PART THREE

GOVERNMENT OF INDIA’S POLICY ON THE IEPZs

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AN ASSESSMENT OF GOVERNMENT OF INDIA’S POLICY ON THE IEPZs
After examining the factors underlying the trends in the IEPZs exports at macro level and after a detailed empirical analysis of the export performance of the existing seven EPZs in the country individually at micro level, an attempt is made in this Chapter to present a macro view of Government of India's policy on the IEPZs, especially during the decade under study covering the pre and post liberalisation era.

The dynamics of development process of a country necessitate changes in its trade structure and policy. Trade policy of a country is generally designed and formulated so as to bring about the desired structural changes in its export and import trade. While imports provide the crucial inputs, exports earn foreign exchange resources by selling the value added items to pay for imports.

During the first decade of the development planning, India was "import - hungry" for massive capital goods and crucial inputs as demanded by the development programmes in an attempt to rehabilitate, revitalise, and develop the war - affected feudal economy from its colonial set-up, aimed at attaining self-reliance in a phased manner. Import - substitution which was the key-stone of the development strategy during the first decade of planning era, gradually yielded place to the export promotion. With a sense of fatalism, export sector was neglected during the first decade. Government of India accepted this view in the Third Five Year Plan Draft Outline admitting that "one of the main drawbacks in the past has been that the programme of exports has not been regarded as an integral part of the country's development effort under the Five Year Plans" and it recognised that "export - promotion was just as important as import-substitution in the process of development. Exports were, therefore, given a high priority in the Plan and export promotion was envisaged as a major plank of economic policy."

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2 and 3 : Third Five Year Plan, Government of India, Planning Commission, New Delhi, 1961, pp 137-141.
The radical shift assigned to export promotion in the Third Plan and the recommendations of the Import and Export Policy Committee, 1962 (popularly known as Mudaliar Committee), brought tremendous changes in the export policy. A number of export promotion measures were introduced to augment and accelerate exports. The Board of Trade was set up. Export Promotion Councils and Commodity Boards were established.

Enthused by the success of EPZs in Puerto Rico and Shannon, Government of India recognised the potential of EPZ and perceived it as one of the policy instruments for export promotion and to alleviate the rigors of BoP disequilibria and to earn valuable foreign exchange by augmenting exports.

Government of India desired to create liberal policy-enclaves through free-trade policy framework within the controlled customs territory of India with a view to provide internationally competitive duty-free foreign trade environment for export processing and export production at low costs so as to enable the products from these policy-enclaves to be competitive both quality-wise and price-wise and to provide employment in quarantine-lands known as EPZs, which emanate from Government of India's policy. The creation of these policy-enclaves was a felt need to augment the much needed foreign exchange earnings and to generate employment opportunities. The policy of establishing EPZs in India emphasised the removal of red-tapism, onerous duty structure, raising competitiveness of India in international market and stimulating investment in general and foreign investment in particular, into the Zones.

KAFTZ was created in 1965 when Government of India was shifting emphasis from import substitution to export promotion; SEEPZ was brought into existence in 1974 when there was a pronounced shift towards export promotion policies during 1970s and the four multi product EPZs at Noida, Falta, Madras and Cochin in the country were added in 1984 followed by the establishment of VEPZ in Visakhapatnam in 1989, when the liberalisation policies were conceived during 1980s and nurtured during 1990s. As if to keep parity with newly emerging scenario, Government of India also approved and permitted two private sector EPZs at Bombay and Surat in 1994. Thus, the establishment of EPZs in India is in tune with the metamorphosis in
India's trade policy regime especially after 1960s. Government of India's policy on the IEPZs is an integral part of its trade policy.

**POLICY-MEASURES INFLUENCING THE OPERATIONS OF THE IEPZs**

Government of India's policy on the IEPZs has a direct operating effect on the working of the IEPZs and units constituting the Zones. It spells out the policy of provision of physical and trade related industrial and supportive infrastructural facilities and policy enclave and fiscal and financial incentives (This part of the policy has already been presented in Chapters 3 and 4-A to 4-G). The other crucial policy and procedures directly influencing the permitted activities in the IEPZs starting from granting approvals until the exit option, foreign investment policy and an assessment of Government policy on the IEPZs are presented in the present Chapter. They are as follows:

I. Policy matters governing the permitted - activities/operations of units in the IEPZs, and

II. Delegation of powers to the Development Commissioners of the IEPZs.

**I. POLICY MATTERS GOVERNING THE PERMITTED ACTIVITIES / OPERATIONS OF UNITS IN THE IEPZs**

The matters relating to the policy of permitted activities/operations of EPZs in India such as (1)Selection criteria, (2) Export obligation, Value Addition, and DTA sales, (3) Sale of rejects/remnants/scrap/waste etc., in DTA, (4) Exports through Export Houses / Trading Houses/Star and Super star trading houses, (5) Benefits for supplies from the DTA, (6) Inter-unit transfer, (7) Sub-contracting (8) Sale of imported materials, (9) Supply of samples, (10) Private bonded warehouses (11) Re-conditioning, repair, and re-engineering, (12) Period of Bonding, (13) Debonding, (14) Customs duty exemption for the IEPZs, (15) Excise Duty exemption for the IEPZs, (16) Execution of single bond in lieu of three bonds, (17) Reimbursement of CST, (18) Marketing Development Assistance, (19) Tax incentives, (20) Single window clearance facility, (21) Private / joint sector EPZs, and (22) Scheme for export of gems and jewellery items, ----- are mentioned briefly hereunder:
(1) Selection criteria

It determines the nature of activities to be carried out in units constituting the IEPZs. The Boards of Approvals are guided by the advice of the DC of the EPZ concerned. The selection criteria favours proposals which show a high percentage of VA per unit of exports; bring in new (or) sophisticated technology involving manufacturing processes, and trading activities; provide evidence of marketing arrangement / equity participation by a foreign partner; and the proposals having a high scale of operations and substantial capital investment. The selection criteria has the following other important aspects:

- A minimum scale of NFEE for at least five years
- A minimum share of foreign equity participation or at least marketing tie-up; and
- A minimum employment content.

2. Export obligation, Value Addition, and DTA sales

The EPZ units shall have to function in a custom-bonded area at least for ten years. The entire production of an EPZ unit shall be exported. EPZ units shall achieve a minimum of 20 per cent VA but units engaged in the manufacture of items specified in Appendix II (see Annexure No 2.) shall have to achieve the VA norms indicated therein. Notwithstanding the above, projects shall be allowed to be set up without minimum VA in sectors such as electronics hardware. The following supplies shall have to be counted towards fulfillment of the export obligation:

--Supplies effected in DTA in terms of para 121 of the Exim Policy (see Annexure No 8)

--Supplies effected in DTA against payment in foreign exchange.

**DTA Sales**

After attaining the prescribed VA, the units in the IEPZs can sell in DTA subject to the following conditions:
a) Rejects up to 5 per cent or such percentage as may be fixed by BoA may be sold in DTA subject to payment of the appropriate duties, and

b) 25 per cent of the production in value terms may be sold in DTA. No DTA sale shall be permissible in respect of gem and jewellery items, motor cars, alcoholic liquors, silver, bullion and such other items as may be stipulated by DGFT in this behalf.

c) However, EPZ units engaged in agriculture, aquaculture, animal husbandry, pisciculture, horticulture, pisciculture, poultry and sericulture, and units producing basmati rice can sell up to 50 per cent in terms of the production value in DTA.

d) In case of electronic hardware products, no DTA sales will be permitted, if their VA is less than 15 per cent. Units which are within the VA range of 15 per cent and 25 per cent will be permitted to have DTA sales to the extent of 30 per cent of their production. The maximum permissible DTA sales is 40 per cent in all the units with a VA exceeding 25 per cent.

EPZ units can make DTA sales by paying 50 per cent customs duty or excise duty applicable whichever is higher. No DTA sale will be permissible, if such sale is specifically prohibited in the Exim policy or in the Letter of Intent. Units may opt for DTA sales on quarterly, half-yearly or annual basis by intimation to the DC of the EPZ concerned. The DTA sale entitlement shall have to be availed of within one year of the accrual of such entitlement. The DC may, if he thinks fit, extend this period by six months.

3. Sale of Rejects / Remnants / Scrap/Waste etc., in DTA

Up to 5 per cent or such percentage as may be fixed by the BoA from time-to-time with 50 per cent of the customs duty or excise duty applicable, whichever is higher.

4. Exports through Export Houses/Trading Houses/Star and Super Star Trading Houses

(A) An EPZ unit may export goods manufactured by it through a merchant exporter/Export House/Trading House/Star/Super Star Trading Houses recognised under Exim Policy or through any other EPZ unit. This permission extends only on the marketing of the goods through the above channels. The VA and export obligation as well as any other obligation relating to the
import and exports shall continue to be discharged by the EPZ unit concerned. Such exports shall have to fulfill the following conditions:

I. The export orders shall have to be executed within the parameters of EPZ scheme and the goods shall be directly transferred from the custom bonded unit to the port of shipment.

II. EPZ units will be eligible for export benefits as may accrue based on the purchase price of the goods received from the Export House etc.,

III. The Export House etc., will be eligible for all export benefits as may accrue based on the difference between the purchase price paid to the EPZ unit and the actual export price realisation.

5. Benefits for supplies from the DTA

Supplies from the DTA to an EPZ unit will be treated as Deemed Exports. Further they are eligible for the following benefits:

I. Refund of CST

II. Exemption from payment of Central Excise Duty on capital goods, components and raw materials and EPZ units will be eligible for Deemed Exports, DBK and Refund of terminal excise duty on production of suitable disclaimer from the DTA supplier. The benefits stated above shall be available, provided the goods supplied are manufactured in the country. Refund of CST is made by the D.C. of the EPZ concerned.

III. Discharge of export obligation, if any, on the supplier.

6. Inter-Unit transfer

Transfer of manufactured goods may be permitted from one unit to the other EPZ unit subject to the condition that the unit will periodically report such transactions to the DC. Goods imported by an EPZ unit are transferred to or given on loan to another EPZ unit with the permission of the DC of the EPZ concerned.

1. See Annexure No. 8
7. **Sub-contracting**

EPZ units are permitted to sub-contract part of their production process for job-work in DTA on a case to case basis. Sub-contracting is usually allowed only if such outside processing activity does not envisage any change in the form, nature and character of the goods sent out and it is possible to correlate the goods when received back after processing.

Requests in this regard will be considered by the customs concerned on the basis of factors such as fixation of input-output norms and furnishing of undertaking /bonds by the units concerned. BoA had also, while suggesting the above guidelines, advised safeguards to be taken to ensure that there is no leakage of non-duty paid goods/materials to DTA. Sub-contracting of Gem and Jewellery is not permitted.

8. **Sale of imported materials**

In case an EPZ unit is unable, for valid reasons, to utilise the imported goods, it may re-export or dispose them off in the DTA subject to clearance from Customs. Imported machinery/capital goods, which have become obsolete may be disposed off, subject to payment of customs duties on the depreciated value thereof.

9. **Supply of Samples**

Supply of samples abroad or to representatives of the foreign buyers in India is allowed only if the unit pays the applicable customs duty or returns the samples after showing them to the intended customer.

10. **Private bonded warehouses**

Private bonded warehouses under Para 115 of the exim policy (the contents of which are presented here) can be set up in IEPZs for the following purposes:

1. To import, stock and sale of goods. Imports may be permitted to meet the requirements of consuming EPZ / EOU units. Items importable in accordance with the Exim 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.

II. Resort to trading activities including re-export after re-packing / labelling. Imports may be permitted for re-export in freely convertible foreign currency for activities such as re-packing and labelling.

Such warehouses need not conform to VA. requirements but shall be subject to such conditions as may be stipulated by the BoA. DTA sale is not permitted. Exports through Export Houses etc., are not applicable. In the same manner, the provisions of inter unit transfer, subcontracting, and sale of imported material in DTA are not to apply in their case.

11. Re-conditioning, repair, and re-engineering

EPZ units may be permitted to carry out reconditioning, repair and re-engineering activities for exports in freely convertible foreign currency. The provisions of VA export obligation, automatic approval, DTA sales, exports through export houses etc., inter-unit transfer, and sub-contracting do not apply in such cases.

12. Period of Bonding

The bonding period for units under EPZ scheme shall be ten years. The period may be reduced to five years by the BoAs in case of products liable to rapid technological change. On completion of the bonding period, it shall be open to the unit to continue under the scheme or to opt out of the scheme. Such debonding shall be subject to the industrial policy in force at the time when the option is exercised.

13. Debonding

Subject to the approval of BoA, EPZ units may be debonded on their inability to achieve

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1. Debonding refers to opting out of EPZ. A unit in the EPZ is free to go out of the EPZ after completing the custom-bond period of 10 years, which is known as mature debonding. If a unit wants to go out of the EPZ before completing the custom-bond period of 10 years, it is known as premature debonding.
export obligation, value addition or other requirements. Such debonding shall be subject to such penalty as may be imposed and payment of customs and excise duty applicable at the time of debonding.

An EPZ unit may also be permitted, at one time option, to debond on payment of duty on capital goods, under 15 per cent duty regime of the EPCG scheme subject to the unit undertaking the export obligation applicable under the said scheme. Such debonding shall be subject to such penalty as may be imposed and payment of duties of customs and excise on other goods applicable at the time of debonding.

14. Customs duty exemption for the IEPZs

EPZs have been granted exemption from payment of customs duty in respect of specified goods imported for production of goods for export or other use in the Zones. The customs wing in each of the IEPZs functions on all the seven days in a week. Exemption is also available for specified goods imported for gems and jewellery units set up in the IEPZs. The Government has issued notification No. 133, Cus. Dt. 22-6-1994 which consolidates existing facilities of duty free imports of raw materials, components, consumable etc., for export of goods manufactured by EPZ units. This notification supersedes seven customs notifications which covered individual Zones.

15. Excise Duty Exemption for the IEPZs

Excisable goods when brought into the IEPZs from the factories of their manufacture or warehouses situated in other parts of the country for use by the IEPZs units for the production of goods or in connection with production of goods or for packing of goods intended solely for export, are exempt from central excise duty including additional excise duty.

16. Execution of Single Bond in lieu of Three Bonds

The units in IEPZs have been executing three types of bonds as under:

I. Bond u/s 65 of the Customs Act 1962 for carrying out inbond manufacture, covering the duty amount involved in the raw materials/consumables used for the same,
II. Double duty bond u/s 59(2) of Customs Act 1962 in respect of the warehousing of imported goods, and

III. Bond as per sub-para (6) of para 1 of Customs Notification No. 13/81 dated 9-2-81 to fulfill the export obligation.

Now, the Government have introduced a single bond covering all the above three bonds.

17. Reimbursement of CST

Units in all the seven EPZs are entitled to full reimbursement of CST paid by them from the MDA for utilisation of production of goods for export. The supplies from DTA must be utilised for export production and may include raw materials, packing materials, consumables, capital goods etc., only against letter of authority issued by the Development Commissioner of the EPZ concerned. Reimbursement for CST is available to units eligible and opting for deemed export benefit of 75 per cent of what is admissible on physical exports. Reimbursement of CST is admissible only to those units who get themselves registered with the Sales tax authorities.

18. Marketing Development Assistance

IEPZs units are eligible for MDA for the expenditure incurred on sale-cum-study tours abroad, participation in fairs/exhibitions abroad, advertisement in foreign media, bringing out publications for use abroad, research and product development, and setting up of warehouse. The rates of grant are as under:

I. Sales tour by manufacturing SSI units ------- up to 60 per cent of the expenditure

II. Sales tour by large scale Merchant/export/Trading house -------- up to 25 per cent of the expenditure

III. Participation in fairs/exhibitions abroad for repeat participation in the same fair, ---- 10 per cent slab reduction up to 50 per cent of the expenditure

IV. Bringing out publications for use abroad, --------- up to Rs 4 Lakhs @ 25 per cent of the expenditure during the Year to one Export / Trading house.
V. Advertisement in foreign media up to 50 per cent of the expenditure

VI. Research and Product development up to 50 per cent of the expenditure

VII. Opening of foreign office up to 25 per cent for 1st year and 20 per cent of the expenditure for 2nd year on office rent and staff.

VIII. Setting up of a warehouse up to 25 per cent of the expenditure for two years.

19. Tax incentives

Profits and gains derived from the unit set up in the IEPZs are fully exempt for a period of five consecutive years falling in any of the eight years of commencement of production. Tax holiday is in lieu of all other tax concessions available in the Income - Tax Act. Units availing themselves of complete tax holiday are not entitled to the tax benefits such as unabsorbed depreciation allowance, unabsorbed investment allowance, unabsorbed development rebate, unabsorbed capital expenditure on family planning, and set off and carry forward of losses. These benefits cannot be availed of even after the expiry of tax holiday period under u/s 10 A of Income-tax Act. (see Annexure No.3)

20. Single window clearance facility

The administration of an IEPZ is under the overall charge of the DC. It includes the Customs and Security wing, Central Excise Services, Investment promotion, and Utilities wing - all under one roof. Recognising that time is of essence in the export business, procedures have been simplified to provide all services and facilities at one-stop-shop viz., single window system.

21. Private / Joint Sector EPZs

Government permitted the development of EPZs either privately or jointly by the Government and private agency or exclusively by State Government and/or their agencies with a view to augmenting infrastructural facilities of export production. DGFT has issued notification No: 42 dated 31-5-1994 permitting the setting up of EPZs in Private/joint Sector.
State sector investment may be utilised to develop additional infrastructural including construction of SDFs in the existing EPZs.

The Private Sector EPZs shall comply with local rules, regulations, or bye-laws in regard to planning, sewerage disposal, pollution control and the like. They shall also comply with industrial, labour and other laws, rules and regulations as may be applicable in case of EPZs of MoC. The promoters shall bear custom bonding charges, make security arrangements, and fulfill all statutory requirements under the customs laws, rules, and procedures. The policy and procedures of the existing EPZs shall also be applicable to units to be established in private/joint sector EPZs. Approvals are granted by the DC concerned of the Government sector EPZ in the particular State or BoA as the case may be.

22. Scheme for export of Gems and Jewellery items

Gems and Jewellery units in Gems and Jewellery complexes in the IEPZs are to be governed by the general provisions of the EPZ scheme except that: (a) nothing including rejects shall be permitted to be sold in DTA, and (b) in the event of a unit ceasing its operations, gold and other precious metals, alloys, gems and other material available for manufacture of jewellery shall be handed over to agency nominated by the MoC at a price to be determined by that agency.

These units may import raw-materials, alloys, carrot gold, coloured gold, silver and platinum up to 0.90 fineness, palladium, findings, mounting, sockets, and frames made of gold and other precious metals. These units may also import diamonds, coloured gems and stones, semi-precious stones, synthetic stones, pearls etc. In addition, gold of 0.995 fineness may also be made available to these units through the MMTC/SBI or any other agency nominated by MoC. The units may apply through the DC of the EPZ concerned for the supply of 0.999 or 0.995 fineness gold.

These units may be allowed to import capital goods, prototypes, technical samples, consumables, spares and packaging materials in accordance with the procedures applicable in the EPZ scheme.
The Value Addition may be calculated on the price at which gold content including wastages, whether it be gold of 0.995 fineness or of any other purity is imported. Similar procedure shall be applicable for imported silver including wastages. For export of plain and studded jewellery and articles, the minimum VA shall be 25 per cent. An exporter shall also be required to achieve an additional VA of 5 per cent over the value of cut and polished diamonds, precious and semi-precious stones, pearls and synthetic stones used in studding. C.I.F. value of mountings, finding etc., may also be taken into account for VA and their import/export shall be on net-to-net basis.

In case of units exporting loose, cut, and polished diamonds, and precious and semi-precious stones, the minimum VA required to be achieved shall be calculated on the basis of corresponding replenishment rates available to such exports from DTA. Apart from gold and silver Jewellery and articles, jewellery and articles from other precious metals may also be manufactured and exported from the complexes in the IEPZs. The VA and other requirements in respect of palladium etc., shall be specified through a Public Notice by the DGFT.

Jewellery samples allowed to be imported, may be re-exported after proper identification. Scrap/dust/sweepings of gold may be sent to the Government of India Mint from the IEPZs units and returned to IEPZs units in standard gold bars in accordance with the procedure prescribed by the customs. Re-export of rough diamonds may be allowed by the DC of the EPZ concerned. An exporter, on re-exporting, shall be eligible for import replenishment at 95 Percent of c.i.f. value minus the foreign exchange cost of such re-export including commission. This facility shall also be applicable to import by bulk licences holders.

G & J Units in the IEPZs may participate in Government approved exhibitions. No sale shall be permitted in exhibitions held in the country. The procedure for movement of the jewellery from these IEPZs and back shall be prescribed by the Customs.

Partly processed jewellery may also be exported subject to realisation of the prescribed minimum VA. Small consignments may also be exported through courier service and through designed airports.
MMTC may also supply gold, gold intermediaries, and components including gold alloys, carat gold, and findings to the approved units under EPZ scheme in accordance with the procedure specified from time to time. The MMTC/SBI may also supply silver of 0.999 fineness or 0.995 fineness to the approved units set up under this scheme in accordance with the procedure as may be specified from time to time.

The aforesaid policy of export and replenishment of gold jewellery and articles shall apply mutadis-mutandis to export of platinum jewellery and articles. The MMTC may also import platinum of upto 0.999 fineness to service the requirements of exporters under this scheme.

II. DELEGATION OF POWERS TO THE DEVELOPMENT COMMISSIONERS

Until 1991-92, the DCs were expected to implement the Approvals granted by the MoC and to monitor the operations of EPZ units. Every matter requiring clarification was being referred to MoC on the benefit of doubt. This system caused undue delay in getting clarifications from MoC and leading to egregious delay. Many problems of the units could not be solved in time. The DCs had less discretionary powers than were desired, due to limited devolution of powers. In order to have operational and procedural ease, MoC delegated certain important powers to the the DCs of the EPZ concerned. For operational convenience, many of the hitherto centralised clearance powers of the MoC and Department of Industrial Development were delegated to the DCs of the EPZ to take care and to solve a number of a day-to-day issues. The DCs have been given power to grant approvals for units under Automatic Approval scheme in 1991-92. The units can get approval from the DC within two weeks.

The DCs now have been designated as nodal officers for HEOUs falling under their jurisdiction. With this amount of delegation of power, the HEOUs can contact the DC of the EPZ concerned for the matters connected with their day-to-day functioning.

The powers of the Export Commissioner are delegated to DC concerned to permit DTA sales by approved EOU and the Powers of the Assistant Commissioner and CCI & E in respect
of reimbursement of CCS for EOUs. They can now discreet over deemed exports, issue of green cards, and monitoring of exports, VA etc., of EOUs also.

In the context of ongoing economic liberalisation, Government have further reviewed the position and decided to authorise the DCs concerned to exercise the following powers:

(I) **Additional import of capital goods:** DCs have been allowed to increase the total value of imported capital goods to the extent of 50 per cent of approved value, subject to a maximum of Rs. 10 crores, whether by import of additional items, or by increase in the price of committed items. One or more requests can be entertained in this regard.

(II) **Currency fluctuations:** DCs are also delegated powers to allow increase in the value of capital goods imports in terms of rupees, owing to foreign exchange fluctuations vis-a-vis foreign currencies.

(III) **Attestation of list of imported capital goods:** They can also attest the list of imported capital goods, both new and second-hand, with the approved value including the additional value permitted.

(IV) **Capacity enhancement:** They can permit capacity enhancement of EPZs units without any limit in respect of delicensed industries only, provided the requirements of additional imported capital goods does not exceed 10 per cent of the approved value subject to a maximum of Rs. 15 crores.

(V) **Broad-banding:** They are delegated powers to permit broad-banding subject to the condition that it does not result in procurement of additional capital goods imports beyond 50 per cent subject to a maximum of Rs 10 crores. Broad banding will be allowed in respect of those industries, the design and production facilities of which are common and have similar manufacturing process and where physical exports are envisaged.

(VI) **Change in name of the Units:** The DCs can authorise the change in the name of the company or the implementing agency subject to the following conditions:
For change from an individual to a company, provided the new company is promoted by the applicant, he is a subscriber to the Articles and Memorandum of the Company, and the individual is a Director of the new Company.

For change from a company to another provided that the transfer company is a fully-owned subsidiary of the company holding the letter of intent or permission letter or vice-versa; with at least 10 per cent of the issued equity held by the existing company and change of name would be permitted only if the unit undertakes to takeover the assets and liabilities of the existing unit.

(VII) Extension of validity of letter of intent/letter of approval: DCs can extend the validity period by one year beyond the initial validity period of one year, provided the DCs are satisfied that the party has taken bonafide steps to implement the letter of intent/letter of permission.

(VIII) Change in VA conditions: They can revise the VA percentage upward or downward up to the minimum Value Addition percentage prescribed for the item of manufacture under the policy.

(IX) Disposal of obsolete capital goods: They can allow the disposal of obsolete capital goods on the payment of duties. While granting permission for the disposal of obsolete machinery, the DCs of the EPZs shall give due consideration to whether the machinery being disposed off will be replaced.

(X) Import of office equipment: DCs can permit the import of office equipment, not exceeding 20 per cent of the total capital goods cause subject to a minimum of Rs. 25 lakhs.

FOREIGN INVESTMENT POLICY

In India, the import substitution policies did not permit the entry of foreign firms into domestic capital market and Foreign Direct Investment (FDI) into certain key sectors of economic activity. In order to give protection to domestic industries, such a preventive policy was formulated. Such a policy during fifties and sixties prevented the free-flow of technology transfer and foreign capital, which is very much essential for the growth of domestic economy.
The issue of allowing foreign investment assumed greater degree of significance when the Government adopted export promotion policies and policies of integrating Indian economy with global environment ever since July 1991. The policy of capacity expansion of 1978 was improved upon during mid-1980s with the policy of broad-banding and liberal approval of foreign technology and investment arrangements. The new Industrial Policy Resolution(IPR) 1991 is a part of the overall package of liberalisation policy together with devaluation, trade, privatisation etc., with a thrust on “opening up” the Indian economy to domestic and international competition through import liberalisation, foreign collaboration etc., The new IPR - 1991 is the third one adopted by the Government of India in succession of the ones in 1948 and 1956. The highlights of the new IPR, 1991 are stated below:

-- No industrial licence is required for all industries except eighteen industries,

-- MRTP Act to be amended to remove the threshold limits of assets of MRTP companies,

-- FDI up to 51 percent of equity is allowed in high priority industries,

-- Automatic clearances to CG imports, provided foreign exchange is available in the form of foreign equity.

-- The Public sector’s pre-eminence in eight core areas like arms and ammunition, atomic energy, mineral oils etc., would continue.

-- Foreign equity proposals need not necessarily be accompanied by technology arrangements.

-- Companies with foreign equity up to 51 per cent would be encouraged to act as trading houses primarily engaged in export business.

-- The new IPR has essentially focused to help meet the BoP crisis, and to tackle the fiscal crisis in the form of large budget deficit.
The stated objective of new IPR-1991 is to invite and facilitate foreign investment. Accordingly, simplified mechanism has been installed to provide expeditious approvals.

I. The R.B.I. accords automatic approval to all proposals :-

-- Where the foreign investment in the equity capital of the Indian company is up to 51 per cent,

-- Where the foreign investment in the Indian Companies is proposed to be in high priority areas of the Statement of Industrial Policy, 1991, and

-- Where the foreign equity covers foreign exchange requirements for the import of capital goods needed for the project.

Such approvals are normally available with in two weeks of filing the application. The import of other inputs and payment of royalty and technical know-how are governed by the general policies. Second hand capital goods cannot be imported. The outflow on account of dividend payment is to be balanced by export earnings over a period of time.

II. All other foreign investment proposals not falling in I above are approved by the Government on ‘merits’. These proposals include:-

-- Foreign investment within or up to 51 per cent of industries other than those listed in high priority sectors.

-- Foreign investment within or up to 51 per cent of high priority industries but where the foreign equity does not cover the foreign exchange requirements for import of CG.

-- Foreign investment beyond 51 per cent in any case.

-- Foreign investment in the services sector including consultancy and financial sector.

-- Foreign investment involving special features.
All the above-mentioned proposals, including proposed investments by NRIs, or in the IEPZs are considered for approval by the Foreign Investment Promotion Board. It also provides composite clearance in case of proposals seeking industrial licences, technical collaboration etc. It is specially empowered to engage in purposive negotiation and also to consider proposals in totality, free from pre-determined parameters or procedures. Applications should be submitted in form FC-Secretariat for Industrial Approvals (SIA) or in plain paper. No fee is payable. FIPB is in the Department of Industries Prime Minister office (PMO) comprising Prime Minister as Chairman, Finance Secretary, Commerce Secretary, and Secretary-Industrial Development. Approvals are normally available within four to six weeks of filing the proposals. Government also proposed to set up Foreign Investment Promotion Council to speed up the approval process of foreign investment proposals.

The Rules for NRIs - F.D.I. with repatriation benefits:

(a) General permission for all NRIs except for investment in a concern engaged in agricultural/plantation or real estate business. Permission should be sought for Off-shore Commercial Banks (OCBs).

(B) Investment is permitted in both primary and secondary market issues.

(C) Interest and income allowed to be repatriated up to $ 1000 or its equivalent in full, 1/3rd of the balance income earned during the financial year 1994-95 up to US $ 1000 or its equivalent in full and 2/3 of the balance income earned during financial year 1995-96, and the entire income earned during the financial year 1996-97 onwards. Repatriation is possible after payment of income-tax.

The Rules for NRIs - FDI with repatriation benefits:

(a) There are two direct schemes with 40 per cent and 100 per cent. Under the former, NRIs are allowed to invest in shares and debentures of companies with repatriation benefits to the extent of 40 per cent of the issue. There is no ceiling on remittance of interest or dividend.
(b) Under the latter, NRIs can invest in high priority industries listed up to 100 per cent of the new issues. Dividend and interest can be freely repatriated.

The rules for other investments:

(a) NRIs can invest in sick industries up to 100 per cent by subscribing to the existing or new issues. The investment has a lock-in period of three years.

(b) In certain high priority industries in which foreign equity is permitted up to 51 per cent on repatriation basis, NRIs can pick up the remaining 49 percent on non-repatriation basis.

(c) NRIs can invest up to 100 per cent in shares or convertible debentures of real estate companies, with the benefit of free repatriation. The lock-in-period of investment is three years.

(d) Permission for non-convertible debentures has to be got from RBI.

(E) 100 per cent investments in units situated in the IEPZs and export/trading activities is permitted.

(F) NRIs are allowed to acquire shares and debentures through the stock exchange by applying to RBI. The ceiling of 5 per cent of the paid-up capital can be raised to 24 per cent. Individually, NRIs can invest up to 1 per cent in the series of convertible debentures. There is no lock-in period of one year.

AN ASSESSMENT OF GOVERNMENT OF INDIA'S POLICY ON THE IEPZs

Whether Government of India's policy on the IEPZs hampered or nurtured the growth of the IEPZs is a question to be answered with reference to the timing of the policy-framework. Government policy saw transition from incentive-driven approach to make way for liberalisation with a view to make the IEPZs industries to be competitive global-players. In order to assess the impact of Government policy on the IEPZs, it is necessary to examine this issue during pre and post liberalisation era.
Impact of Government of India’s policy on the IEPZs during pre-liberalisation era

The policy-framework viewed the IEPZs as the instruments of export promotion. A free trade policy was evolved to create the first EPZ at Kandla. The Zone attracted limited number of entrepreneurs and progressed at a snail’s pace. The limited number of units took the advantage of duty-free imports, but the policy-framework had the following lacunae;

(A) The policy remained halting and discriminatory. The policy interpretation with rigidity and piecemeal announcement of incentives did fail to produce the required results and the required positive impact of the first EPZ. The Committee appointed by FICCI 1 also took note of this and pointed thus: “KAFTZ’ could not develop due to lack of integrated approach for the development of KAFTZ, Kandla port, and the Gandhidham township.

(B) The ideology of the policy was not properly percolated downwards. There was a higher degree of centralisation of powers at MoC. Development Commissioner had no powers to discreet over many matters.

Even after establishing SEEPZ and other EPZs there has not been much improvement in procedural ease and operational flexibility. Tandon Committee 2 went on to the extent of saying that all policy and implementation is inter-ministerial and inter-departmental with little power vested on the spot.

There is no single-body that is empowered to decide the matters face-to-face and across the table even in cases which fall within the desirable and permissible limits. The investor, particularly the foot-loose type, compares our Zones with the Zones in other countries in the world and moves on to EPZs in such countries where more operational and procedural-ease and comparatively better incentives are offered. This is one of the reasons why many FCUs could not be established in the IEPZs.


The policy has not adequately been conveyed to different departments and Ministries concerned, who will have to incorporate the implications in their budgets and other programmes in relation to the IEPZs. In this connection, Gill panel 1 also recognised that a time has come to create a smooth working environment for the IEPZs units to allow them to concentrate their energies on tapping the potential of export market rather than be distracted by the requirements to conform to formalities stipulated in rules, procedures, and legal requirements that have ceased to be relevant in the new environment.

Thus, the major factor behind the poor performance of the IEPZs during the earlier six years of the decade has been neither the lack of incentives nor infrastructural facilities, but a plethora of procedures and multiplicity of bonds.

**Impact of Government of India’s policy on the IEPZS during post-liberalisation era**

As per the recommendations of these Committees, and after having viewed the gravity of situation in the wake of liberalisation measures, the Government brought out operational flexibility to some extent since 1991-92. The August policy statement made in 1991 made the IEPZs units eligible for exim scrips and duty on DTA sales was reduced from 120 per cent to 50 per cent. Further, for operational and administrative convenience, many of the centralised clearance powers of the MoC and the Department of Industrial Development were delegated to DCs to take care of a large number of day-to-day issues. The introduction of Automatic Approval route facilitated quick project approvals within a period of two weeks. Multiple bonds for import clearance were replaced by a single bond and a provision for issue of pre-authenticated CT-3 form booklets for expediting the supplies from DTA was introduced. Private bonded warehouses were allowed to be set up in the IEPZs to meet the imported input requirements of EPZ Units.

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In 1992, the EPZ scheme was extended to agriculture, horticulture, and aquaculture sector. Due to pollution - hazards, DCs of many Zones have not approved proposals for aquaculture sector. Capital goods were permitted to be installed in the EPZs on lease basis. The IEPZs exports could be channelised through export houses/trading houses/star trading houses.

In 1993, agriculture and allied sectors were allowed DTA sale up to 50 per cent. The formula for determining VA was rationalised by considering physical imports only. Capital intensive projects were allowed longer period of amortisation of capital, which will make the exporters to spread the capital cost to a longer-period of time.

In 1994, the EPZ scheme was harmonised with EHTP scheme to provide operational flexibility in electronics units with regard to minimum Value Addition and access to domestic market.

In 1995, EPZ units have been given the one-time option in favour of the EPCG scheme, on payment of 15 per cent duty on capital goods.

Notable changes in the customs and central excise level relate to (1). Delegation of more powers to ACs - Customs, to permit subcontracting and (2). Introduction of a single-bond under the customs Act.

These liberalised EPZ policy measures from 1991-92 rationalised the operational procedures to some extent, provided operational ease to the units, brought in much acceleration in export performance during the last four years of the decade, and brought in increased amount of foreign investment. Such a change in policy-orientation and improved infrastructure in the IEPZs appealed NRIs, given the fact that 45 out of 104 units were owned by them since 1991. The advantages of labour costs are available both inside and outside the Zones to NRI / Foreign investors. Ready-made SDFs/sheds/developed plots reduce gestation period. In the context of liberalised policy, FDI is likely to rise in future.

However, it is increasingly felt in the trade and industry circles that the IEPZs have lost their impetus and initial gains for an exporting unit in the light of increased doses of free-trade policy measures in DTA. The general rate of reduction in customs duties, slashing the
procedures, introduction of full convertibility on trade account of the rupee, and special schemes permitting duty-free imports are among the major liberalised measures, which have given an opportunity to DTA units outside the EPZs to increase exports. The concern about the fate of IEPZ has also been expressed by the parliamentary standing Committee on Commerce. EPZ scheme has not been properly insulated from the new liberalised trade environment. With exports no longer the business of a privileged lot like those in EPZs, the emphasis on EPZs units gradually shifted from special treatment to competition.

Because of the liberalised measures in DTA, the differences between EPZ units and DTA units are getting narrowed down and probably a time may come when it is no longer very attractive to set up units in the Zones. Economic reforms in India are closing the gap between the policies for EPZs and the DTA. The favoured children of the Government five years ago, the IEPZs have fallen from grace and are now considered the "block sheep" in view of changed scenario and also for non-fulfilment of the desired objectives. The decline in the comparative advantages previously enjoyed by the EPZs should be welcomed as a sign of successful liberalisation. The country has been converted into a Free-Trade Zone with liberalisation measures.

The units in the IEPZs have to contend them selves with a plethora of rules, regulations, and procedures. Given below is a live-situation in support of this:

Request from EPZ exporter: "Sir, the policy allows another EPZ to export products from EPZ but, the policy is not clear about differences in the price between buying and exporting unit for exports from EPZ"

Answer: "Sorry, can't help you."

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5. FIEPZsIA: "Liberalised India and EPZs", November 1st, 1993.
Request from EPZ exporter: “In 1988, you gave me a Foreign Exchange Blanket permit of Rs 12 lakhs/US $ 100,000. Since then, the US $ and Rupee parity has changed considerably. Can you increase my permit on the basis of US $ 100,000 today?”

Answer: “We cannot increase your limit at this moment”.

Request from EPZ exporter: “Sir, my buyer has not paid me inspite of many reminders and efforts. The consignment was covered by ECGC”.

Answer: “Here is a list of attorneys in USA. File a suit for recovery”.

Request from EPZ exporter: “But that will cost as much as I want to claim”

Answer: “No other way”.

THE RULES DO NOT ALLOW IT !
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IEPZs exporters hold the view that, liberalisation does not extend any special treatment to the units situated in the IEPZs. The following instances support this view point:

1. The duty rates under EPCG scheme have been greatly reduced to 15 per cent. Under advanced licensing, an exporter in DTA can import further against exports. This licence can be used to import anything free of cost. On the contrary, the IEPZ exporter must use imported capital goods only for himself. Even if he is allowed to sell unused imported inputs in DTA, enormous time is spent in obtaining customs-clearance.

2. The full convertibility of rupee benefit has also been extended to DTA units, thereby the comparative advantage on account of this has been lost for the IEPZ units.

3. There are cumbersome procedures involved in premature debonding, DTA sales, moving the samples outside the IEPZs, and valuation and disposal of scrap/waste. There are bonds and
guarantees to be furnished every time an import is made or when goods are taken outside for sub-contracting. It is not so much the 50 per cent customs duty that worries the units, but the procedural formalities which are perceived to be difficult.

4. There are no takers for the waste in the local market at 50 per cent duty. To quote Venkatachalam\(^1\), the Chief Executive Officer of M/s AVT Rubber Products in CEPZ, “While Commerce Ministry does not allow us to destroy the waste within the premises, the Finance ministry has made it difficult to dispose it off”. While there is an acute shortage of land in most of the IEPZs, the space occupied by heaps of scrap / waste in most units come as a shock. The industry in EPZs attributes this totally to the bureaucratic attitude of the customs. Until normally is reached out to solve this problem, the EPZs units will have to keep coming with innovative ideas like landscaping or recycling to utilise their waste / scrap.

5. The IEPZs seem to be operating in a relatively inflexible environment imposed by the requirement of custom-bonding. Documentation procedures for exports are still for too many.

If the impression that liberalisation has left the IEPZs out in the cold is gaining currency, there are historical reasons. This impression is held and projected by a majority of domestic entrepreneurs in the Zones seeking insulation from cumbersome procedures in the domestic economy. They source raw materials from DTA and want to sell a part of their production in DTA. Contrary to this, the “raison d’etre” for any EPZ is to attract foreign investment and to relocate manufacturing bases by investors. The MoC officials remark that the fears of the EPZ industries are quite misplaced. On the contrary, the IEPZs have been doing well. While there has been no increase in sickness, exports have doubled successively over the past two years and the number of applications and approvals have been increasing. The complaints at best appear to be concerning to specific units only \(^2\). No doubt, EPZs had a special logic when they were started. However, now with current account convertibility and tariff structures that have changed, there

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2. Dr. Y. Venugopal Reddy, the then Additional Secretary, MoC, in interview on "Trade Winds blow the EPZ way", Economic Times, December 25th, 1994.
have been changes in the character of EPZ scheme. The very concept of change means some lose while some others gain.

While it may take some time for the domestic investors in the IEPZs to realise that the incentive-driven approach has to make way for a more competing and performance-oriented regime, the future yet will belong to the IEPZs. They still have a comparative edge over DTA in the areas of cost effective infrastructure and labour-cost advantage. Given proper orientation, insulation and operational ease with more; pragmatism, the Government policy would certainly bring about the improvement in the functioning of the IEPZs.

There is bound to be a gap between the expectations of units situated in the IEPZs and the facilities and incentives provided by the Government from time-to-time. On the whole, the policies of the Government towards the IEPZs appear satisfactory leaving shortfalls, here and there, which appear, some times, inevitable. However, the DCs may be given more autonomy in dealing with the problems of the units situated in their respective Zones.