry, bio-technology, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture and may export all products except goods mentioned as prohibited items of exports in ITC (HS) Classifications of Export and Import items.

Commensurate with the policy to give a special thrust to export of computer software, such units would be encouraged to be set up under any of the aforementioned export oriented schemes. Software units may undertake exports using data communication links or in the form of physical exports (which may be through courier service also), including export of professional services.

Application

- (a) For setting up of a unit in an EPZ or as an EOU, ten copies of the application in the prescribed form may be submitted to the Development Commission (DC) of the EPZ concerned.
- (b) Application for setting up EHTP/STP units shall be in the format prescribed by the Department of Electronics and shall be submitted to the officer designated by the Department of Electronics for this purpose.
- (c) For setting up a Private Bonded Warehouse (PBWH) in an EPZ, three copies of the application in the prescribed form may be submitted to the DC of the EPZ concerned.

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Letter of Permission/Letter of Intent

Letter of Permission (LOP)/Letter of Intent (LOI) issued to EOU/EPZ/EHTP/STP units by the concerned authority would be construed as a licence for all purposes, including for procurement of raw materials and consumables either directly or through designated canalising agency.

The LOP/LOI shall specify the items of manufacture/service activity, annual capacity, projected annual export performance (EP) for the first five years in dollar terms, Net Foreign Exchange earnings as a percentage for exports (NFEP), limitations, if any, regarding sale of finished goods, by-products and rejects in the DTA and such other matter as may be necessary and also impose such conditions as may be required.

Distinct Identity

If an industrial enterprise is operating both as a domestic unit as well as in EOU/EPZ/EHTP/STP unit, it shall have two distinct identities with separate accounts. It is, however, not necessary for it to be separate legal entity, but it should be possible to distinguish the imports and exports or supplies effected by the EOU/EPZ/EHTP/STP units from those made by the other units of the enterprise.

Importability of Goods

An EOU/EPZ/EHTP/STP unit may import free of duty all types of goods, including capital goods as defined in the Policy, required by it for manufacture, services, production, processing, or in connection therewith, provided they are not mentioned as prohibited items of imports in ITC(HS) Classifications of Export and Import items. However, import of Basmati paddy/brown rice shall be prohibited. The units shall also be permitted to import goods, including capital goods, free of cost or on loan from clients acquired for the approved activity.

EOU/EPZ/EHTP units may procure goods required by them for manufacture, services, production, processing or in connection therewith, duty free, from bonded warehouses in the DTA set up under the Exim Policy.

STP/EHTP/EPZ may import free of duty all types of goods for creating a central facility for use by software development units in STIP/EHTP/EPZ.

An EOU engaged in agriculture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry or sericulture may import free of duty only such goods as are permitted to be imported duty free under a Customs Notification issued in this behalf.

Items Permitted for Import

An EOU/EPZ/EHTP/STP unit may import, free of duty, the following goods or as may be additionally specified in the relevant customs notification, required by it for manufacture, production, processing, service or in connection therewith, provided they are not prohibited items in the ITC (HC) Classifications of Export and Import items.

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- (i) Capital goods as defined in the Policy including generating sets and pollution control and quality assurance equipments including their spares;
- (ii) Tools, jigs, fixtures, gauges, moulds, instruments and accessories;
- (iii) Raw materials, components, consumables, intermediates, spares and packing materials;
- (iv) Prototypes and technical samples for product diversification, development or evaluation;
- (v) Materials handling equipment like forklifts and overhead cranes;
- (vi) Drawings, blue prints, charts, microfilms and technical data;
- (vi) Office equipment, spares and consumables thereof.

Conditions of Import

The import shall be subject to the following conditions:

- (a) The goods shall be imported into the EOU/EPZ/EHTP/STP premises. However, agriculture and allied sectors units in EOU/EPZ may supply/transfer the capital goods and the inputs in the farms/fields with prior intimation to the jurisdictional Assistant Commissioner of Customs and Central Excise, provided the ownership of the goods rests with EOU/EPZ units;
- (b) The normal procedure as prescribed under Customs/Excise rules for EOUs units and units in EPZs,/EHTP/STP will be followed and appropriate bond executed with Customs/Excise authority.
- (c) Import of prohibited items in the ITC (HS Classifications of Export and Import items shall not be allowed;
- (d) The goods, except capital goods and spares, shall be utilised as per Policy within a period of two years or as may be extended by Customs Authority except gold/silver/platinum for which the provisions of Chapter 8 of the Policy shall apply; and
- (e) Goods already imported/shipped/arrived before the issue of LOP/LOI are also eligible for duty free clearance under the EOU/EPZ/EHTP/STP scheme provided customs duty has not been paid and the goods have not been cleared from Customs.

Maintenance of Account of Import and Utilisation

The importer shall maintain in the specified form a proper account of the import, consumption and utilisation of all imported materials and of the exports made by him and submit them periodically, as may be required, to the DC of the EOU/EPZ/EHTP/STP concerned. The importer shall ensure minimum NFEP and EP as stipulated in Appendix I

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of the Policy. He shall also abide by all the terms and conditions incorporated in the LOP/LOI/Industrial Licence (IL) issued to him. Failure to ensure minimum NFEP/EP as stipulated in Appendix I of the Policy or to abide by any of the terms and conditions of the LOP/LOI/IL shall render him liable to penal action under the provisions of the Foreign Trade (Development and Regulation) Act, 1992 and the Rules and Orders made thereunder without prejudice to any other action such as cancellation or revocation of LOP/LOI/IL.

Second Hand Capital Goods

(i) EOU/EPZ/EHTP/STP units may import second hand capital goods.

(ii) The licence referred to in the Policy for import of second hand goods shall, in the case of EOU/EPZ/EHTP/STU units, shall deemed to be the approval given by the concerned Development Commissioner.

Leasing of Capital Goods

An EOU/EPZ/EHTP/STP unit may, on the basis of a firm contract between the parties, source the capital goods from a domestic/foreign leasing company. In such as case, the EOU/EPZ/EHTP/STP unit and the domestic/foreign leasing company shall jointly file the import documents to enable import of the capital goods free of duty.

Re-Import

The units may be allowed by the Assistant Commissioner of Customs/Excise concerned, to re-import, after repairs aboard, machinery/equipment exported by them for this specific purpose. Any foreign exchange payment for this purpose will also be allowed.

Capital goods produced from indigenous sources on the basis of lease agreement between the leasing company and the EOU/EPZ/EHTP/STP unit, will be eligible for Central Excise exemption.

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 NFEP as defined in the Policy.

Fax Machines/Laptop Computers

EOU/EPZ/EHTP/STP may install one fax machine at a place of its choice, outside the approved premises, subject to intimation of its location to the concerned Assistant Commissioner Customs/Central Excise.

EOU/EPZ/EHTP/STP units may, temporarily take out the bonded premises duty free laptop computers and video projection systems imported by them for working upon by authorised employees.

Reconditioning, Repair and Re-Engineering

EOU/EPZ/EHTP/STP units may be permitted to import goods of any origin to carry out reconditioning, repair, testing, calibration, quality improvement, up-gradation of technology and re-engineering activities for export in freely convertible foreign currency.

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Replacement/Repair of Imported/Indigenous Goods

Goods or parts thereof on being imported/indigenously procured and found defective or otherwise unfit for use or which have been damaged after import may be returned or destroyed and replacement thereof or the same goods after repairs, may be imported from the foreign suppliers.

Legal Undertaking

The unit shall execute a legal undertaking with the Development Commissioner concerned and in the event of failure to fulfil the performance, as stipulated in Appendix I, it would be liable to penalty in terms of the legal undertaking or under any other law for the time being in force.

DTA SALES

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

Unless specifically prohibited in the LOP/LOI, rejects may be sold in the domestic tariff area (DTA), on the basis of records maintained by the unit and on prior intimation to the customs authority. Such sale above 5% of the FOB value of exports shall be counted against DTA sale entitlement under the Policy. Sale of rejects shall be subject to payment of applicable duties.

DTA sale up to 50% of the FOB value of exports may be made subject to payment of applicable duties and fulfillment of minimum NFEP prescribed in Appendix I of the Policy. In the case of EOU/EPZ units in toys, agriculture, including agro-processing, aquaculture, animal husbandry, biotechnology, floriculture, horticulture, poultry, viticulture and sericulture such sale may be subject to positive NFEP only. No DTA sale shall be permissible in respect of motor cars, alcoholic liquors and such other items as may be stipulated by Director General of Foreign Trade by a public Notice issued in this behalf.

Electronic units in EOU/EPZ/EHTP shall have an alternative facility to sell one-half of the value of their production on an annual basis, in the domestic market and export the other half of production, in value terms, without any minimum foreign exchange earning stipulation, on payment of applicable duties as specifically notified for this facility. Units desirous of availing this facility shall exercise a one time option in this regard.

For software units, sale in the DTA in any mode, including on-line data communication, shall be permissible up to 50% of FOB value of exports.

Items included as by-products in the LOP/LOI may be sold in the DTA on payment of applicable duty.

Other Suppliers in DTA

The following supplies in DTA shall be counted towards fulfillment of export performance:

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- a. Supplies effected in DTA in terms of paragraph 10.2 of the Policy.
- b. Supplies effected in DTA against payment in foreign exchange.
- c. Supplies to other EOU/EPZ/EHTP/STP units provided that such goods are permissible for procurement in terms of paragraph 9.2 of the Policy.
- d. Supplies made to Bonded warehouses set up under 11.14 of the Policy.
- e. Supply of goods against special entitlement of duty free import of goods.

Rejects

EOU/EPZ/EHTP/STP units may sell in the DTA rejects up to 5% of f.o.b. value of exports, on the basis of records maintained by it, as per para 9.9 of the Policy. Such sales shall be subject to the following conditions:

- i. The term 'rejects' shall cover the products which have definite manufacturing defects and are not exportable as per declaration of the unit concerned and shall include sub-standard products but not spares, tools, waste/scrap/remnants and by-products.
- ii. The following parameters shall be kept in view for determining 'rejects'.
 - a. the unit must certify that the rejects were an unavoidable feature on account of flaws of technology, technique or material deployed in manufacture;
 - b. 'Rejects' must be invoiced as stamped by the manufacturer as 'Rejects' at the time of clearance into the Domestic Tariff Area.

Entitlements for Supplies from the DTA

- a. Supplies from the DTA to EOU/EPZ/EHTP/STP units will be regarded as "deemed exports" and, besides being eligible for the relevant entitlements under paragraph 10.3 of this Policy, will be eligible for the following:
 - i. Reimbursement of Central Sales Tax.
 - ii. Exemption from payment of Central Excise Duty on capital goods, components and raw materials; and
 - iii. Discharge of EP, if any, on the supplier;
- b. EOU/EPZ/EHTP/STP units shall, on production of a suitable disclaimer from the DTA suppliers, be eligible for obtaining the entitlement specified in paragraph 10.3(b), (c) and (d) of the Policy. For this purpose, they shall get Brand Rates

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fixed by the DGFT. Such supplies would, however, be eligible for entitlements specified in paragraph (a) above.

Other Entitlements

- a. Units set up in EPZs will be charged rent for lease of industrial plots and standard design factory buildings/sheds as per rates fixed from time to time.
- b. TAX Holiday: EOU/EPZ/EHTP/STP units will be eligible for exemption from payment of corporate income tax for a block of ten years.
- c. FOB value of export of an EOU/EPZ/EHTP/STP unit can be clubbed with FOB value of export or its parent company in the DTA for the purpose of according Export House, Trading House, Star Trading House or Super Star Trading House status for the latter.
- d. Foreign equity up to 100% is permissible in the case of EOU/EPZ/EHTP/STP units.
- e. Software units may, in addition, also 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 the bonded premises for the purpose.

DTA Sale Entitlement of Products approved in LOP/LOI

If a unit manufactures and exports several products DTA sale of any products approved for manufacture and export in the LOP/IL may be availed as per paragraph 9.9 of the Policy.

Bunching of DTA Sale Entitlement

Within the entitlement of DTA sale, as provided in para 9.9 of the Policy, the unit may sell in DTA any of the products manufactured and exported by them, as per LOP/IL. Entitlement will be determined in totality and not with reference to specific items.

Other Supplies in DTA

The unit will report the transactions in terms of sub-paragraph 9.10 of the Policy to the DC concerned on a quarterly basis. However, units effecting supplies to the DTA in terms of sub-paragraph 9.10(b) of the policy shall obtain permission from the concerned Development Commissioner. In all the cases the unit shall indicate to the Development Commissioner concerned the quantity and value of items (category-wise), supplied in DTA and the total quantity and value of each such item produced by the unit as on the date during the year.

The purchaser of the goods in the DTA shall be liable to pay the duties and taxes as may be leviable on the goods in question.

Such DTA sales shall not affect the application to any goods of any other prohibition or regulation affecting import thereof in force at the time when such goods are imported. This also does not confer any immunity, exemption or relaxation at any time from any

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commitment or compliance with any requirements to which the importer may be subject to under other laws or regulations.

Net Foreign Exchange Earning as a Percentage of Exports (NFEP)

Net Foreign Exchange Earning as a percentage of exports (NFEP) shall be calculated annually and cumulatively for a period of five years from the commencement of commercial production according to the following formula:

$$\text{NFEP} = \frac{\text{A} - \text{B}}{\text{-----}} \times 100$$

Where NFEP is Net Foreign Exchange Earning as a Percentage of Export.

A is the FOB value of exports by the EOU/EPZ/EHTP/STP unit; and

B is the sum total of the CIF value of all imported inputs, the CIF value of all imported capital goods, and the value of all payments made in foreign exchange by way of commission, royalty, fees, dividends, interest on external borrowings during the first five year period or any other charges. "Inputs" mean raw materials, intermediates, components, consumables, parts and packing materials.

Export through Trading Houses

Export through Export House/Trading House/Star Trading House/Super Star Trading House -

An EOU/EPZ/EHTP/STP unit may export goods manufactured by it through a merchant export/Export House/Trading House/Star Trading House/Super Star Trading House recognised under this Policy or any other EOU/EPZ/EHTP/STP unit. This permission extends only to the marketing of the goods by the merchant exporter/Export House/Trading House/Star Trading House/Super Star Trading House or other EOU/EPZ/EHTP/STP unit. The manufacture of goods shall be done in the EOU/EPZ/EHTP/STP unit concerned. The level of NFEP as well as any other conditions relating to the imports and exports as prescribed shall continue to be discharged by the EOU/EPZ/EHTP/STP unit concerned.

Export through Export House/Trading House/Star Trading House/Super Star Trading House/Merchant Exporter or Other Exporter

In terms of the Policy, EOU/EPZ/EHTP/STP units have been allowed to market their goods through an Export house (EH)/Trading House (TH)/Star Trading House (STH)/Super Star Trading House (SSTH)/Merchant Exporter or other EOU/EPZ/EHTP/STP Units and export the goods. Such exports shall fulfil following conditions:

(a) The export orders so procured shall be executed within the parameters of EOU/EPZ/EHTP/STP schemes and the goods shall be directly transferred from the Customs bonded unit to the port of shipment;

(b) Fulfillment of NFEP/EP by EOU/EPZ/EHTP/STP units in regard to such exports shall be reckoned on the basis of the price at which the goods are supplied by EOU/EPZ

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units to Export House/Trading House/Star Trading House/Super Star Trading House/other exporter;

(c) All export entitlements, including Special Import Licence and recognition as Export House/Trading House/Star Trading House/Super Star Trading House would accrue to the exporter in whose name foreign exchange earnings are realized.

Inter-Unit Transfer

(a) Transfer of manufactured goods from one EOU/EPZ/EHTP/STP unit to another EOU/EPZ/EHTP/STP unit will be allowed. However, it would be eligible to be considered as export by the recipient unit only when the transferred goods undergo further processing/manufacture.

(b) Goods imported by EOU/EPZ/EHTP/STP unit may be transferred or given on loan to another EOU/EPZ/EHTP/STP unit which shall be duly accounted for, but not counted towards discharge of export performance.

Sub-Contracting

The EOU/EPZ/EHTP/STP units may, on the basis of annual permission from the Assistant Commissioner of Customs, sub-contract part of their production process in DTA, which may also involve change of form or nature of the goods, through job work by units in the DTA.

These units may also sub-contract up to 50% of the production for job work in DTA with the permission of Assistant Commissioner of Customs, Sub-contracting of both production and production process may also be undertaken through other EOU/EPZ/EHTP/STP units on the basis of records maintained in the unit.

Conversion

Existing DTA units, may also apply for conversion into an EOU/EHTP/STP but no concession in duties and taxes would be available under the scheme for plant, machinery and equipment already installed. Existing DTA units having an export commitment under the EPCG scheme, may also apply for conversion into an EOU/EHTP/STP unit. On such a conversion, the export commitment under the EPCG scheme will be subsumed in its exports as an EOU/EHTP/STP unit.

The existing EHTP/STP units may also apply for conversion/merger to EOU unit and vice-versa. In such cases the units will continue to remain in bond and avail the permissible exemption in duties and taxes as applicable under the relevant scheme.

Bonding

The entire operations of an EOU/EPZ/EHTP/STP units shall be in a custom bonded premises, unless otherwise specifically exempted from physical bonding.

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Period of Bonding

The bonding period for units under the EOU/EHTP/STP Schemes shall be 5 years. This period may be extended to 10 years in case of products requiring significant capital investment and infrastructural support. On completion of the bonding period, it shall be open to the unit to continue under the scheme or opt out of the scheme. If no intimation in this regard is received from the unit within a period of six months of expiry of the bonding period, the Development Commissioner will take action, suo moto, to debond the unit. Where the units opts to continue, the Development Commissioner concerned will extend the bonding period and determine the NFEP and EP to be achieved during the extended period.

De-Bonding

Subject to the approval of the Development Commissioner, EOU/EPZ/EHTP/STP units may be de-bonded. Such de-bonding shall be subject to penalty, if any that may be imposed and payment of duties of Customs and Excise applicable at the time of de-bonding. De-bonding shall be subject to the industrial policy in force at the time of de-bonding.

An EOU/EPZ/EHTP/STP unit may also be permitted by the Development Commissioner, as a one time option, to de-bond on payment of duty on capital goods under the prevailing EPCG Schemes, subject to the unit satisfying the eligibility criteria and standard conditions.

Private Bonded Warehouses

Private bonded warehouses may be set up in EPZs for the purposes enumerated hereinafter. Setting up of private bonded warehouse for diamond, gem and jewellery items shall be governed by provisions of chapter 8 of the Policy.

Imports, stock and sale of goods: Imports may be permitted to meet requirements of EOU/EPZ units. Items importable in accordance with this Policy may also be imported and sold in the DTA subject to compliance with the Policy for such clearance in the DTA and on payment of applicable duties at the time of effecting such sales on the basis of records maintained in the unit.

Re-export with or with a re-packing/labelling/minor processing: Imports may be permitted for re-export in freely convertible foreign currency.

Procurement of goods from domestic tariff area for exports: Goods may be procured from domestic tariff area without payment of excise duty for exports. Such goods shall be physically exported or supplied against duty free licence.

Private bonded warehouses set up in EPZs may import, packing, labelling and such other material without payment of duty in connection with their operations.

Private Bonded Warehouse (PBWH)

A PBWH Warehouse shall be required to achieve a minimum turnover of US \$ 1 million or its equivalent in rupees over a period of 5 years.

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Disposal of Scrap/Waste/Remnants

Scrap/waste/remnants arising out of production process or in connection therewith may also be sold or disposed of in the DTA on payment of applicable duties. However, there shall be no duties/taxes on such scrap/waste/remnants in case the same are destroyed with the permission of the Custom authority.

Disposal of Scrap/Waste/Remnants

(a) Waste/scrap/remnants arising out of production process and in connection therewith, up to 5% FOB value of exports, may be sold in the DTA, on the basis of records maintained by the units.

(b) Percentage of waste/scrap/remnants above 5% shall be approved by DC in accordance with the norms provided.

(c) EPZ/EOU units may clear scrap/waste/remnants arising out of sub-contracting of production/production process from the job workers' premises, on payment of applicable duties, or bring it back to its own premises.

(d) Sale of waste/scrap/remnants shall be subject to payment of applicable duties.

Sale of Unutilised Materials

In case an EOU/EPZ/EHTP/STP unit is unable, for valid reasons, to utilise the goods, it may re-export or dispose them in the DTA on payment of applicable duties and submission of import licence, by the DTA unit, wherever applicable. Supply from one EOU/EPZ/EHTP/STP unit to another such unit would also be treated as import.

Registration-Cum-Membership Certificate

Registering authority for EOU/EPZ/EHTP/STP units/PBWH in EPZ shall be the DC of the EPZ concerned.

Importer-Exporter Code No.

Importer-Exporter Code Number for EOU/EPZ units/PBWH in EPZs shall be allowed by the DC of EPZ concerned.

Green Cards for EOUs

Green card will be issued by the DC concerned to EOU/EPZ units and PBWH units and PBWH in EPZ automatically.

Miscellaneous Conditions

(i) Proposals involving investment of more than Rs.200 crores are to be considered by the Special Board of Approvals in the Ministry of Commerce. Such applications will be forwarded by the DC to the Ministry of Commerce for processing.

(ii) Foreign investment shall be governed by the guidelines of the Department of Industrial Policy and Promotion on the subject.