CHAPTER 2

100% EXPORT ORIENTED UNITS SCHEME
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2.1 INTRODUCTION

Towards the close of ‘seventies’ and during the first half of ‘eighties’, concerned with the dismal outcome of the stringent, complex and complicated policy regime and the attendant problems which frustrated the efforts of exporting community, three high powered committees were set up to deliberate on various aspects relevant to export production, policy framework and incentive schemes. These Committees were:


The trade policy framework followed in the subsequent years gives an ample evidence of imprint of the monumental work that was done by the three Committees. The recommendations were not implemented in their entirety nor at one go immediately after the reports of the respective Committees were submitted. The implimental action taken by the Government though piecemeal, was however, quite noteworthy. The follow-up action emerged from these reports, much before the launching of the present phase of economic liberalisation and structural reforms.
2.2 LIBERALISATION AND SWEEPING REFORMS

In recent years, especially during the early 'nineties', momentous and unprecedented changes have taken place in the international economic and trading scene. Competitiveness emerges as the essence of global changes in the sphere of international commerce. It is now increasingly recognised that countries which fail to catch up with the recent international developments, or do not gear their commercial policies in tune with the world wide changes of far-reaching significance, run the risk of lagging behind in international competitiveness and their economic development pursuits. This concern has compelled the Government to take recourse to economic liberalisation and outward looking trade policies.

Policy framework in the pre-liberalisation era was dictated by internal compulsions or national expediency and as such remained characterised by an ad hoc approach. It also remained devoid of proper coordination in the absence of harmonisation among economic, industrial, fiscal, financial and trade policies. The current policy framework is the outcome of compulsions created by international developments and pressures for Financial as well as Fiscal correction in economy exercised by the International Monetary Fund and the World Bank, India being one of the largest recipients of aid and loans from the multilateral financial institutions.

The policy framework evolved in the wake of economic liberalisation or structural reforms initiated in the middle of 1991 and as it exists today presents a picture of total departure from the policies pursued earlier. Besides being radical, the policy framework is an all comprehensive. There is complete harmonisation and synchronisation among different inter-related policy aspects in the spheres of economic, industrial, financial and commercial reforms. The
structural reforms and the bold policy measures initiated by the Government of India bear and indelible imprint of the three high powered Committees mentioned above.

After the Export-Import Policy (1992-97) was introduced in March 1992, it had undergone refinements in the subsequent years, as part of the on-going structural reforms. The 1992-97 policy framework sought to

(a) liberalise the policies and inject in them transparency

(b) make the policy framework predictable and its related procedures user friendly in operation

(c) phase out quantitative restrictions, controls and regulatory measures for maximising efficiency.

(d) help India's export trade achieve international competitiveness, and

(e) transform managed trade into market-driven trade.

Keeping in view the objectives of the Export-Import policy 1992-97, the researcher evaluated the working of the 100% EOU Scheme so that further improvements could be effected resulting into greater degree of efficiency, enhanced productivity reduced bureaucratic hassles and improved international competitiveness.
2.3 CATEGORIES OF 100% EOU\textsuperscript{s} & EPZ\textsuperscript{s}.

Industrial unit offering in major part of its total output of its product(s) for export is termed as an Export Oriented Unit. It has become apparent for the Government to promote the Export Oriented Units with all infrastructural, financial, manufacturing, marketing and service facilities to accelerate the growth of the Industry and international market of the Indian products. This also helps the Government in bridging up the increasing deficit in the balance of trade and running down of exchange reserve. Export oriented units are, characteristically, categorised into 3 types, viz. :-

(i) Hundred percent export oriented units - unit established anywhere in India and exporting 100% of its product(s)

(ii) Unit in Free Trade Zones (FTZ\textsuperscript{s})/Export Processing Zones (EPZ\textsuperscript{s}) in India and exporting 100% of its product(s)

(iii) 100% export Oriented Unit set up in Software Technology Parks and Electronics Hardware Parks for development of software and electronics hardware, software and electronics hardware technology and software and electronics hardware services for export.
2.4 RESOLUTION OF 100% EOU SCHEME, SPECIAL BOARD OF APPROVALS, VITAL CHANGES

2.4.1 Published in gazette of India extra ordinary Part I, Section I, Annexed as Annexure 1 - Chapter 2.

2.4.2 SPECIAL BOARD OF APPROVALS FOR 100% EXPORT ORIENTED UNDERTAKINGS, DATED 13 JANUARY 1981

Applications seeking Letter of Intents/Permission Letters for setting up of 100% EOU are considered by a Board of Approvals. The constitution and functions of B.O.A. for 100% EOU were laid down through amendment to the notification of the Government of India. The said notification was brought out by the Department of Industrial Development, former Ministry of Industry and Civil Supplies on the 3rd March, 1976. Whereas, the amendment was effected by Department of Industrial Development, Ministry of Industry on 13th January, 1981. Annexed as Annexure 2, Chapter 2.

2.4.3 SCHEME FOR 100% EOUs : FEW VITAL CHANGES

With a view to improving the effectiveness of the scheme for attainment of its objectives and remove operational problems. Annexed as Annexure 3, Chapter 2.
2.5 **SALIENT FEATURES OF 100% EOU's SCHEME UNDER NEW INDUSTRIAL POLICY**


2.5.1 **ELIGIBILITY**

Units undertaking to export their entire production of goods may be set up under the Export Oriented Units (EOU) scheme or Export Processing Zone (EPZ) scheme. Such units may be engaged in manufacture, production of software, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture. Units engaged in service activities may also be considered on merit.

2.5.2 **CONVERSION - DTA TO EOU**

Existing DTA units may also apply for conversion into an EOU 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 obligation under the EPCG scheme may also apply for conversion into an EOU. On such a conversion, the export obligation under the EPCG scheme will be met concurrently from the exports by the unit as an EOU.

2.5.3 **DISTRICT IDENTIFY OF EOU & DTA**

If an industrial unit is operating both as a domestic unit as well as an EOU/EPZ unit, it shall have 2 distinct identities with separate accounts. It is, however, not necessary for it to be a separate legal entity, but it should be possible to distinguish the imports and exports or supplies effected by
the EOU/EPZ unit from those made by the other units of the company.

2.5.4 APPROVALS, LETTER OF PERMISSION (LOP), LETTER OF INTENT (LOI).

a) Automatic Approvals :- Project applications, satisfying the conditions mentioned in the appropriate press note of the Ministry of Industry may be given automatic approval within 15 days by the Development Commissioner of the EPZ concerned. In the case of EOU's such approval shall be granted by the Secretariat of Industrial Approvals (SIA)

b) Other cases :- In other cases approval may be granted by the Board(s) of Approval (BOA) set up for this purpose or Secretariat of Industrial Approvals, as the case may be.

Letter of Permission (LOP)/Letter of Intent (LOI) is issued by the Development Commissioner for units in the EPZ and by Secretariat of Industrial Approvals for EOU's.

2.5.5 EXPORT OBLIGATION

The following supplies shall be counted towards fulfillment of the export obligation:

(a) Supplies effected in DTA under global tender conditions:

(b) Supplies effected in DTA against payment in foreign exchange.

However, purchasers in the DTA shall be liable to pay excise duty, sales tax and other taxes as may be applicable.

2.5.6 IMPORTABILITY OF GOODS

An EOU/EPZ unit may import free of duty all types of goods including capital goods, required by it for manufacturing production or processing provided
they are not prohibited items in the negative list of imports. However, import of Basmati paddy, brown rice shall be prohibited.

2.5.7 CONDITIONS OF IMPORT

The import shall be subject to the following conditions

(a) The goods shall be imported into a customs bonded factory.

(b) The normal procedure that is applicable for customs bonding will be followed, including the purpose of goods being taken from the part of importation to the factory premises.

2.5.8 MAINTENANCE OF ACCOUNTS 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 Development Commissioner of the EPZ concerned. The importer shall adhere to the minimum value added condition stipulated and other terms incorporated in the letter of permission/letter of intent/Industrial licence issued to the unit.

2.5.9 IMPORT OF CAPITAL GOODS

The list of capital goods shall be attested by the SIA if the same has already been approved by the Board and in other cases the list may be subsequently submitted to the development commissioner concerned for attestation.

2.5.10 SECOND HAND CAPITAL GOODS

Second hand capital goods may also be imported in accordance with the provisions given in Chapter V of Import and Export Policy, viz. Second-hand
goods shall not be imported unless permitted by this policy or in accordance with a licence issued in this behalf.

For import of second-hand capital goods the importer shall produce at the time of application, a certificate from a professional independent Chartered Engineer or Institution of Engineers in the country from which import is made, certifying the age and residual life of the capital goods. The second hand capital goods shall not be more than seven years old and shall have a residual life of five years. Import of second-hand capital goods that are more than seven years old, or having residual life of less than five years may also be considered by the “Board” on the merits of each case.

2.5.11 LEASING OF CAPITAL GOODS

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

In the case of capital goods procured from indigenous sources on the basis of lease agreement between the leasing company and the EOU/EPZ unit the leasing company will be eligible for central excise exemption but no such exemption will be permitted under the scheme for capital goods already purchased or owned by the leasing company.

The capital goods shall however, remain as a part of the capital assets of the EOU/EPZ unit till the export obligation is discharged by the unit and they shall not be diverted for any other use.
2.5.12 FAX MACHINE FOR REGISTERED HEAD OFFICE OF EOU/EPZ UNIT

Duty free import of one additional FAX machine may be allowed to EOU and EPZ unit for use in an office outside the bonded premises.

2.5.13 VALUE ADDITION AND EXPORT OBLIGATION

The unit shall achieve a minimum value addition (VA) of 20% but units engaged in the manufacture of production of items specified in Appendix II shall achieve the value addition (VA) norms indicated therein. Items of manufacture for export specified in the letter of permission/letter of intent alone shall be taken into account for calculation of value addition and discharge of export obligation. Notwithstanding the above projects shall be allowed to be set up without minimum value addition stipulation in sectors such as electronic hardware.

2.5.14 D T A SALES

The entire production of EOU/EPZ units shall be exported subject to the following:

(a) Rejects upto 5% or such percentage as may be fixed by the Board of Approval may be sold in the Domestic Tariff Area (DTA) subject to payment of the applicable duties and

(b) 25% of the production in value terms may be sold in the DTA.

DTA sale shall be subject to fulfillment of minimum value addition.

No DTA sale shall be permissible in respect of jewellery, diamonds, precious and semi-precious stones/gems motor cars, alcoholic liquors, silver bullion
and such other items as may be stipulated by Director General of Foreign Trade (DGFT) by a public notice issued in this behalf.

(c) However, an EOU/EPZ unit in agriculture acquaculture, animal husbandry, floriculture horticulture, pisciculture, poultry and sericulture may be in accordance with the DTA sale guidelines notified in this behalf sell upto 50% of the production in the value terms in the DTA subject to fulfillment of minimum value addition.

(d) The electronics hardware products may be sold in the DTA on the following basis:

<table>
<thead>
<tr>
<th>Value addition achieved</th>
<th>Permissible sale in the DTA</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Less than 15%</td>
<td>Nil</td>
</tr>
<tr>
<td>(b) 15-25%</td>
<td>Upto 30% of the production in value terms of the electronic items including components manufactured in the units.</td>
</tr>
<tr>
<td>(c) More than 25%</td>
<td>Upto 40% of the production in value terms of the electronic items including components manufactured in the units.</td>
</tr>
<tr>
<td>(d) DTA Sale facility for software items shall be 25%</td>
<td></td>
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</tbody>
</table>

Note: In the case of units manufacturing electronics hardware and software, value addition and DTA sale entitlement shall be reckoned separately for hardware and software.
2.5.15 BENEFITS FOR SUPPLIES FROM THE DTA

(i) Supplies from the DTA to EOU/EPZ units will be regarded as deemed exports and will be eligible for the following benefits:

(a) Refund of central sales tax (C.S.T.)

(b) Exemption from payment of central excise duty on capital goods, components and raw materials

(c) Discharge of export obligation, if any on the supplier.

(ii) EOU/EPZ units shall, on production of a suitable disclaimer from the DTA suppliers, be eligible for obtaining the benefits specified in paragraph 122(b) and (c) of the policy. For this they shall get Brand Rates fixed by the DGFT. Such supplies would however, be eligible for benefits specified in para 106(i) of the policy and given as 2.7.15(i) above.

2.5.16 SUBCONTRACTING

The EOU/EPZ units may be permitted to sub contract part of their production process of job work to units in the DTA on a case to case basis. Requests in this regard will be considered by the concerned customs authorities on the basis of factors such as fixation of input and output norms, and furnishing of undertakings/bonds by the concerned units.

2.5.17 INTER UNITS TRANSFER

Transfer of manufactured goods may be permitted from one EOU/EPZ unit to another EOU/EPZ unit subject to the condition that the units will periodically report such transaction to the Development Commissioner of EPZ concerned. Goods imported by an EOU/EPZ unit may be transferred or given on loan to another EOU/EPZ unit with the permission of the Development Commissioner.
2.5.18 SALE OF IMPORTED MATERIALS

In case an EOU/EPZ unit is unable for valid reasons, to utilise the imported goods, it may re-export subject to clearance of customs with reference to valuation etc. Such goods may also be transferred to an actual user in the DTA with the permission of the Development Commissioner on payment of applicable duties.

Imported machinery/capital goods that have become obsolete may be disposed of subject to payment of customs duties on the depreciated value thereof.

2.5.19 RECOGNITION OF QUALITY ATTAINMENT

The EOU/EPZ units will be entitled for the same benefits including grant of special import licence, as are available to the manufacturers who have acquired ISO 9000 (series) or BIS 14000 (Series) or any other equivalent internationally recognised certificate of quality.

2.5.20 EXPORTS THROUGH EXPORT HOUSE / TRADING HOUSE / STAR TRADING HOUSE / SUPER STAR TRADING HOUSE

An EOU/EPZ unit may export goods manufactured by it through a merchant, exporter, Export House / Trading House / Star Trading House recognised under this policy or any other EOU/EPZ 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 unit. The manufacture of the goods shall be done in the EOU/EPZ unit concerned. The value addition and Export obligation as well as any other obligation relating to the imports and exports shall continue to be discharged by the EOU/EPZ unit concerned.
The Development Commissioner may also permit:

(a) Supplies or sale in reasonable quantities of samples of goods produced by EOU/EPZ units for display or canvassing orders on payment of duties leviable. Such samples may also be allowed to be removed from the unit on furnishing a suitable undertaking for return of such goods.

(b) Bringing back for repair/replacement the goods sold in DTA but found defective: such goods may be removed from the unit subject to the satisfaction of the customs authorities as to the identity of the goods.

(c) Transfer of goods to DTA for repair, testing calibration, provided that in the case of an EOU unit this permission may be granted by the customs authorities.

2.5.21 PRIVATE BONDED WAREHOUSES

Establishment of private bonded warehouses in EPZs for duty free import, store and supply of raw materials, compartments etc. to approved 100% EOU units and EPZ units has been allowed. Private bonded warehouses may be set up for the purposes enumerated hereinunder:

i) Import, stock and sale of goods:- Imports may be permitted to meet the requirements of consuming EOU/EPZ units. Items importable in accordance with this policy may also be imported and sold in 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) Trading, including re-export after repacking/labelling:- Imports may be permitted for re-export in freely convertible foreign currency for activities such as repacking and labelling.
2.5.22 GREEN CARDS FOR

For facilitating the units approved under 100% EOU scheme to be eligible for priority treatment in matters relating to the setting up and implementation of their projects they can apply for "Green Cards" to the Development Commissioner of EPZ/FTZ concerned with whom the 100% EOU is registered. These "Green Cards" will be issued to those units which have taken steps for implementation of their projects.

2.5.23 RECONDITIONING, REPAIR AND RE-ENGINEERING

EOU/EPZ units may be permitted to carry out reconditioning repair and re-engineering activities for exports in freely convertible foreign currency.

2.5.24 BENEFITS FOR EPZ/EOU UNITS CONCESSIONAL RENT

The units set up in the EPZs will be eligible for concessional rent for lease of industrial plots and Standard Design Factory (S.D.F.) Buildings / Sheds allotted for first three years at the following rates:

a) For plots :- The Concession will be 75% for the first year, 50% for the second year and 25% for the third year if production had commenced in the first year or the second year. The concession will not be available for the third year if production had not commenced by the end of the second year.

b) For SDF buildings/ sheds :- The concession will be 50% for the first year and 40% for the second year if production had commenced in the first year. The concession will be 25% for the third year if production had commenced in the first year. The concession will not be available if production had not commenced by the end of the first year.
Tax Holiday: EOU and EPZ units will be exempted from payment of corporate income tax for a block of five years in the first eight years of operation.

Clubbing of FOB: FOB value of export of an EOU/EPZ units can be clubbed with FOB value of export of 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.

2.5.25 DISPOSAL OF SCRAP / WASTE / REMNANTS

The Development Commissioner may, subject to guidelines laid down by the Board of Approvals in this behalf, permit sale in the DTA of scrap / Waste / remnants arising out of the production process on payment of applicable duties and taxes.

The percentage of such scrap / waste / remnants shall be fixed by the Board. In respect of items of which no such norms have been fixed by the Board, disposal of scrap / waste / remnants shall be allowed as per the norms notified under the Duty Exemption Scheme.

2.5.26 REGISTRATION - CUM - MEMBERSHIP CERTIFICATE

The registering authority for EOU/EPZ units / Private Bonded Warehouses in EPZs shall be the Development Commissioner of the EPZ concerned. A separate Registration - cum - Membership Certificate shall not be required in their cases.

2.5.27 IMPORTER - EXPORTER CODE NO.

Importer - Exporter Code Numbers for EOU/EPZ units / Private Bonded Warehouses in EPZs shall be allotted by the Development Commissioner of the EPZ concerned.
2.5.28 BONDING

The entire operation of an EOU shall be in a custom bonded factory, unless otherwise specifically exempted from physical bonding.

a) Period of Bonding :- The bonding for units under the EOU scheme shall be ten years. The period may be reduced to five years by the BOA in case of products liable to rapid technological change. On completion of the bonding period it shall be open to the units to continue under the scheme or opt out of the scheme. Such debonding shall, however, be subject to the industrial policy in force at the time the option is exercised.

2.5.29 DEBONDING

Subject to the approval of BOA, EOU / EPZ units may be debonded on their inability to achieve export obligation value subject to such penalty as may be imposed and payment of duties of Customs and Excise applicable at the time of debonding.

2.5.30 LEGAL UNDERTAKING

The unit shall execute a Bond / Legal Undertaking (LUT) with the D. C. concerned and in the event of failure to meet the obligations stipulated in the letter of approval/ intent, it would be liable to penalty in terms of the bond / legal undertaking or any other Law for the time being in force.

2.5.31 MINIMUM EXPORT PRICE

If the export of any goods from the DTA is the subject to MEP under the policy, the export of those goods by an EOU/EPZ unit also will be subject to the same MEP.
2.5.32 RE - IMPORT

The units may be allowed to re-import, after repairs abroad, machinery equipment exported by them for this specific purpose. Any foreign exchange payment for this purpose will also be allowed.

CONFEDERATION OF 100% EXPORT UNITS

The Confederation of 100% Export Units (CEU) a non-profit registered society, was established in 1982 specifically to service the promotional needs of 100% Export Oriented Units. CEU is now the only apex industry organisation with exclusive focus on export production. It is a total service organisation and is acknowledged by the Government as an All India Forum for this vital sector in the country export scenario.

The present thesis draws heavily upon the correspondence, communications of CEU with its members and ‘News Letter’ published by CEU for it’s members.
RESOLUTION OF 100% EOU SCHEME

(Published in gazette of India extra ordinary part I, section I)

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE
(DEPARTMENT OF COMMERCE)

No. 8/15/78-EP. New Delhi, dated the 31st December 1980

In order to bridge the increasing deficit in the balance of trade and running down of exchange reserves, it has become necessary to step-up the growth of our exports. Accordingly Government have decided to implement a scheme to facilitate the setting up of 100% Export Oriented Units. It has been decided to give such units certain concessions to enable them to meet rigours of foreign demand in terms of pricing quality precisions etc.

2. A 100% Export Oriented Unit would imply an industrial unit offering for exports its entire production excluding permitted levels of rejects. An agreed time phasing for achieving 100% export will be permissible on merits of each case. Such an unit would belong to an industry in respect of which the export potential and export targets have been considered by the relevant Export Promotion Council. The product concerned should not be subject to export control quota ceilings which can be reached by existing units in the industry. The intention is that capacity should be created which should result in additionality of exports and not mere substitution.

3. Minimum value added content of 20% or more will be necessary for production of such a unit. Domestically procured raw materials shall be treated as imports for computation of value added.

4. While approving such a unit the additional employment which would be generated by the proposed unit would also be taken into consideration.

5. An illustrative list of industries which may be considered under the scheme is annexed.

6. All the units intending to set up industries under the scheme shall make applications to the Secretariat for Industrial Approvals, Ministry of Industry, Department of Industrial Development, Udyog Bhavan, New Delhi in the relevant IL, FC forms super-imposed with the words “100% Export Oriented Industry”. These applications will be considered by a Board headed by the Commerce Secretary.

A unit approved by the Board shall be governed broadly by the following terms and conditions:

(i) The unit shall undertake to manufacture in bond and to export its entire production for a period of 10 years ordinarily and 5 years in the case of products having high degree of technological change. The Customs Authorities shall provide bond facilities to such units wherever located.

(ii) Import of capital goods, components and raw materials shall be exempt from import duty. Finished products shall also be exempt from excise and other central levies.
(iii) No export benefits like cash assistance, replenishment licences would be admissible on these exports.

(iv) Import of capital goods, components, raw material and consumables, as required will be permitted.

(v) Imports of necessary capital goods shall be allowed against free foreign exchange of bilateral credits in such a way that the cost of units is not unduly raised.

(vi) Foreign collaboration may be permitted on merits of each case.

(vii) The conditions for dilution of foreign equity as stipulated in the department of Economic Affairs Press Note of 19th February, 1972, will not be enforced in 100% export oriented cases.

(viii) So as to keep rates of return on export production competitive, exporting units including large Houses/MRTP units may be permitted to borrow from financial institutions at normal debt/equity ratio.

(ix) Indigenously available capital goods, components and raw materials will be allowed without payment of Central Excise duty.

(x) Rejects upto 5% or such percentage as may be fixed by the Board may be allowed to be sold in the domestic tariff area on payment of customs duty on imported inputs and Central Excise duty on the indigenous inputs and also Central Excise duty on the rejects or an amount equal to the aggregate of such duties.

(xi) Time phasing for achieving 100% exports may be considered on merits. However in such cases exports shall have to be at least three fourths or more of the production.

(xii) The gestation period for achieving export targets shall not be more than two years and the period of export obligation in terms of the approval shall commence after the gestation period.

(xiii) The condition of export obligation shall be subject to review by the Board and the question whether the unit can be allowed to be debonded after completion of export obligation period and thereafter allowed to produce for domestic market shall be decided in the light of industrial policy in force at that time, equity participation indigenous capacity and protection to small scale industry.

(xiv) On debonding after the period of export, duties shall be leviable as follows:
   (a) Customs duty on capital goods on the depreciated value but at rates prevalent at the time of import;
   (b) Customs duty on unused imported raw materials and components on value at the time of import and at rates in force at the time of clearance; and
   (c) In respect of excisable goods, excise duty to be levied without depreciation and at rate attracted at the time of clearance.

(xv) An application made for industrial licence to the Secretariat for Industrial Approvals shall be treated as an application under the MRTP Act, 1969 and simultaneous action shall be taken to process the same so that a single point clearance is given by the Board.
(xvi) If any unit approved under this scheme is unable for any reasons, to fulfil its export or other obligations under this scheme, the Board will review the circumstances of that unit and recommend the future course of action to be taken in regard to that unit.

(xvii) The units which are approved for these special facilities would have to execute bond/legal undertaking with the CCI&T and in case of failure to fulfil their obligations, they would be liable to penalty in terms of such bonds/legal undertaking besides the penalty, if any under the Import Trade Control Regulations.

Sd/- K. Prakash Anand
Joint Secy. to the Government of India
S.0.25(E) - In exercise of the powers conferred by section 14 of the Industries Development and Regulation) Act, 1951 (65 of 1951), read with sub-rule (2) of rule 10 of the Registration and Licensing of Industrial Undertaking Rules, 1952, the Ministry of Industry, Department of Industrial Development, hereby makes the following further amendment to the notification of the Government of India in the former Ministry of Industry and Civil Supplies (Department of Industrial Development No. S.O. 163(E)RLIU/10(2)/76, the 3rd March, 1976, namely :

In the said notification, the following shall be added at the end, namely :

“Board of Approval for Hundred Per cent Export-Oriented Undertaking”.

Chairman

1. Secretary, Ministry of Commerce.

Members

2. Secretary, Department of Industrial Development or his nominee.
3. Secretary, Department of Company Affairs or his nominee.
4. Secretary, Planning Commission or his nominee.
5. Secretary, Ministry of Finance, Department of Economic Affairs or his nominee.
6. Secretary, Department of Science and Technology or his nominee.
7. Secretary, Technical Development, Directorate General of Technical Development or his nominee.
8. Chairman, Central Board of Excise and Customs or his nominee.
9. Development Commissioner, Small Scale Industries or his nominee.
10. Chief Controller of Imports and Exports or his nominee.
11. Secretary of the administrative Ministry concerned or his nominee.

Members - Secretary

12. Joint Secretary in-charge of Secretariat for Industrial Approvals.

Functions of the Board of Approval for Hundred Per cent Export-Oriented Undertakings

1. The Board shall consider all applications for industrial licence approvals including approval of proposals for foreign collaboration and import of capital goods, other than those for Kandla Free Trade Zone and Santa Cruz Electronics Export Processing Zone, under the scheme of special facilities for setting up hundred per cent export oriented units framed under the Government of India, Ministry of Commerce, Department of Commerce Resolution No. 8(15)/78-E.P. dated 31st December, 1980, published in the Gazette of India Extraordinary, 1980 Part I, Section 1 dated the 31st December, 1980.
2. The Board shall review the progress of implementation of letters of intent and industrial licences granted under the said scheme upto the stage of actual commissioning of capacity.

3. The Board shall consider policy questions arising from applications received under the said scheme or from the implementation of individual proposals thereunder and resolve them in accordance with the policy laid down by the Central Government from time to time.

4. The Board may refer any matter in its discretion for the consideration and decision of the appropriate authority in respect of matters falling within its competence.

5. The Board shall exercise the powers of the Licensing Committee appointed under sub-rule(2) of rule 10 of the Registration and Licensing of Industrial Undertaking Rules, 1952, in respect of Industrial Undertakings registered or registerable under the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) and report to the Central Government in regard to notices of applications under sections 21 and 22 of the said Act.”
SCHEME FOR 100% EXPORT ORIENTED UNITS

Press Note-dated 1st October, 1987

Government have been examining suggestions for restructuring the Scheme of 100% Export Oriented Units received from the industry and trade and those brought out in the studies conducted by the Indian Institute of Foreign Trade with a view to improving the effectiveness of the Scheme for attainment of its objectives and remove operational problems and bottlenecks.

2. It would be recalled that the Scheme of 100% Export-Oriented Units was introduced in 1980. The purpose of the Scheme was to encourage establishment of manufacturing and processing units geared primarily for exports and to provide them appropriate policy framework, flexibility of operations and incentives to enable them to compete in the international market. The response to the Scheme is increasing and in 1986-87, 144 cases were approved under the Scheme. The projects covered diverse area ranging from light engineering and food processing to deep sea fishing and minerals, chemicals, drugs and plastics, textile garments and electric goods.

3. It has been decided that case by case, on merits, 100% Export Oriented Units, including the units located in the Export Processing Zones would be permitted to sell up to 25% of their production in the domestic market, other than sensitive products, subject to payment of appropriate custom duties. It is, however, being ensured that no unfair competition with domestic industry results on account of this facility, which is necessary in view of the fluctuations in the international markets. This would necessitate a review of duty levels in some cases. A group of officials consisting of representatives of the Departments of Revenue, Industry and Commerce will examine it.

4. It has been further decided to extend to the 100% Export Oriented Units the benefits of tax holiday as is admissible to the units located in the Export Processing Zones. The tax holiday will be admissible for a block of 5 years during the first 8 years of the operation of the unit.

5. It has been decided to permit the 100% Export Oriented Units to sub-contract part of their production for job work to units in the domestic tariff area on a case by case basis, so that linkages with indigenous industry and installed capacity can be established.

6. Further, on merits, 100% Export Oriented Units may be exempted, in suitable cases, from operation of export control order applicable to the domestic tariff area, i.e., goods not allowed to be exported due to reasons of short supply or conservation, may be permitted to be exported if they utilise imported inputs.

7. In order to reduce the cost of bonding, concessional charge will be made where there is a cluster of Export Oriented Units. Elsewhere the charge would be reduced to 100% of salaries and emoluments of the staff provided.

8. While the above decisions have been taken, the Ministry of Commerce is considering alternatives to the present scheme of cash compensatory support extended to suppliers of goods from the domestic tariff area to units located in the Export Processing Zones and 100% Export Oriented Units as inputs for product finally exported with a view to simplifying the procedures and providing an incentive for utilisation of domestically made raw-materials and intermediate goods.
ANNEXURE - 4

EXPORT IMPORT POLICY (1997-2002)

SALIENT FEATURES :

★ Software units may undertake exports using data communication links or in the form of physical exports (which may be through courier service also), including professional services.

★ EOUs may import duty free all types of goods for creating central facility for use of software development.

★ Software units allowed to import capital goods on loan basis from clients for specified products for executing specified projects.

★ Leasing of capital goods allowed through foreign leasing companies.

★ Rejects upto 5% of the value of production allowed to be sold in the DTA. For sale of rejects above 5% approval of the Development Commissioner is necessary.

★ EOUs permitted to sell finished products in the DTA which are freely importable under the policy. This is over and above the 25% DTA limit on payment of full duties.

★ EHTP units can avail of an alternative facility to sell one half of value of their production on an annual basis in the DTA and export the other half in value terms without any minimum foreign exchange earning stipulation, on payment of applicable duties.