CHAPTER 4 A

POLICY, PROBLEMS AND PROSPECTS OF 100% EOU}s
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POLICY, PROBLEMS AND PROSPECTS OF 100% EXPORT ORIENTED UNITS

INTRODUCTION

Chapter I of this study encapsulated India’s Export Effort commencing from 1500 B.C. and covering right up to Eighth Five Year Plan i.e. 1992-93 to 1996-97. This was considered essential as it provided a backdrop for the study of a scheme which had “Export Promotion” as its sole objective.

In order to bridge the increasing deficit in the balance of trade and running down of exchange reserves, it had become necessary to step-up the growth of India’s exports. Accordingly Government decided to implement a scheme to facilitate the setting up of 100% Export Oriented Units. Chapter II of this work presented details, such as, categories of 100% EOU & EPZ, vital changes to the scheme, and salient features of the scheme under the New Industrial Policy.

Chapter 3 of this thesis brought out the objectives of the research and described the methodology adopted.

This Chapter (Chapter 4) entitled “Policy, Problems and Prospects of 100% Export Oriented Units”, delineates the policy changes in two parts, viz.,

(1) First Decade of the Scheme

(2) Policy of Liberalisation.
The Chapter deals more extensively and also intensively with policy changes, consequences, responses in post-liberalisation era. This is obvious as the present study focuses on impact of liberalisation on prospects of 100% EOU's. Policy changes, Ministerial perceptions, CEU suggestions and proposals etc., have been arranged in chronological order.
4.1 FIRST DECADE OF THE SCHEME

The 100% EOU Scheme came into existence in 1980 with much far fare and a promise of eliminating all hurdles in the path of exports once and for all. At that time, it was promised that 100% EOUs would be given all possible assistance, such as, duty-free imports of capital goods, raw materials, assistance by way of adequate power, land, finance, etc. In 1980 the DTA Units had to pay very high import duties on capital goods and had to apply for import licence and face numerous procedural difficulties. Hence 100% EOU Scheme appeared attractive.

On February 4, 1991, the Incoming President of Confederation of 100% Export Units, Mr. Ikbal Nathani observed, “Over the last ten years, incentive after incentive and simplification and ease of operation has been given to DTA Units Schemes like Pass Book, Advance Licencing, REP Licences, IPRS, CCS under simplified procedure, exemption from taxes and now the import duty on capital goods also been reduced to 25%. The net result of the constant improvements of the DTA Export Units has totally nullified the benefits of the 100% EOU Scheme and taken away the attractiveness of the Scheme. Today there is practically no difference left between DTAs and 100% EOUs and EPZs. If at all there is a difference between the two, it is more attractive to be a Unit in DTA and to have numerous flexibilities and advantages.”

contd...
A comparison then, brought out the following discrimination between DTA units and EOU/EPZ.

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>DTA</th>
<th>EOU/EPZs.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Cash Compensatory Support (C.C.S.)</td>
<td>100%</td>
<td>50%</td>
</tr>
<tr>
<td>2.</td>
<td>Advance Licences/REP Licences</td>
<td>Entitled to these benefits</td>
<td>Not entitled to any of these benefits.</td>
</tr>
<tr>
<td>3.</td>
<td>Export Obligation</td>
<td>No fixed percentage. They could adjust themselves according to the vagaries of market forces.</td>
<td>Minimum 75% of the production must be exported. Most Units exported 100% production.</td>
</tr>
<tr>
<td>4.</td>
<td>Product Diversification</td>
<td>In case of lack of export orders, they could diversify and undertake any other items for export or DTA Sales.</td>
<td>Were required to function under Customs Bond and could not change their line of manufacture.</td>
</tr>
<tr>
<td>5.</td>
<td>Domestic Sales</td>
<td>Free to sell any volume of the production in domestic market.</td>
<td>Could sell only 25% of the production after payment of extremely high duties and taxes. This concession was very difficult to avail of.</td>
</tr>
</tbody>
</table>
6. Customs Bond
   Not regulated by Customs.
   Had to work under Customs Bond.

7. Disposal of waste and scrap.
   Could dispose off their waste and scrap without cumbersome Customs formalities or without any percentage limit or having to pay duty even when imported inputs were used.
   Fixed percentage of Scrap. Also had to undergo procedural hurdles and duty was to be paid.

8. International Price Reimbursement Scheme (IPRS)
   Facility applicable
   Facility not available.

9. Income Tax Concession
   100% Tax exemption available on export production
   Tax-Exemption available for only five years in the first eight years of production.

10. Sub-Contracting
    No restriction in getting items manufactured from ancillaries or sub-contracting.
    Facility allowed but due to customs formalities of bond of Sub-contractors, no units were able to avail of this.

The above were just a few of the glaring discriminations between DTA and - 101 -
EOU/EPZ Scheme, which made the latter less attractive. Confederation had submitted on numerous occasions the discrimination against EOUs/EPZs. Confederation held that it was, therefore, necessary not only to eliminate this discrimination but also to ensure that the 100% EOU and EPZ Scheme was made attractive, to not only make the Units more viable, but also to draw foreign investors, multi-nationals and others to invest, export more and earn precious foreign exchange.

The discrimination against EOU/EPZs and non-attractiveness of the scheme was sufficiently evident from the number of units that had gone into production from 1980 to 1990. During this decade 3183 applications were registered, number of approval letters issued was 1586. Despite this, only 174 units had gone into production.

The Confederation of 100% Export Units alleged that the Scheme needed urgent revamping. Few of the important points that needed to be looked into were the following.

1) **100% CCS or Equivalent CCS to be given to EOUs/EPZs as applicable to DTA Units** :- The EOUs/EPZs were given 50% CCS. The net result was, the exports from EOUs/EPZs doubled and for the year 1989-90 exports were around Rs. 600 Crores. Later the Government announced 100% CCS, but only to units who used minimum 75% indigenous raw materials. Confederation wanted 100% CCS to all EOUs/EPZs, as long as they fulfilled the value addition norms laid down in their Industrial Licences.

2) **Tax Exemption** :- EOUs/EPZs were given the facility of Tax Exemption for a period of five years only in a block of eight years from the date of commencement of production. To encourage more units into the Scheme,
it was held that, the EOUs/EPZs which were under the obligation to export their full production should be given tax exemption for perpetuity.

3) De-licencing or Removing Licenced Capacity Restriction from EOU/EPZ Units. :- EOU/EPZ Units could increase production only upto 25% of the sanctioned licenced capacity. It was suggested that as long as the increased production was meant for exports and the Unit fulfilled the criteria laid down under the Letter of Approval, there should be no restriction on increasing production. The licencing restriction was a barrier in times of sudden spurt in demand for particular products.

4) Simplification of 25% DTA Sales and Duty Levied Thereon :- It was found that the permission to sell 25% of the production in domestic market had remained on paper all these years. Not only the procedure needed to be simplified but also the duties levied thereon needed to be rationalised. It was argued that, by simplifying and rationalising the Sales procedure, many more Units would be attracted into the Scheme.

5) Value Addition :- For value addition calculations, both imported and indigenous raw materials were taken into consideration. The result was that there was practically no incentive for the Units to indigenise and purchase their raw material from within the country. The suggestion was that indigenous purchases be excluded from the value addition calculation to provide an incentive for Units to buy indigenously and conserve foreign exchange.

6) The Importance and Assistance in Setting-up EOU/EPZ Units :- Units had difficulty in obtaining assistance at various levels in State and Centre. The sense of urgency was absent amongst officials, especially at the Field level, who dealt with EOUs and EPZs. The Green Card issued by the Commerce
Ministry had no meaning. The suggestion was that instructions be issued to honour the Green Card and provide assistance in matters like Telephone, Telex, Fax connections etc., on priority basis.

7) **Broad Banding** :- While the DTA Unit could use the same machinery for making allied products for export or domestic sales under the Broad Banding policy, on EOU/EPZ could not do so and had to manufacture only the item for which it had been licenced. In times of no export demand, an EOU had to shut down. It was suggested that Broad Banding be freely permitted to EOUs and EPZs, so long as they remained within the value addition criteria as laid down in their Industrial Licence.

8) **Declaration of EOUs as Essential Services** :- It was argued that exporting units needed to be declared as Essential Services, which would enable them to have uninterrupted exports, free from labour problems, power-cuts etc.

9) **International Price Reimbursement Scheme (IPRS) to be made Applicable to EOUs/EPZs.** :- EOUs/EPZs imported raw materials like Steel, Aluminium etc., due to the imported price being much lower. They should be encouraged to procure these indigenously by making IPRS applicable. This would save precious Foreign Exchange.

(Source : Key-note Address of Mr Ikbal Nathani in presence of Minister of Commerce, Minister of State and Govt. Officials.)

President, CEU, had said, “At the time the Government assumed office, there was ‘panic’ on the export front, and since then, the Commerce Ministry has taken steps to correct the situation. The Confederation hopes that in the corrective measures which the Government proposes to take, the long standing point of revamping the 100% EOU/EPZ Scheme is not overlooked. There is no benefit whatsoever to be classified as an EOU or EPZ vis-a-vis a
DTA Unit. The only advantage is a one time saving of import duty on capital equipment only. This payment of 25% import duty is amply made up by a DTA Unit by obtaining full CCS, Flexibility of Operation, REP Licences, Additional Licences, IPRS etc. On the other hand, on EOU/EPZ binds itself for ten years to export its full production, and while not only having to sacrifice 50% CCS, has to bear additional burden of Octroi, State Sales Tax, Customs Bonding Formalities, Scrap Disposal problems etc."

While our foreign exchange reserves had hit the rock bottom at Rs. 2000 Crores, just good enough for 2 or 3 weeks imports, the EOU/EPZ sector expressed a strong belief that they would emerge as one of the most dynamic sectors in the years to come and that there could be no better alternative than to give a major thrust to the 100% EOUs and EPZ Units.

A study of the Scheme depicted the following inherent drawbacks:

1. **No Operational Freedom** :- The Scheme was highly inflexible and rigid. Entrepreneurs did not have operational freedom.

2. **Disadvantageous vis-a-vis DTA Units** :- The Scheme was full of rigid restrictions, excessive documentation, lengthy procedures, inflexible rules etc., which led to delays. This affected production and time schedules which are extremely important in exports. The question posed was ‘why would an entrepreneur like to enter into the Scheme and remain in custom bondage when he could get more benefits under the DTA Scheme with lesser controls.’

3. **Lost Attractiveness** :- The Scheme had remained static and was losing its advantages vis-a-vis other Schemes. DTA Schemes were upgraded from time to time making them far more attractive. Over a period of time new Schemes had been introduced which, to a large extent, reduced the novelty
and attraction of the 100% EOU/EPZ Scheme.

4. Multiple Objectives :- The Scheme had too many objectives to fulfill viz. Earning Foreign Exchange, Value Addition, Creating Employment etc.

5. Disadvantageous vis-a-vis EPZs :- Distinction was also made between the 100% EOU and EPZ Scheme. Certain facilities were allowed to EPZ Units but denied to the 100% EOUs. These Schemes were by and large the same. Therefore, the distinction between them had no meaning. One glaring example, was the exemption from ‘State Sales Tax’ and ‘Octroi’ allowed to EPZ Units. This was not allowed to 100% EOUs. In year 1991, State of Gujrat allowed Sales Tax Ememption to 100% EOUs. Based on this, the Confederation of 100% Export Units wanted, the Commerce Ministry to take up with other States to exempt 100% EOUs Sales Tax. Similarly for Octroi, the Confederation held, should not be imposed on the imported and indigenous raw materials for use by these units.

6. Absence of ‘one window’ concept :- There was no “One Window” concept especially for 100% EOUs. The 100% EOUs had to run from one Department to another with the result that 100% EOUs continued to suffer and delays kept occuring from time to time.

7. Absence of co-ordination :- Lack of permanency of policy was another drawback. In the Union Budget of 1990-91 the Excise Notification No. 293/88 was withdrawn under which the 100% EOUs could sell their products made out of indigenous raw material in the domestic market with a levy of Excise Duty of not more than 150%. This facility was introduced in 1988 and withdrawn after a period of 15 months only. If at all this facility had to be withdrawn, it should have been done after due consultation and discussion
with the Commerce Ministry and the Representatives of 100% EOUs, so that some alternative could have been thought of in this place. This showed absence of coordination.

Export earnings of the EOUs since their inception in 1980 upto 1990-91 are estimated at about Rs. 2,613 Crores. The year-wise performance of EOUs during this period was as follows:

Table 13

<table>
<thead>
<tr>
<th>Year</th>
<th>Export Earnings (Rs. in Crores)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981-82</td>
<td>10</td>
</tr>
<tr>
<td>1982-83</td>
<td>38</td>
</tr>
<tr>
<td>1983-84</td>
<td>59</td>
</tr>
<tr>
<td>1984-85</td>
<td>104</td>
</tr>
<tr>
<td>1985-86</td>
<td>131</td>
</tr>
<tr>
<td>1986-87</td>
<td>291</td>
</tr>
<tr>
<td>1987-88</td>
<td>245</td>
</tr>
<tr>
<td>1988-89</td>
<td>460</td>
</tr>
<tr>
<td>1989-90</td>
<td>577</td>
</tr>
<tr>
<td>1990-91</td>
<td>698</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2613</strong></td>
</tr>
</tbody>
</table>

Source: 1. Newsletter Aug-Sept. 1990 of CEU
2. PTI Economic Service May 15, 1992
3. PTI Economic Service Dec. 15, 1992
4.2 POLICY OF LIBERALISATION

Around the period synchronising with the completion of the Seventh Five Year Plan (1985-86 to 1989-90), developments with serious repercussions on the Indian economy took place. The Eighth Five Year Plan which was to commence from 1990-91 could not take off on account of political changes in the country. The two years following the completion of the Seventh Plan were characterised as Annual Plans (For details refer to Chapter 1, Page 28, Point No. 1.3.2)

After the headstart towards economic liberalisation in 1991, the First year of the Eighth Five Year Plan, i.e. 1992-93 was marked by inertia. That the process of economic reforms had come to a halt was the general impression prevalent in certain quarters of the economy. The new Export-Import Policy (1992-97) announced as on March 31, 1992 had embodied some of the unique features which constituted a significant departure from the earlier policies. The measures and initiatives taken during 1993-94, however, removed the impression of halting process in economic liberalisation. The renewed vigour with which the structural reforms were carried forward was evident in an ample measure in the Union Budget 1993-94. No less significant, were the measures taken during 1992-93, which among others included the new Trade Policy, an Action Plan for boosting exports, identification of 34 Extreme Focus Sectors, changes in FERA, abolition of Foreign Travel Tax, and liberalisation of Gold Policy.
4.3 SUMMARY OF PROVISIONS OF NEW EXPORT POLICY 1992-97 - AS APPLICABLE TO 100% EO/EPZ/FTZ UNITS.

The new Import-Export Policy 1992-97 substantially liberalised the provisions for 100% Export Oriented Units. The salient features of the 1992-97 policy are given as under.

1. An EOU/EPZ unit may import free of duty all types of goods, including capital goods, required by it for production provided they are not prohibited items, in the Negative List of Imports.

2. Second hand capital goods may also be imported.

3. An EOU/EPZ Unit may, on the basis of a firm contract between the parties, source the capital goods from a domestic leasing company.

4. The unit shall achieve a minimum Value Addition of 20%

5. The Unit shall execute a Bond/Legal Undertaking with the Development Commissioner concerned and in the event of failure to fulfil the obligation stipulated in the Letter of Approval/Intent, it would be liable to penalty in terms of the Bond/Legal Undertaking or under any other Law for the time being in force.

6. If the export of any goods from DTA is subject to Minimum Export Price under the Policy, the export of that goods by an EOU/EPZ Unit shall also be subject to the same M.E.P.

7. The entire production of EOU/EPZ Unit shall be exported except -

(a) Rejects upto 5% or such percentage as may be fixed by the Board of Approval.
(b) Upto 25% of the production in value terms may be sold in the DTA irrespective of Value of indigenous inputs used.

(c) Upto 50% of value of production in respect of EOU and EPZ Units in agriculture and allied Sectors.

8. An EOU/EPZ Unit may export goods manufactured by it through an Export House, Trading House, Star Trading House recognised under this policy. Third party exports have also been permitted.

9. Supplies from the DTA to EOU/EPZ will be regarded as “deemed exports” and besides being eligible for the benefits of deemed exports, will also be eligible for the following benefits:

(a) Refund of Central Sales Tax.

(b) Exemption from payment of Central Excise Duty on capital goods, components and raw materials, and

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

10. 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. The benefit of IPRS Scheme has been withdrawn in the Import-Export Policy 1992-97.

11. Clubbing of F.O.B. value of exports of an EOU/EPZ Unit can be clubbed with the F.O.B. value of export of its parent company in the DTA for the purpose of according Export House, Trading House or Star Trading House status for the latter.
12. Foreign Equity upto 100% is permissible in the case of EOUs and EPZ Units.

13. Transfer of manufactured goods may be permitted by the Development Commissioner from one EPZ Unit to another EPZ Unit, one EPZ Unit to an EOU, one EOU to an EPZ Unit or from one EOU to another EOU.

14. 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.

15. The EOU/EPZ Units may be permitted to sub-contract part of their production for job work to units in the DTA on a case to case basis.

16. In case an EOU/EPZ Unit is unable, for valid reasons, to utilise the imported goods, it may re-export them with the permission of the Development Commissioner, subject to clearance from Customs with reference to valuation etc.

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

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

19. Private bonded warehouses may be permitted to be set up in EPZs for stock and sale of duty free raw materials, components etc., to EOUs and EPZ Units.
20. The bonding period for units under the EOU Scheme shall be 10 years. The period may be reduced to 5 years by the BOA in case of products liable to rapid technological change.

21. On the satisfaction of the BOA, EOU/EPZ Units may be debonded on their inability to achieve export obligation, value addition or other requirements.

22. Existing DTA Unit 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.

23. The formula of Value Addition for EOU/EPZ Units has been rationalised.
Improvements of far reaching significance were announced in the Union Budget 1993-94 in conformity with the spirit of economic liberalisation. The salient features of the Budget which had a close bearing on country's export promotion efforts were:

(i) Introduction of full convertability of rupee on trade account.

(ii) Reduction in minimum bank lending rate and interest on export credit by one per cent.

(iii) Tax holiday (a) for five years for new projects in power sector (b) for units in software and hardware technology parks, and (c) for new investment in industrially backward States and Union Territories.

(iv) Abolition of export duty on granite and iron ore.

(v) Heavy reduction in import duties on projects and general machinery and higher cuts in import duty on specified capital goods for textiles, leather processing, marine products, gems and jewellery, horticulture, floriculture and food processing industries, the maximum rate for these being 25% ad-valorem.

The Union Budget of 1993-94 introduced '100% Free Market Convertibility of the Rupee'. This resulted in diluting, to quite some extent, the main attraction of the EOU/EPZ Scheme. Further, the considerable reduction in Customs and Excise tariffs also diluted the advantage enjoyed by EOU/EPZ Units of duty free imports. The fall in import duties particularly of Capital Goods to a level of around 25% reduced the relative advantages of both EOU/EPZ and EPCG
Schemes. (Details of EPCG Scheme are given as Annexure 1, Chapter 2)

The Union Budget, however, did not hold forth any alternative advantages nor solved some of the pressing problems like DTA Sales and disposal of waste and scrap. Perhaps the only redeeming feature was the reduction in import duty of cotton yarn waste from 85% to 25%. This, to some extent solved the problem of disposal of cotton yarn waste. The abolition of export duty on unpolished granite and iron ore gave some relief to these two sectors.

Realising the feeling of frustration among EOU/EPZ Units the Ministry of Commerce launched an emergency fire-fighting exercise. The Commerce Minister asked the concerned officials to evaluate quickly the areas adversely affected by the Union Budget.

Confederation of 100% Export Oriented Units (CEU) impressed upon the authorities the urgent need for rescue operations to salvage EOU/EPZ Scheme. CEU made certain salient suggestions to resuscitate the Scheme and provide it with necessary growth factors.

The CEU suggested the following remedial measures on an urgent basis:

1. A perpetual Tax holiday for Units under the Scheme.

2. The stipulation of 25% minimum level of duty payable should be eliminated for Sales in DTA for rejects, waste, scrap etc. This was essential since the Custom/Excise Duty levels had been considerably slashed in the Budget and the 25% minimum level would create anomalies and hardships for EOU/EPZ Units.

3. EOU/EPZ Units should be given complete exemption from payment of Customs Duty at the time of de-bonding after ten years.
(4) Labour Laws as prevailing abroad should be made applicable to EOUs/EPZ Units to make them internationally competitive and viable. Except for minimum wages no other labour laws should be applicable.

(5) The only concept which should be applicable is Net Foreign Exchange (NFE) earnings and all other restrictions in the form of Value Addition, Sales and Disposal of Waste, Rejects and Scrap should be done away with.

It was also suggested that, in view of the full convertibility of Rupee and other sweeping changes towards liberalisation by way of overall reduction in Customs Duties and Excise levies, a revamping of the 100% EOU/EPZ Scheme be accorded top priority. The Secretary General of CEU in a letter addressed to the Joint Secretary, Ministry of Commerce said, “I am placing below a proposal making the EOUs/EPZ Scheme more realistic, reasonably attractive and less cumbersome. We in CEU are of the opinion that the only way to give the scheme new life and vigour is to have the said proposal quickly examined and suitably adopted before any harm is done to Units who find themselves unwitting prisoners of a promising scheme which may fail and new potential entrants shy away from a scheme that seems least attractive vis-a-vis other export oriented schemes.”

The Proposal For Simplification of EOU Scheme put forth by Confederation of Export Units was presented in two parts. Part I entitled ‘The Present EOU Scenario’ contained sub-titles as

I.1 Diminishing Attraction

I.2 EPCG : An Alternate Attraction.

I.3 C.G. Imports by EOUs; Not Duty Free.
1.4 Only Attraction: 100% Convertibility

1.5 Imperatives of Concerted attention to Export Production.

Part II of this document placed a proposal and was entitled ‘The Revised EOUs/EPZ Scheme (Proposal)’.

The proposal aimed at streamlining of provisions and procedures wherever inhibiting factors were experienced in a large measure. It proposed to replace the Concept of ‘Bonding and de-bonding’ by a mandatory export obligation to be fulfilled in a stipulated period as was in the EPCG and Advance Licensing Schemes.

The proposal envisaged that by and large all export oriented manufacturing units, including those covered by EPCG Scheme to be considered as Export Oriented Units, placed in two categories.

Category-I: ‘Star EOUs’ with longer and larger commitment to earn Foreign Exchange.

Category-II: ‘EOUs’ with graded commitment to exports but related extra obligation.

contd...
The basic criteria and obligations were reflected in a chart as shown below:

<table>
<thead>
<tr>
<th>Category (Status)</th>
<th>Maximum Period for export obligation (No Bonding)</th>
<th>Export Obligation</th>
<th>Tax Holiday</th>
<th>Import Duty</th>
<th>Duty on DTA Sale of Products</th>
<th>Duty on C.G. after completion of Maximum period of Export</th>
</tr>
</thead>
<tbody>
<tr>
<td>I) STAR EOU's</td>
<td>10 years</td>
<td>75% of production</td>
<td>10 years</td>
<td>5%</td>
<td>++ Nil</td>
<td>Nil</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>40% of Custom Duty or 120% of Excise Duty whichever is less without lower ceiling</td>
<td></td>
</tr>
<tr>
<td>II) EOU</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>50% of Custom Duty or 150% of Excise Duty</td>
<td>Nil</td>
</tr>
<tr>
<td>A)</td>
<td>8 years</td>
<td>4 Times C.G. Value</td>
<td>8 years</td>
<td>10%</td>
<td>++ Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>B)</td>
<td>5 years</td>
<td>Twice</td>
<td>5 years</td>
<td>15%</td>
<td>++ Nil</td>
<td>Nil</td>
</tr>
</tbody>
</table>

Remarks: ++ On the basis of a revolving Advance Licence to be issued every year on the Chartered Accountant or Chartered Engineer Certificate on anticipated consumption pattern. Unit will maintain a stock and consumption register subject to post-audit by authorities.

P.N. : a) Date of Export Obligation Commences after maximum Gestation period of two years from date of LOL.

b) All Categories: Nil duty on DTA Sale of Waste, Scrap, Rejects.
4.4.2 IMPACT OF UNION BUDGET 1993-94

"----- In a preliminary assessment made after presentation of the budget for the year 1993-94, authoritative sources say that the Commerce Ministry has been satisfied over the adequate response to its demands in the Union Budget, especially in the lowering of customs and raw material duties for extreme focus items and important competitive exports.

The Ministry feels that there would be considerable pick-up in exports to general currency area (G.C.A.); countries with a likely growth of about 15% in contrast to a likely sluggish trend in exports to rupee payment area (R.P.A.) countries during 1993-94. India's overall exports, because of a favourable export thrust environment provided through the budget, would register a growth of about 15%. The sources add that the waiving of interest tax on export credit would further ease the difficulties faced by the exporters in the credit provided by commercial banks. Similarly continuation of benefits under Section 80 HFC on export profits and also the five year tax holiday under Section 10A of the Income Tax Act to units set up in Software Technology Parks and Hardware Technology Parks, would make export related activities more attractive during the next year.

On steep lowering of customs duties on capital equipment from 45% to 25% used in India's competitive export sectors of textiles, leather, marine products, gems and jewellery, authoritative sources say that there would be substantial rise in the export earnings in these areas.

As regards agricultural exports, particularly extreme focus items of food processing, horticulture and floriculture industries, the Commerce Ministry Sources argued
that reduction in duties to 25% on specified items used in these sectors would considerably push the export turnover.

Also, exports of iron ore and unpolished granite would be stepped up because of doing away with export duty on these two items, the sources argued...."

(Source : Economic Times - 01-03-1993)

4.4.3 POST BUDGET SCENARIO OF EOUs

While the budget certainly provided the necessary impetus to the export-related industries, it did not provide any specific relations/incentives to the 100% EOUs. On the contrary, the full convertibility of Indian Rupee extended to cover all inward remittances dispensed with, the distinct advantage the 100% EOUs enjoyed in this regard.

In ‘News Analysis’ column Sudeshna Sen wrote an article on 18th April 93 entitled ‘Businessmen fear to tread on EOUs’. The article presented the reactions of business community and those of the office bearers of Business/Industrial Associations. The article went as :

"They were the chosen ones, until the recent budget and Exim Policy. When the rest of industry struggled with the shackles of a restricted economy, 100 per cent export oriented units (EOUs) were given VIP treatment, and allowed to function in a free market atmosphere. Everyone wanted to set up a 100 per cent EOU.

Today the scenario is completely different. The entire concept of EOU is being questioned as having outlived its usefulness. Owners of EOU want to move out, and businessmen think twice before venturing into the EOU.
Behind the corporate sector’s disenchantment with the EOU concept is the full convertibility of the rupee, the recent Exim Policy providing for capital goods imports at 15 per cent duty under the Export Promotion Capital Goods (EPCG) Scheme and the delicensing of a number of sectors, which were earlier open only via EOUs.

The incentives of duty free capital goods imports and deferring of excise duty, tax benefits and preferential treatment for infrastructural facilities do not seem to be enough to compensate for the detailed customs surveillance, restrictions on movements of goods, and the 75 per cent export commitments required for EOUs. As one leading textile manufacturer who wants to get into garments, which is at present restricted to the small scale sector says, “It is better to have export committed units rather than EOUs. We would rather pay 15 per cent import duty initially than live with constant surveillance.”

It was during the era of shortages that EOUs gained precedence, when the green channel concept was necessary to jump the queue for infrastructural facilities like power, telephones, building material like cement and the other innumerable approvals required.

They retained pride of place when import duties on capital goods were prohibitive, and exports to the relatively assured markets of the erstwhile USSR and the East Bloc countries was the norm. But now it seems that setting up an EOU makes business sense only if capital goods cost are extremely high or in sectors which are still restricted for the small scale. Recently, the Federation of Indian Export Organisation has submitted a report to the Government where
it has recommended that 100 per cent EOUs and units in FTZs should be progressively done away with.

Says Kishore Shah, President of FIEO, “The performance of EOUs in increasing the country’s exports has not lived up to expectations. The whole concept will automatically trickle off as fewer EOUs are actually set up”.

But some businessmen argue that EOUs still have a role to play. “It is very easy to give an export commitment while importing capital goods and then forget about it”, says Vijay Kalantri, President of the All India Manufacturers Association.

According to Kantikumar Podar, President of FICCI, EOUs actively search out and cultivate export markets and develop an export-oriented culture that domestic units may not have.

While EOUs in high value-added sectors like garments, gems and jewellery and leather have done relatively well and units in Export Promotion Zones and Free Trade Zones are still better off since infrastructural facilities are provided for, units outside EPZs find themselves in the proverbial catch 22 situation.

“Neither do we get preference when it comes to power, fuel at international costs or telecom without running around, nor can we sell more than 25 per cent in the domestic market. And to get debonding we will have to meet the 36 per cent net value addition norms which is not as easy as the export commitment under EPCG”, complains Manoj Maheshwari, Managing Director of J.F. Laboratories who set up an EOU to manufacture amino acids two years back.”
An article, published in ‘The Economic Times’ of 14th May ‘93, entitled ‘Belated but Sensible’ held that “EOUs have lost their relevance and attractiveness in the current scenario and it would be better to phase out these concepts and treat them on par with any other entity”.

EOUs/EPZs were considered, till a few years back as the bulwark of India’s exports and were bestowed with liberal fiscal incentives, import duty concessions and import licences. However, the relative attractiveness of these schemes has diminished since licensing was removed, import duties slashed, curbs on foreign direct investments lifted and schemes like Export Promotion Capital Goods (EPCG) announced with limited export obligation.

Even in China exclusive exporting enclaves like Guandong and Fujian lost their attractiveness when the government started liberalisation outside these enclaves. While exclusive exporting enclaves were successful in the initial stages as in China, the exclusivity disappeared with onset of liberalisation outside these zones. India, unfortunately, failed to capitalise in the initial phases when these units came into existence.

Total exports from EPZs in the year 1991-92 in dollar terms were 0.47 billion and those from EOUs were estimated at around 0.3 billion, which put together comes to less than one per cent of India’s exports in 1991-92. As against the above figures it was estimated that EOUs/EPZs alone would contribute around twentyfive per cent of India’s exports.

4.4.4 PLEA FOR FISCAL RELIEFS FOR EOUs, EPZs AND MINISTERIAL CONTEMPLATION

The outgoing President of Confederation of Export Units, Mr. Ikbai Nathani,
rehearsed the main difficulties facing EOU s and EPZs while speaking at the inaugural session of the workshop on ‘Optimising Export Production’ organised by the C.E.U. These included stringent bonding procedures and multiplicity of bonds and guarantees, inability to dispose off waste and scrap generated during production due to unrealistic duties, inability to sell the permitted 25%, in DTA again due to unrealistic duty structure and difficulty to sub-contract part of the production for finishing processes in DTA.

He said despite these hurdles exports in 1992-93 of the 308 operating EOU s and EPZs were around Rs. 3400 Crores and in 1993-94 it was expected to touch Rs. 5000 Crores.

Speaking at the workshop the Commerce Minister Mr. Pranab Mukherjee conceded that some of the comparative advantages of the EOU s and EPZs were eroded in the context of the overall liberalisation process and said that new package had been formulated in the light of the need to make such units competitive and viable by ensuring that there were no comparative disadvantages.

He said that Government had already taken some decisions to bring about procedural and policy simplifications for EOU s and EPZs. The aquaculture EOU s, he proceeded, would be permitted without the requirement of customs bonding and once this scheme was introduced, its extension to other sectors would also be considered.

Also, the Commerce Minister said that domestic tariff area (DTA) Sale of finished products of EOU s and EPZs was proposed to be permitted with imposition of applicable excise duty only subject to certain safeguards for the domestic industry.

It has also been decided, he further narrated, that selected exporters and
customs houses' agents in Bombay would be permitted on an experimental basis to file their documents through computers so as to eliminate procedural delays and if the experiment proved successful, it could be introduced in all the major ports.

Referring to the decision to provide a green channel, for exporters with consistently good performance, Mr. Mukherjee said, that a detailed scheme would be worked out and announced shortly.

The Minister emphasised that the concept of exportable surplus did not have much relevance in the Indian context now and said that the industry must produce for exports.

He said, "We cannot export everything we produce. Goods must be competitive in terms of cost and of acceptable standards in the international markets. Efficiency must be improved down the line - efficiency in the use of resources, raw materials and quality consciousness at every stage of production and development."

The Commerce Minister indicated that a consolidated package for export oriented units (EOUs) and export processing zones (EPZs), including fiscal reliefs had been finalised and would be notified soon after the legal formalities involved in the exercise were completed.

Highlights of speeches of Mr. Nathani, President CEU; Mr. Pranab Mukherjee, Commerce Minister, GOI; Mr. Sivaraman, Secretary Revenue, Ministry of Finance, GOI and Mr. Gill, Joint Secretary, Ministry of Commerce, GOI. Given as Annexure 2, Chapter 4.
CHAPTER 4 B

POLICY, PROBLEMS AND PROSPECTS OF 100% EOU$_S$
CHAPTER 4B

4.5 Report of the Gill Committee

On 19th Jan. '93, a Committee was constituted under the Chairmanship of Mr. J.S. Gill, Joint Secretary, Ministry of Commerce to review the policy and procedures applicable to EOU/EPZ Units. The Committee was to make suitable recommendations for changes/modifications. The Committee was directed to submit its recommendations / suggestions by the first week of March, 1993. The Confederation of Export Units (CEU) was given representation on the Committee. The 'Composition of the Committee' could be seen in the Order issued by Ministry of Commerce, Government of India dated 19th January, 1993 (Given as Annexure 3, Chapter 4.)

The Report of the Committee was submitted to the Government on 14th December, 1993. The Report touched upon several Policy and Procedural areas on the working and problems being experienced by EOU/EPZ Units.

In the Foreword to this Report the Chairman of the Committee Mr. J.S. Gill emphasised the need to create conducive work environment for EOU/EPZ Units, in the light of changes brought about by liberalisation. He stated, “Manufacture and export in bonded premises, whether from Export Processing Zones (EPZ) or from stand alone units, forms a special component in the export efforts of developing countries for which a special policy dispensation is provided in India, as is also the case world over. However, since July, 1991, important policy initiatives have been undertaken to integrate India with the global economy. It has, therefore, become even more imperative to create a smooth working environment for EOU/EPZ Units to allow them to concentrate their energies...
on tapping the potential of the export market rather than be distracted by the requirement to conform to formalities stipulated in rules, procedures and legal requirements that have ceased to be relevant in the new environment.

The trade and the industry had been emphasising the need for an internationally comparable framework for EOUs/EPZs which would encompass not only EXIM policy and procedures but also matters relating to labour policy, custom and excise procedures, taxation and fiscal issues."

The overall approach of the Committee, Mr. J.S. Gill concluded, was to provide necessary policy support as also the requisite procedural flexibility to enable EOU/EPZ Units to alter and adapt to the changing requirements of the global market.

The Report presented itself in three parts. Part One captioned as ‘Introduction’ provided the backdrop. The Export Processing Zone Scheme was introduced in 1965. Seven EPZS have since become operational. The EOU Scheme was introduced in 1981. Units under these schemes are an enclave separated from the trade and custom regime of the country with a view to offering them an internationally competitive duty free environment for export production. Liberalisation process in the DTA to some extent, eroded the comparative advantage the EOU/EPZ Units had at one time enjoyed, while on the other hand the latter were seen to be operating in a relatively inflexible environment imposed by custom bonding. It was considered desirable to ensure that benefits of dedicated exports were realised in full measure. It was in the background of the need to take comprehensive look at these schemes and bring out the ingredients of a package which would include both policy and procedural aspects, that this Committee was set up.
Part Two was entitled ‘Working of the Committee’.

On notification of the Committee, due publicity was given and suggestions were invited on the whole gamut of policy and procedures applicable to EOU/EPZ Units. Simultaneously the Confederation, Ministries, Development Commissioners and commodity divisions in the Ministry of Commerce were requested to give their views and suggestions. The Development Commissioners were particularly requested to interact with industry associations and leading entrepreneurs to elicit their suggestions.

The Committee got enthusiastic response, in terms of the number and scope of suggestions, from different quarters. All inputs were sifted and more important issues germane to the EOU/EPZ sector culled out for detailed discussion. Other issues that were either too general in nature, referred only to a limited area or where the points made were contrary to the general trend of policy were listed out. Many suggestions, in the area of Customs and Excise Procedures, warranted greater examination especially in the context of the situation actually prevailing on the ground. These matters were referred to a Sub-Committee whose recommendations were suitably incorporated in the Report.

Part Three designated as ‘Recommendations of the Committee’ listed the suggestions and recommendations. Suggestions received were grouped into following categories:

A : Basic Issues.  B : Exim Policy Issues
C : Exim Procedures         D : Duty Structure and Taxes
E : Fiscal and Banking Issues F : Labour Issues
The Executive Summary of the Report is placed below.

REPORT OF THE COMMITTEE CONSTITUTED BY THE GOVERNMENT TO REVIEW POLICY AND PROCEDURES APPLICABLE TO EOU/EPZ UNITS

EXECUTIVE SUMMARY

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Recommendation and para No.</th>
<th>Action needed</th>
<th>Agency</th>
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<tbody>
<tr>
<td>A</td>
<td>BASIC ISSUES:</td>
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<tr>
<td>1</td>
<td>Single window clearance</td>
<td>(a) Nomination be made of</td>
<td>All State</td>
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<td>(Para No. 1)</td>
<td>a suitable agency for</td>
<td>Governments/Union Territories.</td>
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<td>connection, environmental</td>
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<td>clearances, safety etc.</td>
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<td>(b) Provision be made of</td>
<td>Deptt. of Econ. Affairs.</td>
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<td>automatic access to external</td>
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<td>commercial borrowing.</td>
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<td>(c) Delegation be effected of</td>
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<td>specific powers of customs/</td>
<td>Revenue.</td>
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<td>central excise to Asstt. Collector of Customs in</td>
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<td>charge of EOU/EPZs units.</td>
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- 128 -
2. Harmonization of norms of various export promotion schemes (Para 2).
   Unification be effected of basic norms of EOU/EPZ/EHTP/STP
   Min. of Commerce/Electronics.

3. Inter scheme mobility (Para 3)
   Provision be made for conversion of EOU/EPZ Units into EPCG Scheme and also between EOU/EPZs and EHTP/STP units.
   DGFT/Min. of Comm./Electronics.

4. DC as Registering Authority (Para 4)
   Priority treatment be accorded to EOU/EPZ units in regard to allotment of garment quota/grant of IPRS.
   AEPC/EEPC

B. EXIM POLICY ISSUES

5. Special Import Licence for export of computer systems and peripherals (para 5)
   Grant be made of special import licence for export of computer systems and peripherals by enlarging Public Notice No. 119 dt. 31.3.93 and also grant of special import licence to EOU/EPZ units as are available to the manufacturers of ISO 9000 or any other such certificates of quality.
   DGFT
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<tr>
<td>6. <strong>Grant of duty drawback to garment/leather sector.</strong>&lt;br&gt;(para 6)</td>
<td><strong>Choice be given to EOU/EPZ units to take advantage of deemed export benefits or to get special brand rates fixed for their products.</strong></td>
<td><strong>DGFT</strong></td>
</tr>
<tr>
<td>7. <strong>DTA sale under OGL</strong>&lt;br&gt;(Para 7)</td>
<td><strong>EOU/EPZ units be allowed to effect DTA sale of items freely importable on payment of applicable import duties in full.</strong></td>
<td><strong>Min. of Commerce.</strong></td>
</tr>
<tr>
<td>8. <strong>Liberalised Exit Policy</strong>&lt;br&gt;(Para 8)</td>
<td><strong>Need to distinguish mature and premature debonding with differential treatment and enhancement of maximum depreciation presently allowed.</strong></td>
<td><strong>Min. of Commerce.</strong>&lt;br&gt;<strong>Deptt. Revenue.</strong></td>
</tr>
<tr>
<td>9. <strong>Partial debonding (Para 9)</strong></td>
<td><strong>Flexibility be provided for shedding excess capital goods in the DTA if necessary by formally prescribing norms for such cases.</strong></td>
<td><strong>Min. of Commerce.</strong></td>
</tr>
<tr>
<td>10. <strong>Trading (Para 10)</strong></td>
<td><strong>Need to provide a flexible policy framework to permit larger number of activities in the EOU/EPZ sector rather than manufacturing alone</strong></td>
<td><strong>Min. of Commerce.</strong></td>
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<tr>
<td></td>
<td>EXIM PROCEDURES</td>
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<tr>
<td>11.</td>
<td><strong>Import of Refrigerated Trucks (Para 11)</strong></td>
<td>Import of refrigerated trucks etc. be freely permitted for the use of EOU/EPZ units with safeguards as may be required.</td>
</tr>
<tr>
<td>12.</td>
<td><strong>Sale of spares (Para 12)</strong></td>
<td>EOU/EPZ units be permitted to sell machinery along with 15% spares both in regard to export and DTA sale.</td>
</tr>
<tr>
<td>13.</td>
<td><strong>Private bonded warehouses (Para 13)</strong></td>
<td>The private bonded warehouses permitted be set up in EPZs may also be allowed to sell goods in the DTA.</td>
</tr>
<tr>
<td>14.</td>
<td><strong>Re-export of unused/broken stones (Para 14)</strong></td>
<td>Need to provide for re-export or disposal of unused / broken precious stones imported by gem and jewellery units in EOU/EPZ sector.</td>
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<td><strong>C. EXIM PROCEDURES</strong></td>
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<tr>
<td>15.</td>
<td><strong>Inter-unit transfer (Para 15)</strong></td>
<td>The requirement of approval of DC for inter-unit transfer be dispensed with.</td>
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<td>Paragraph</td>
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<tr>
<td>16. Monitoring method (Para 16)</td>
<td>Need to specify the method of monitoring and action for default be taken under Foreign Trade (Development &amp; Regulation) Act only.</td>
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<tr>
<td>17. Modalities of DTA sale (Para 17)</td>
<td>DTA sale facility be availed of within 1 years of accrual of entitlement</td>
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<tr>
<td>18. MMTC to supply silver etc. (Para 19)</td>
<td>Supply points of MMTC and extension of coverage of more precious metals be enlarged</td>
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<tr>
<td>19. Wastage norms (Para 20)</td>
<td>Wastage norms for gold/silver/platinum jewellery be made applicable from the date the unit went into production.</td>
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<tr>
<td>20. Import of gold free of cost (Para 21)</td>
<td>EOU/EPZ units be allowed to undertake export operation on the basis of supply of gold and other precious metals free of cost from abroad.</td>
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</table>
D. DUTY STRUCTURE AND TAXES

21. Reduction of duty on DTA sale (Para 22)  Only applicable excise duty be levied on DTA sale by EOU/EPZ units under 25/50% dispensation. Deptt. of Revenue.

22. Duty on DTA sale of by-products (Para 23)  Sale of by-products in the DTA be permitted on payment of applicable excise duty. -do-

23. Duty on waste/scrap and packing material (Para 24)  No incidence of duty on disposal of waste/scrap in the DTA if it is covered within the prescribed norm and applicable excise duty be charged on the excess portion if the waste exceed the norm. Similarly no duty be charged on used packing materials except in the case of valuable items which could be allowed disposal after appropriate valuation on normal rates of customs duty. -do-

24. Perpetual Tax Holiday (Para 25)  EOU/EPZ units be exempted from Corporate Tax so long as they operate under EOU/EPZ scheme. Deptt. of Rev. - 133 -
<table>
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<tr>
<th>Paragraph</th>
<th>Description</th>
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<tr>
<td>25. CST (Para 26)</td>
<td>Procedures for reimbursement of CST be suitably streamlined to ensure speedy settlement.</td>
</tr>
<tr>
<td>26. Introduction of effective rates of excise duty (Para 27)</td>
<td>Suitable Excise Notifications be issued for introducing effective rate of duty in place of tariff rates on domestic sales by EOU/EPZ</td>
</tr>
<tr>
<td>27. Duty exemption for all inputs (Para 28)</td>
<td>Excise exemption be extended to all inputs, including building materials</td>
</tr>
<tr>
<td>28. (a) Time bound clearance of loan applications</td>
<td>A special channel for speedy processing of loan applications by IDBI/ICICI/IFCI with earmarking of certain percentage of available credit be introduced.</td>
</tr>
<tr>
<td>28. (b) EEFC account (Para 29)</td>
<td>The list of transactions for which EEFC account could be utilized for current account transactions be expanded. In addition EOU/EPZ be given an option for having a special EEFC account to the extent of approved foreign currency utilization.</td>
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**E. FISCAL AND BANKING ISSUES.**

- Min. of Com. Deptt. of Revenue.
- do-
- Min. of Finance / IDBI / ICICI / IFCI.
- Min. of Finance.
F. LABOUR ISSUES

29. Flexibility in regard to labour matters (Para 30)

The Dev. Commissioners of EPZs be notified as the appropriate authority under the I.D. Act in regard to retrenchment of workmen and closure of units. In addition public utility status be extended to EOU.

G. CUSTOMS/EXCISE PROCEDURAL ISSUES

30. Simplification of assessment procedure (Para 31)

Self clearance of goods and standardisation of duty be introduced for import/export.

31. Leasing of CG (Para 32)

The liability of leasing companies for CG leased to EOU/EPZ units be confined to payment of custom.excise duty.

32. Sub-Contracting (Para 33)

A practical and transparent guidelines be laid down for sub-contracting. In addition the powers to permit sub-contracting be delegated to Asstt. Collector of Customs.
33. Bank Guarantee for transfer of goods (Para 34)
A legal undertaking be introduced in regard to transfer of goods in place of Bank Guarantee.

34. Supply of samples (Para 35)
EOU/EPZ units be freely permitted to take out samples up to the value of 1% of total production of previous year without payment of duty.

35. Procedural issue relating to disposal of scrap/waste (Para 36)
(a) No interest be charged on waste/scrap generated out of raw materials more than 1 year old.
(b) Scrap be valued realistically and be taken at the contract value settled between the buyer and seller. In case of differences, the customs be guided by the Industry Associations.
(c) Scrap be allowed to be disposed of as and when generated without having to wait for consumption of entire RM covered by a particular bond.
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<th>No.</th>
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<tbody>
<tr>
<td>36</td>
<td>Renewal of private warehouse licence</td>
<td>Validity of private bonded warehouse licence issued to EOU's be coterminous with 10 year bonding period.</td>
</tr>
<tr>
<td>37</td>
<td>Interest on warehoused CG/RM (Para 38)</td>
<td>Artificial restriction on retention of CG/RM be removed</td>
</tr>
<tr>
<td>38</td>
<td>End use certificate (Para 39)</td>
<td>The requirement of submission of end use certificate of each imported consignments to the customs authorities at port be dispensed with</td>
</tr>
<tr>
<td>39</td>
<td>Re-export of equipments obtained on hire/loan (Para 40)</td>
<td>Re-export of equipments obtained on loan/hire be allowed without duty by suitably amending the customs notifications.</td>
</tr>
<tr>
<td>40</td>
<td>Export of software through onsite development (Para 41)</td>
<td>Operation of units prior to the notification of Revenue of August '93, recognizing export of software through onsite development, be covered through suitable clarification.</td>
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<td>No.</td>
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<tr>
<td>41</td>
<td>Restriction on port of shipment, export of jewellery through courier, export/import through post parcel (Para 42)</td>
<td>Exports to Nepal, Bangladesh etc., be freely allowed by road. Similarly the possibility of allowing jewellery export from Cochin EPZ through Cochin Air Port be explored.</td>
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<td>Procedures/modalities need to be evolved to permit export/import through courier/post parcel</td>
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<tr>
<td>42</td>
<td>Replacement of defective goods (Para 43)</td>
<td>No duty be levied on replacement of rejected goods</td>
</tr>
<tr>
<td>43</td>
<td>Loan of RM from DTA (Para 44)</td>
<td>EOU/EPZ units be allowed to return material obtained on loan basis without duty</td>
</tr>
<tr>
<td>44</td>
<td>Custom to be functional on holidays (Para 45)</td>
<td>The ports of importation and exports need be manned on a seven day basis. Similarly in EOU/EPZs, custom personnel be available on 6 days in a week and working on Sundays and other public holidays could be on payment of normal charges.</td>
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<tr>
<td>45</td>
<td>Sharing of cost recovery charges (Para 46) The charges paid for services of a single bond officer appointed for two or three EOU\s be allowed to be proportionately shared.</td>
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<tr>
<td>46</td>
<td>Introduction of single bond for custom/excise matters (Para 47) A single bond be introduced for both custom/excise matters. If this is not feasible, a single bond be evolved on the excise side also.</td>
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<tr>
<td>47</td>
<td>Harmonization of custom/excise notifications in respect of EOU/EPZs (Para 48) EOU/EPZs custom/excise notifications be harmonized on identical lines. Similarly due priority should be attached in bringing about changes in custom/excise notifications to reflect the changes in Exim Policy.</td>
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**H. MISCELLANEOUS ISSUES**

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<tbody>
<tr>
<td>48</td>
<td>Special garment/textile quota for EOU/EPZ units (Para 49) EOU/EPZ units be given initial preferential quota for 1 or 2 years till they are in a position to earn quota entitlement in the normal manner. Min. of Textiles.</td>
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<tr>
<td>49. Exemption from cess</td>
<td>Appropriate</td>
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<tr>
<td>(Para 50)</td>
<td>legal/administrative measures be taken to exempt EOU/EPZ units from payment of various kinds of cesses.</td>
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<tr>
<th>50. POL Products</th>
<th>POL products be available to EOU/EPZ units without excise duty.</th>
<th>Min. of Petroleum.</th>
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<td>(Para 51)</td>
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<tr>
<th>51. Mechanism for resolution of policy/procedural issues</th>
<th>A standing mechanism be established to deal with policy/procedural issues on an on going basis</th>
<th>Min. of Commerce.</th>
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<td>(Para 53)</td>
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### 4.5.1 CONCESSIONS UNDER THE EOU SCHEME: DECEMBER '93

Confederation of Export Units (CEU) had organised “All India Workshop on Optimising Export Production” on October 14, 1993 at New Delhi. This was inaugurated by Commerce Minister Mr. Pranab Mukherjee and by Secretary Revenue Mr. M.R. Sivaraman. During the Business Session, the EOU/EPZ Units were assured of a comprehensive package to ameliorate their problems with regard to DTA Sales and Excise duty structure, duties on disposal of waste, scrap and packaging material, sub-contracting, availability of essential inputs, finance etc.

Ministry of Commerce issued a press note on December 27, 1993 regarding concessions announced for the EOU/EPZ Units.
Placed below is the Copy of Press Note dated December 27, 1993 issued by the Ministry of Commerce.

December 27, 1993

PRESS NOTE
(ISSUED BY MINISTRY OF COMMERCE)

In the light of ongoing changes being brought about in economic, industrial and trade policies, some issues had been under consideration with a view of effecting the requisite changes in schemes related to export production. Some decisions taken by the Government in this context are:-

(i) The excise duty on DTA clearances from EOU/EPZ is linked with custom duty subject to a minimum of 25% ad valorem. It has been decided to do away with the stipulation of 25% limit. Henceforth, EOU/EPZ units will be able to make sales to DTA with 50% custom duty on the goods or the excise duty payable thereon, whichever is higher. The same type of rate stipulation would apply to DTA sales of waste and scrap;

(ii) Capital goods and spare parts required by integrated aquaculture farms under the EOU scheme would be exempted from customs duty without stipulation of any condition requiring bonding or any other forms of physical customs controls.

(iii) The licence for private bonded warehouses for EOUs shall be issued for a period of 5 years instead of one year as of now which require yearly extensions.

(iv) A new facility for stock and sale of imported raw materials, components and spare parts will be introduced to make available imported inputs, not
appearing in the negative list of Exim Policy, to manufacturers and exporters readily as and when required. Such goods may be warehoused in the country where there are major customs houses for a minimum period of one year with no pre-deposit of duty or liability to pay interest.

(v) In order to enable the domestic manufacturers of capital goods to compete for orders from EPCG licence holders, it has been decided to allow domestic suppliers of such capital goods who win orders from EPCG licence holders, to import components at the concessional rate of duty of 15%.

4.5.2 EXPORTERS' DISAPPOINMENT OVER CONCESSIONS

The Confederation of Export Units expressed ‘disappointment’ at the meagre concessions extended to them. The then CEU President Mr. Rakesh Himatsingka said that only some “fine tuning” had been done. By and large, the status quo continued, he asserted.

Representatives of EOUs were, in fact, awaiting the much promised package for making these projects viable to attract more investment. These included tax-holiday for the complete duration for which the unit continues to be in the EOU Scheme, applicability of only excise duty on DTA sales for disposal of waste and scrap as well as benefit of MODVAT, enhancement of Foreign Currency facility from the present 15 per cent to 50 per cent. etc.

It was held that the provision of 50 per cent customs duty or excise duty whichever is higher on DTA sales took the units back to square one and this had meaning only if the element of countervailing duty (CVD) was not included in the import duty. The overall feeling on the part of exporters was that the provision for exemption of customs duty on capital goods and spare parts for acquaculture farms should have been extended to all EOUs.
Such important points as freedom from bonding procedures, emphasis on self-certification, exemption and not reimbursement of Central Sales Tax, export finance and interest at international rates had been totally side-stepped despite assurances to the contrary.

The CEU Chief cautioned that the “inadequacies of the package would dishearten not only existing units and make them seek an exit from the scheme but also deter potential entrants to the scheme.”

It was hoped that concessions announced were only by way of “interim relief” and that the other major issues would be resolved soon to eliminate the anomalies and inconsistencies that haunted the EOU scheme.

4.5.3 INTER - MINISTERIAL Discord

Barely four days after the announcement of an incentive package for 100 per cent export oriented units and export processing zones, the commerce ministry reportedly woke up on the report of the Gill Committee lying with it since December 14, 1993. The Gill package was then being sent post haste for clearance to the Finance Ministry.

This followed sharp protests from EOU/EPZs who were taken aback by the December 27 announcement, more so because the government had kept them under the impression that a major revamp would be routed through the Gill package. Also, the December 27 announcement had propped up “status quoism”, which according to EOU/EPZs could never have been the creation of the Gill panel.

It was then learnt that the December 27 announcement was basically a department of revenue (Finance Ministry) move, ‘independent’ of the interministerial
exercise since February 1993 under Mr. J.S. Gill, a Joint Secretary in the Commerce Ministry. Curiously, the Commerce Ministry okayed the proposal somewhat oblivious to the Gill report submitted to it some thirteen days back.

Official sources expected that once the Gill report was forwarded, a finance ministry clearance would come without much hitch, more so because it's view point on the revenue implications had already been represented on the panel.

The December 27 package had allowed EOUs/EPZs to sell in the domestic tariff area by paying 50 per cent customs duty or the payable excise duty whichever was higher. A similar concession included the disposal of waste, scrap and packaging. Also aquaculture had been removed from customs bonding and physical controls. These had evoked sharp protests from the Confederation of 100 per cent Export Units (CEU) because it feared that its members would have to deal with both, customs and excise. The CEU President had apprehended that this would be a rather unenviable position because both departments were reported to be falling short on their revenue targets for the year. What put the Government in a spot was the fact that the two ministries went ahead with the status quoist announcement independent of the Gill panel.

VARIATIONS

There were major variations in the two policy packages. The Gill panel recommended what would end the dual authority of the customs and excise departments, by allowing Sale in DTA on payment of applicable excise duty. On disposal of waste and scrap, the panel held, that there should be no incidence of duty in DTA if it was covered within the prescribed (input-output)
norms. Here the applicable excise duty would be charged on the excess portion if the waste exceeded the norm.

Also, the Gill panel said that no duty would be charged on used packaging materials, except in the case of valuable items, which would be disposed of after appropriate valuation, on normal rates of duty.

(Source: Times of India, January 3, 1994)

4.5.4 RECOGNISED EXPORT UNITS (REU) SCHEME

The long awaited incentive package announced by the Government in the last week of December 1993 was much below the expectations of EOU & EPZs. Senior officials of the Commerce Ministry acknowledged the fact that the liberalisation process diluted some of the advantages of EOU/EPZ scheme. They pointed out that in the circumstances then, it was difficult to give Financial advantages that were available earlier. But there was scope, they said, to take measures that would give advantages required for increasing export production.

The EOU and EPZ scheme, started in 1980 when the EXIM Laws were restrictive and customs and excise duties were high. Confederation held that the scheme had become outdated and submitted a proposal to the Government for simplifying the scheme into a “Reorganized Export Units (REU) Scheme”. In the proposed scheme there was no change in the export obligation, viz. 75 per cent of the value of production for 10 years and minimum value addition of 20 per cent in NFE terms or as prescribed. The other changes that CEU proposed were more or less the same as those which they sought, such as, tax holiday, exemption from CST, no bonding, no duty on sale of scrap and waste. DTA sale of 25 per cent at applicable excise duty...
to put EOUs on par with DTA suppliers, exemption in excise duty on building and construction materials with provision for penalties in case of premature exit from Scheme.

Commerce Ministry figures released in September, 1993 showed that exports by 224 EOUs in 1992-93 were worth Rs. 1,815 Crores compared to Rs. 1,019 Crores in 1991-92. Net Foreign Exchange inflow was valued at about Rs. 1,040 Crores as against Rs. 594 Crores in the previous year. CEU estimated that if the REU scheme was introduced the exports would increase appreciably to around Rs. 10,000 Crore in two years.

### Table 14

**Exports & NFE Earnings of EOUs**

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Units where data is available</th>
<th>F.E. Out flow</th>
<th>Exports</th>
<th>Sales in DTA</th>
<th>Net FE Earnings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991-92</td>
<td>240</td>
<td>425.74</td>
<td>1019.24</td>
<td>77.74</td>
<td>593.49</td>
</tr>
<tr>
<td>1992-93</td>
<td>224</td>
<td>775.26</td>
<td>1814.95</td>
<td>18.59</td>
<td>1039.68</td>
</tr>
</tbody>
</table>

Source: Commerce Ministry, GOI.
4.5.5 MEMORANDUM SUBMITTED TO CABINET SECRETARY G.O.I.

A memorandum was submitted to Shri. Zafar Saifullah, Cabinet Secretary, Government of India at SEEPZ on 12th March, 1994, regarding problems of EPZ/EOUs by Development Commissioner, SEEPZ and Santacruz Electronics Export Manufacturers’ Association and SEEPZ Gems and Jewellery Manufacturers’ Association in association with Federation of Indian Export Processing Zones Industries Association. The office bearers of Confederation of 100% Export Units were also among the invitees.

Following were the valid issues brought out affecting EPZs and also the 100% Export Units.

A) CUSTOMS POLICY AND PROCEDURES

1) Changes in Customs Regulations :- The changes in customs regulations have not kept pace with the changes in the Import Trade Control and Exchange Control Regulations. As a result a situation has arisen that in respect of EOU/EPZ certain activities which are now permitted by Export/Import Policy cannot be undertaken as the same is not permitted by the customs regulations, as no corresponding changes in the relevant customs notification were made.

The basic purpose of customs regulations in the earlier period, which was regulatory, is no more valid. Moreover, foreign trade has become more liberal, hassle-free and less onerous from D.T.A. Export Oriented Units have lost their edge. It is also necessary that benefits and obligations under various Export Promotion Schemes should be at par.

It was suggested that:

(a) Present notifications be replaced by a new notification incorporating a
philosophy and the spirit of the present policies of the Government.

(b) There should be one single notification uniformly applicable to all the EOU/EPZs and EHTP Units. Thus effectively bringing all at par.

2) Green Channel Facilities for EOU/EPZ Units: - Time lag between arrival of the material at Indian Port and the transfer to the units is anywhere between 3 days to 7 days. Such delays hamper production schedules, thereby affecting exports. EOU/EPZ Units function under Bond and under complete security and control of customs department. It is, therefore, not necessary to spend time on examination of import as well as export cargo. It is, therefore, suggested to devise a system whereby such delays are eliminated.

3) Debonding of Capital Equipments: - As technology keeps on changing rapidly, some of the capital goods may not be required by the Units due to obsolescence. For this purpose, automatic debonding of capital goods without customs duty should be allowed after unit achieves, say, exports upto three times the value of Capital Goods or three years from the date of import, whichever is earlier. In addition, debonding should be allowed at any time by paying normal duty at the time of sale on depreciated value.

4) Disposal of obsolete/unusable and excess material: - Due to constant rapid and technological development and innovations in the International Electronic Industry, the electronic products/components become obsolete very quickly. There are product changes, design changes, engineering changes etc.

The design of the product has to be constantly changed/upgraded to meet the needs of the International customers. Many times such changes make the entire stock of components, required to manufacture such product obsolete/ unusable and/or surplus.
In international trade, Indian units require larger lead time to procure material while its customers, do not permit such large lead time. As a result, if they want to remain in business, have to resort to risk buying. When the anticipated order is not placed or the design undergoes a change, the entire stock of raw material/components becomes obsolete / unusable and/or surplus.

The customs notification does not provide for disposal of such material/components rendered obsolete/unusable/surplus and there is no procedure for such disposal. Moreover, the Units run the risk of a demand from the customs department for payment of customs duty on the material which is not used in the manufacture of goods within one year of its importation.

It is suggested that EPZ/EO Units be allowed: (a) To sell such material in International/Domestic market.

(b) To scrap the material and dispose off the same.

B) DUTY STRUCTURE AND TAXES

5) Perpetual Tax Holiday :- EOU/EPZ Units are at present extended a tax holiday in a block of five years during the first eight years of operation. It is suggested that the EOU/EPZ units be granted perpetual tax holiday under Section 10A of the Income Tax Act, so long as the Units continue to operate under the respective scheme.

6) Central Sales Tax Benefits on ‘Inter-Unit’ Sales :- Presently EOU/EPZ Units are entitled to full reimbursement of C.S.T. paid by them on purchases from the D.T.A., for utilisation of the same in production of goods for export. Such reimbursement of C.S.T. is not available in the case of purchases made by EOU/EPZ from units in the scheme. It is, therefore, requested that this
anomaly be removed. Benefit of reimbursement of C.S.T. be extended to EPZ/EO Units when they purchase from another unit in the Scheme also.

C) LABOUR ISSUES

7) Labour Laws :- EPZ/EO Units should be encouraged to improve their productivity in order to compete effectively in the International market. Labour Laws which hamper business growth require immediate change. No commercialisation of union activities which are detrimental to business growth should be allowed in the EOU/EPZ.

The Memorandum further contained specific issues affecting Electronic Units, Jewellery Units.

D) POINTS TAKEN UP WITH Mr. K. VISHWANATHAN, MEMBER (EXPORT PROMOTION) CBEC ON 25.2.94 AND ON 2.3.94 AT NEW DELHI AND REGARDING WHICH HE WAS VERY SYMPATHETIC

(i) Multiplicity of Bonds.
(ii) Acceptance of FAX copies of documents by customs.
(iii) Simplified customs procedure for sub-contracting in DTA.
(iv) DTA sale of freely importable goods.
(v) Disposal of Scrap.
4.6 RECOGNITION AND MUTATION AT GOVERNMENTAL LEVEL

It was really heartening to find that the various Government Officials focused their attention on boosting of exports and having continuous interaction with Captains of the Industries.

Cabinet Secretary Mr. Zafar Saifullah visited SEEPZ Bombay for an interaction with the representatives of EOU/EPZ Units from Western Region. A number of issues related to Customs, Excise, EXIM Policy, Duty Structure, Labour Matters, Issues related to RBI etc., were discussed at length.

In view of various representations and submissions made by Confederation of Export Units, on behalf of 100% EOUs/EPZ Units, on matters pertaining to Customs and Excise policies, procedures and other related issues Mr. K. Vishwanathan, Member (Export Promotion) Central Board of Excise and Customs addressed CEU Regional Meetings at Bangalore, Delhi, Madras, Calcutta and Bombay during February/March 1994 for a personal interaction between him and EOU/EPZ Units in the presence of Senior Officials of Customs and Excise as also the Ministry of Commerce.

Issues raised by representatives of EOU/EPZ Units at various centres - Bangalore, Delhi, Bombay, Calcutta and Madras - and the observations/decisions of Member (EP) CBEC formed the basic agenda for discussion at the inter-face between Member (EP) CBEC, Mr. J.S. Gill - Jt. Secretary, Ministry of Commerce, Officials from Ministry of Commerce, Finance Ministry and Industry Representatives. The residuary points of the Gill Committee on which decisions/actions were awaited were also discussed.

Parliamentary Standing Committee on Commerce observed, “The liberalisation policies have put Export Processing Zones (EPZs) and Export Oriented Units
(EOUs) in a disadvantageous position. The drastic reduction in customs tariffs, expanding of OGL list of imports and the introduction of partial convertibility of rupee together reduce the differential advantage given to EPZs and EOU.

The Committee asked the Commerce Ministry to look into the matter.

The Committee also pointed out that the performance of EPZs was short of what was expected of them. The share of exports from the EPZs in total exports remained more or less at the same level (2.6 per cent) in recent years. Moreover, the export growth from the EPZs of 18.7 per cent in 1992-93 was lower than that in the case of non-EPZ exports which grew at 22.2 per cent during the same period.

The performance of EOU, on the other hand, in the year 1992-93 over the previous year was exceptionally good, wherein exports increased by over 85 per cent. The Committee recommended evaluation, at regular intervals, of the differential performance of the EOU and EPZ.

The Committee also pointed out that the Commerce Ministry had taken no follow-up action on the recommendations of the Rekhi Committee and Gill Committee set up to look into the problems faced by the EOU.

The Committee further observed that the EOU and EPZ in countries like China had been doing much better, and that they were provided with sound infrastructural facilities, which were very much lacking in India. It recommended that a long term plan be chalked out to develop a sound infrastructural system, including transportation, power, storage and telecommunication with time stipulation attached for completion of different tasks in the area.

Harmonising tax structures in different states to overcome complications was also recommended.
4.7 FORMAT FOR EOU AND EPZ UNITS UNDER EXIM POLICY AS AMENDED
(UPTO 31ST MARCH, 1995)

The Commerce Minister introduced a number of imaginative interventions to rationalise and standardise the various types of EOUs and EPZs. Further, the link with EPCG Scheme was established for the first time. This was an extension of the previous moods to allow free movements between EOUs and EPZs. The basic idea was to make the Scheme attractive. In the era of liberalisation, the low duty structure on capital goods imports and the attraction of the advance licensing scheme were giving stiff competitions to these Schemes.

Highlights of Exim Policy as Amended (upto 31st March, 1995) were :

1) EOUs/EPZs/EHTPs/STPs :- The scheme covering export-oriented units and export processing zones was rationalised. Electronic Hardware Technology Parks (EHTPs) and Software Technology Parks (STPs), on the one hand, and EOUs and units in the EPZs, on the other will be on par in matters relating to value addition and DTA Sales.

Chapter IX of Exim policy as amended upto 31st March 1995 on Value Addition and Export Obligation read, 'The unit shall achieve a Minimum Value Addition (VA) of 20% but units engaged in the manufacture or 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 value addition stipulation in sectors such as electronic hardware'.
The permissible sale into the DTA of electronic hardware products were increased by 5 per cent to a maximum of 40 per cent on value addition above 25 per cent. The Exim policy on DTA Sales read, The entire production of EOU/EPZ Units shall be exported subject to the following:

(a) Rejects upto 5 per cent 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 per cent of the production in value terms may be sold in the DTA. DTA Sale shall be subject to the fulfilment 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 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 in accordance with the DTA sale guidelines notified in this behalf, sell upto 50 per cent of the production in value terms in the DTA subject to fulfilment 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 DTA</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Less than 15 per cent</td>
<td>Nil</td>
</tr>
<tr>
<td>(ii) 15 - 25 per cent</td>
<td>Upto 30 per cent of the production in value terms of the electronic items, including components manufactured in the units.</td>
</tr>
<tr>
<td>(iii) More than 25 per cent</td>
<td>Upto 40 per cent of the production in value terms of the electronic items, including components manufactured in the unit.</td>
</tr>
</tbody>
</table>

DTA Sale facility for software items shall be 25 per cent.

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) Debonding and conversion made easier: Debonding and conversion to the EPCG scheme was made possible. A unit could shift to the EPCG scheme by paying 15 per cent duty on the capital goods imported. The export obligation was to be as per the scheme, that is, 4 times the import to be retired over 5 years. The conversion was also made possible whereby the EPCG unit could become an EOU. Presumably, the Development Commissioner of the relevant Export Processing Zone was to manage this transition without attracting charges of favouritism.
Exim policy as amended upto 31st March, 1995 in this regard read as

‘De-Bonding - Subject to the approval of BOA, EOU/EPZ units may be debonded on their inability to achieve export obligation, value addition or other requirements. Such debonding shall be subject to such penalty as may be imposed and payment of duties of customs and excise applicable at the time of debonding.’

‘An EOU/EPZ unit may also be permitted, as an ‘one time option’, to debond on payment of duty on capital goods, under the 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.’

‘Conversion - 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 unit 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.’

It was perceived that the change over system will reduce the death rate of the new units as they may be able to survive under another scheme specially when the market conditions are changing very fast.

3) Private bonded warehouses allowed :- In yet another major policy change, which would help the user of imported raw materials more than the EPZs as such, private bonded warehouses were permitted anywhere in the country including EPZs. The corresponding enabling provision in the Customs Act already existed since the 1995 budget. Established importers with strong
finance were expected to tie up with a EPZ like SEEPZ or Kandle and stock up bulk import items without paying duty. The importer would gain by deferring the payment of the custom duty and saving the administrative and financial costs of customs bonding by using the customs managed space in the EPZ.

Paragraph 115 of the Amended Exim Policy reads as follows:

'Private Bonded Warehouses - may be set up in EPZs for the purposes enumerated hereinafter. Such warehouses need not conform to the requirements of value addition and export obligation but shall be subject to such conditions as may be stipulated by the BOA.

(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 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) Trading, including re-export after re-packing/lebelling :- Imports may be permitted for re-export in freely convertible foreign currency, for activities such as re-packing and labelling.'

4) Uniform Value Addition Formula :- The uniform value addition formula is being used now. The EHTP, STP, EOU and EPZ will be on par on matters relating to value addition and DTA Sales.

Paragraph 119 of the Policy reads as:

'Value Addition - for the purposes of this chapter shall be expressed as a percentage and shall be calculated for a period of five years from the
commencement of commercial production according to the following formula:

\[ \frac{A - B}{A} \times 100, \text{ where} \]

\[ VA = \]

VA : Value Addition
A : the FOB value of exports realised by the EOU/EPZ unit, and
B : the sum total of 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 years period or any other charges.

These changes in Exim policy, the policy-makers thought, will provide the proper environment for the private parties which are now allowed to set up their own technology parks and EPZs.

Further the prediction was that, a large number of units would shift from EOU/EPZ to EPCG as the route was opened in amended policy.
4.8 GILL PANEL RECOMMENDATIONS IMPLEMENTED

PIB Press Note Dated 9.4.95 stated that "all the major recommendations made by the Gill Committee have already been implemented. Of the total of 51 recommendations made by Gill Committee only 7 have not been agreed to. The important recommendations which have been implemented include permission of undertaking larger number of activities in EOU/EPZ sector other than manufacture, inter scheme mobility, choice to EOU/EPZ units to take deemed export benefit or to get special brand rates fixed for their products, facility to remove excess capital goods into DTA through partial debonding and of basic norms of EOU/EPZ Schemes. The recommendations which have not been accepted relate to duty reduction on DTA sale of finished products, by products and waste/scrap, perpetual tax holiday, DTA sale of items freely importable by payment of duty in full.

The major changes made in Chapter IX of the Exim Policy in the amendments carried out on April 1, 1995 are as follows:

(i) Lowering of minimum VA stipulation for silk and Fashion garments from 40% to 30%;

(ii) Permitted debonding of EOU/EPZ units as a one time option under the 15% duty regime of EPCG Scheme and clarifying about concurrent discharge of export obligation of a DTA unit under EPCG scheme on its conversion to an EOU;

(iii) Extension of the provisions relating to repairs, reconditioning and re-engineering applicable to EPZ units to EOU's also;

(iv) Harmonization of DTA access for electronic hardware items from EOU/EPZ
units with the levels permissible for an EHTP unit;

(v) Deletion of MEP conditions applicable, if any, in the DTA, in the case of EOU/EPZ units.

These changes will remove many of the constraints faced by garments and electronics units besides facilitating inter-scheme mobility and are expected to increase the exports from this sector.

4.8.1 SIMPLIFIED PROCEDURE FOR APPROVALS OF 100 PER CENT EOU, EPZ UNITS

The Government on 20th April, 1995 further simplified the procedure for approvals of 100 per cent EOU and EPZ units. It also removed procedural bottlenecks.

As per the revised guidelines all proposals conforming to the prescribed parameters were to receive automatic approval within two weeks from the SIA of the Ministry of Industry in case of 100 per cent EOUs and from the D.C.s concerned for units to be set up in the Export Process Zones.

All other proposals which did not conform to the parameters for automatic approval were to be considered by the BOA and disposed within 45 days through SIA.

Regarding the conversion of DTA units, the notification said, 'The application for conversion of existing DTA units into EOUs, where there is no outstanding export obligation under the EPCG scheme or Advanced Licensing Scheme, will be allowed, if such DTA units satisfies the parameters for automatic approval.

The notification also stipulated that EOU and EPZ units seeking automatic
approval must meet the requirement of customs authorities in regard to bonding, nature of activity carried out and subcontracting.

The Government also delegated more powers to the Development Commissioners of EPZs for 100 per cent EOU and EPZ units in view of ongoing economic liberalisation.

4.8.2 SALES TAX NORMS FOR EOU EASED

The Commerce Ministry dispensed with the requirement of export-oriented units having to seek clearance from officers in the department of revenue for claiming reimbursement of Sales Tax on goods used as raw materials for their export products.

This was a part of the move initiated by the ministry towards de-bottle necking export procedures to help exporters meet higher export targets.

The earlier stipulation of each export-oriented unit having to seek an attention from a field officer of the department of revenue to seek reimbursement used to lead to delay in getting the reimbursement.

The Background-Note for meeting with Member, CBEC and the Additional Secretary, Ministry of Commerce with representatives of EOU/EPZ Association from Western Region, contained specific issues raised by EOU pointing out the delays.

Keva Fragrances Ltd., Bombay held that “CST claims amounting to Rs. 56,992/- and Rs. 56,000/- are pending for more than 4 years and 2 years respectively. Despite replying to all deficiency letters, the claims have not been settled so far.”
Anant Spinning Mills, Mandideep held that “The present procedure for reimbursement of CST is very tedious and lengthy process. It is requested a simplified procedure be adopted as like Central Excise Duty exemption, under which at the time of procurement of item the Excise Duty is not applicable. A similar procedure should be adopted for Central Sales Tax for EOU.s.”

Cimmco Spinners, Solapur raised a similar issue.

Gill Committee on this issue noted that, “the ideal situation would be to exempt the levy of CST on transaction from DTA to EOU/EPZ units. However, there might be constitutional limitations on a decision being taken in this respect without the consent of the States to whom such taxes are passed on after collection. Bearing this in mind, such exemption may not be possible in the short run, though the issue along with others pertaining to State levies such as Sales Tax and Octroi need to be taken up at an appropriate forum with a view to obtaining a consensus on exempting EOU/EPZ units from having to pay such taxes, many of which have subsequently to be reimbursed in one form or the other. In the interim period it might be worthwhile to see how existing procedures can be suitably streamlined to ensure speedy reimbursement.”

The ease in Sales-Tax norms thus had its basis in Gill Report.

The problem was further aggravated when the revenue department issued instructions to its officers asking them to stop attesting reimbursement slips halting the flow of funds to the exporters from this channel. The dues of all the exporters from this channel were said to have run into crores of rupees.
The revenue department had issued this order to suspend attesting the ST reimbursement forms as it felt that there was no need for the department to attest these forms. This, they felt could be dealt by the Commerce Ministry on its own.

The Commerce Ministry issued a notification stating that firstly, the exporting unit will now only have to provide the original invoice of the suppliers showing all details regarding the description of goods, quantity and value along with a photostat copy which will be retained by the Ministry Official.

Secondly, the Development Commissioner of the Ministry will have to satisfy himself that the goods were procured for the unit and have been used for the export products. Once this is done then the Sales Tax reimbursement will be effected.

This move by the Commerce Ministry was expected to help the exporting community in a big way as they had been clamouring for an easier form of reimbursing Sales Tax paid on domestically procured goods. ‘Faster reimbursement will help the exporting units to have faster access to funds’, Ministry said. It was held that ‘the move was aimed at helping the exporter in his efforts. The then Commerce Minister, Mr. P. Chidambaram had decided to take all necessary action to help simplify the export procedures to boost export performance. The ministry had, therefore, decided to have a regular interaction with the revenue and customs department towards this goal.'
4.9. CEU PRE-BUDGET MEMORANDUM 1996-97

Confederation of Export Units submitted Pre-Budget Memorandum laying down the expectations of exporting community.

A. DIRECT TAXES

A.1 Tax-Holiday to EOUs for entire period of existence in Scheme to provide a stimulus for 100% EOUs continuing in the Scheme and to extend to them a worthwhile benefit.

A.2 Tax Holiday of Five Years be extended to EOUs for the additional period of bonding on renewal of licence after satisfactory completion of initial period of bonding.

A.3 Deemed Exports by an EOU considered for Tax-Holiday including supplies from one EOU to another EOU.

A.4 ‘CST Exemption’ instead of ‘refund’ for EOU/EPZ units, since, present refund procedures are time consuming and create bottlenecks.

B. INDIRECT TAXES

B.1 EOUs/EPZ Units be exempted from payment of duty on capital goods at the time of normal debonding, having achieved the required value addition and meeting the necessary export obligations. EOUs which have renewed their licence be exempted from payment of customs duty on capital goods at time of debonding due to total obsolescence of such goods after 15-20 years of operation.

B.2 MODVAT benefit be extended in respect of goods (including capital goods)
procured indigenously by 100% EOUs in respect of which duty exemption was not availed.

B.3 DTA Sale: Need to rationalise Duty Structure in case of EOUs using duty free indigenous and imported materials.

- Where the inputs are predominantly indigenous - say 60% and above the unit be permitted DTA Sale by paying excise duty only on the end product.

- Where there is no excise duty on the end product and duty exempted inputs have been used, the unit when selling in DTA should pay excise duty on the inputs as per input/output norms prescribed by the Government.

- Where the EOU/EPZ Unit has paid excise duty on the inputs and where the end product also attracts excise duty, the EOU/EPZ unit should be given the MODVAT credit as per input/output norms.

- Where inputs are predominantly imported duty on imported inputs can be levied separately in case of DTA Sales.

- Where 100% inputs are obtained indigenously, then 50% of the excise duty be levied on the DTA sale of finished products.

B.3a EOUs with consistent export performance of 90% throughout the entire period of bonding be charged 25% excise duty on DTA Sale.

B.4 Duty for Disposal of Waste & Scrap in case of EOUs/EPZ Units be brought in line with the provisions under Duty Free Advance Licencing Scheme.

B.5 Exemption on Duty on DTA Sale by Agro-Processing/Food Processing
EOUs manufacturing items like Egg Powder and Lysozene or Castor Oil and Castor Oil Derivatives.

B.6 Need for rationalisation of waste and scrap norms for the Granite Industry to be in line with actual generation of waste which is around 30-40%.

B.7 Duty on Cotton Waste: The levy of excise duty at the rate of 12.5% on the DTA Sale of cotton waste by EOUs for the period between 16.3.95 to 31.7.95 be exempted and Notification No. 105/95-CE be made applicable retrospectively from 16.3.95.

B.8 The provision of NIL duty for EOUs as available to EPCG units for capital goods import of Rs. 20 crores and above.

a) All stipulations be in Dollar terms.

b) No import duty on EOUs importing Capital Goods of more than 5.7 million Dollars (Rs. 20 crores)

B.9 Duty on Import by Acquaculture EOUs of Catfish Eggs, Fries and Fingerlings be waived.

B.10 MODVAT of duty to be claimed by the domestic units when goods are sold by 100% EOUs to such units.

MODVAT now restricted only to additional duty under Notification No. 5/94-CX(NT) dated 1.3.94 MODVAT may also be allowed of Basic duty since the duty payable by 100% EOU is a duty of Central Excise.

B.11 All EOUs be allowed to meet their export commitments made till date to the Russian Federation and foreign exchange balancing be made applicable
through subsequent exports to GCA countries.

B.12 Excise Duty exemption on DTA Sale against payment in foreign exchange by EOU/EPZ Units.

B.13 Interest on Customs Duty on Warehoused Goods should be applicable with retrospective effect.

B.14 Duty Exemption on Procurement of HSD & Furnace Oil by 100% EOU Acquaculture Farm.

B.15 Duty Exemption on Import of Refrigerated Trucks by 100% Export Oriented Flouriculture Units.

B.16 Building & Construction Material required by EOU\'s outside the Export Processing Zones be allowed to be imported duty free or exempted from excise duty if procured from indigenous sources.

C. EOU\'s be allowed to retain the export proceeds in foreign currency in their EEFC account for the goods exported through trading houses in the same manner as in the case of direct exports.

D. Service Tax on Insurance Premium.

EOU\'s be totally exempted from the payment of 5% Service Tax charged by the Government.

The Union Budget announced on February 28, 1996 was only in the nature of an interim budget with on account demands just to tide over the period till elections were held and new Government took over.
February 1996 dispelled quite a few cobwebs that vitiated the textiles EOU Scenario. The Government gave its approval to the setting up of new cotton yarn units or expansion of some of the existing ones. But then a supplementary clause was attached - that they will export yarn of 41 count and above only. This stipulation, was not advisable. Importers abroad, whose shopping list included, apart from a predominant requirement of yarn above 41 count, also some quantities of yarn below 41 counts. Such importers, it was held, are averse to getting part supplies from different sources and prefer total supply from one source.

Finance Ministry informed the CEU that units which want to continue as EOU units after the initial period of bonding could continue to manufacture during the interim period between debonding and renewal of bonding.

4.9.1 INTERACTION WITH MINISTER OF STATE FOR COMMERCE

Dr. D. B. RAMAIAH - AUGUST 1996

The CEU President and other members placed various issues before the Minister.

1) **Advantages of EOU Scheme**: in terms of Maximising N.F.E. earnings on long term basis, for attracting investment and Ideal instrument to develop industries in rural sector.

2) **Importance & Performance of EOU/EPZs.** The EOU/EPZ Sector now contributes nearly Rs. 10,000 crores - i.e. 10% - of the National Export figures. It has more than kept pace with the National Export Growth rate. This performance is by no means optimum and there is tremendous potential to double this figure in the next 5 years if the scheme is made more simple & transparent and assured advantages vis-a-vis domestic units are maintained and not diluted.
3) **Some specific issues** :- CEU representatives had made some specific observations/suggestions as follows:

3.1) Tax Holiday for EOUs

3.1.i) Permanent Tax Holiday :

To provide a stimulus for their continuity in the Scheme EOU/EPZ Units be permitted Tax Holiday for the entire period they function under the Scheme.

3.1.ii) Permission to defer utilisation of Tax Holiday: Sometimes an Unit is unable to take advantage of this provision due to various unavoidable circumstances. Hence, if an EOU does not take this benefit in the first 10 years and if it chooses to continue in the Scheme then it should be allowed to avail of the 5 year tax benefit not availed of till now.

3.1.iii) Tax Holiday to EOUs on Renewal of Licence: Several EOU/EPZ Units on completing the initial bonding period of 10 years desire to continue as EOUs. They can ‘again bond themselves for another 10 years and be eligible to have a 5-year tax holiday. To avoid unnecessary disruption of continuity of operations apart from the related hassles involved in documentation and approval procedures. CEU suggested that exemption of Income Tax be made applicable for another period of 5 years during the renewal period of bonding of 10 years.

3.1.iv) Deemed Exports to be considered at par for Tax Holiday: Supplies from one EOU to another EOU are considered as ‘deemed export’ and are taken into account to fulfill ‘export obligation’ of the supplying EOU. CEU submitted that such Deemed Exports may be considered at par with ‘physical exports’ for obtaining the benefit of Income Tax Holiday under Income Tax
Act Section 10B.

3.2) Exemption of duty on Capital Goods.

3.2.i) Exemption of Duty on Capital Goods on debonding:

Government may consider granting duty exemption, at the time of debonding by an EOU, to capital goods imported or procured indigenously subject to the condition that value addition has been achieved and the units have fulfilled export obligation. This would ensure that they are not in a disadvantageous position vis-a-vis units operating under EPCG Scheme or in domestic sector.

3.2.ii) Exemption of Duty on Capital Goods on Extended Period: EOUs which are given extension of bonding period beyond 10 years may be fully exempted from payment of duty on capital goods at the time of debonding after the second phase. Since the capital goods would either be worn out or would have become totally obsolete because of technological change.

3.3) Need for special consideration for exemplary performance of EOUs.

In order to recognize outstanding performances of EOUs who have exported more than 90% or more of their production in 10 years, it is suggested that such units be charged 25% of excise duty only, instead of the levy of 50% of excise or customs duty (whichever is higher) as at present, on the DTA Sale of finished products.

3.4) Need for rationalisation of waste and scrap norms for the Granite Industry:

Granite is a natural product and the waste generated in its processing is anywhere between 30-40%. This fact has been recently endorsed even by the Extra Focus Committee appointed by the Government. It is requested
that the waste and scrap percentage for this industry should be fixed at around 30-40%.

4) **Need to build-up confidence in investors about official commitments** :-

Due consideration should be shown by the authorities, so that investors who have committed themselves to export, by setting up units under this Scheme, have the "assured" competitive edge over Domestic Tariff Area units.

It should not happen, that they lose their advantageous position, just because the same authorities have introduced alternate export schemes disregarding the well-being of their earlier creation. This does create a credibility gap amongst investors about the long-term commitments of the Government.

5) **Need for freedom of operations** :- EOUs/EPZ Units have invested heavily in land, plant and machinery. Their stakes are high and they cannot afford to be wrong-doers. The norms for entry into the scheme should be very strict but, having once entered, the Unit should be allowed to operate with a full degree of freedom and trust. Today, a majority of their time goes in documentation, executing bonds and meeting requirements of red tape instead of full attention to export production.

6) **Need to re-define Revenue earned as N.F.E. earnings.** :- Most of the problems being faced by the EOU/EPZ Schemes were related to the revenue authorities. It is felt that the primary focus of the revenue authorities is to collect revenue. While CEU respected their role, it is requested that the authorities should review the definition of the term "revenue earned". In the present context of imbalancing in foreign trade of the country (i.e. import being more than exports) the term "revenue earned" in the case of exporting units should be re-defined as "money earned in foreign exchange for the country".
If this view is accepted by the authorities i.e. giving priority to the foreign exchange earned, CEU felt that most of the points and requests made by the Confederation would become acceptable to the revenue authorities.

7) **DTA Sales** :- Need to rationalise Duty Structure DTA sale is a measure of assistance to tide over certain unforeseen circumstances which force the EOU's to sell their products in the DTA though DTA Sale is not the primary objective. Nevertheless, the present Duty Structure for DTA Sale by the EOU's, does not encourage such units to sell in the DTA resulting in very low utilisation of this facility. Therefore, the authorities should review the duty structure vis-a-vis the duty levied on similar goods manufactured and sold by other units in the DTA.

8) **Exempting 100% EOU's from 2% Special Customs Duty** :- It must also be conceded that no unit can be 100% indigenous in its inputs. Even for cotton yarn for instance and several Agro-products many times the unit has to depend - though to a relatively minor extent - on imported packaging and similar materials. Hence, the definition of 100% EOU with predominant indigenous inputs should be fixed at a mutually agreed limit of say around 75%.

In the case of such units the DTA sale as per permitted ratios should be free from the 2% Special Customs Duty announced in the present Budget proposals.

9) **Disposal of Waste & Scrap** :- CEU suggested following changes in the duty leviable on the disposal of Waste and Scrap :

i) **Rejected end-products** :- Duty levied should not exceed the excise duty leviable on the end product on re-assessed lower value as rejects are often
sold as seconds only at a much lower price.

ii) Scrap :- Packing materials (other than durable containers which can be reused) may be allowed clearance to DTA on payment of Central Excise duty. Other scrap generated during production may be allowed clearance to DTA on payment of Central Excise duty and assessable value may be determined on the basis of transaction value. Or in the alternative then duty on scrap may be charged on the same lines as suggested for sale of finished goods, i.e. where inputs are primarily indigenous.

10) Involvement of State Governments :- Since the beneficial fall out from the setting up of an EOU is largely shared by the State in which it is set up it is essential that all State authorities should willingly extend to such units all possible assistance and support to make their operations hassle free and economically viable, particularly in the matter of power, water and local levies. Even the State Governments should have interdepartmental single-window servicing agencies for such EOUs.

11) Need for coordinated and harmonious approach by all wings of Government to any scheme approved by a Ministry :- It is essential that when a particular Scheme is formulated by one wing of the Government - the Ministry of Commerce in the case of EOU/EPZ Sector - the other wings of the Government should design related policies as per the parameters of the already approved scheme. It happens quite often that whereas the Scheme incorporates a particular provision another wing of the Government does not take this factor into consideration. This should be resolved by a single window inter-ministerial body.

12) The procedure for CST reimbursement to EOUs :- It is suggested that
80 to 85% of the reimbursement amount be released at the time of filing of CST refund claim, with the balance being paid after scrutiny.

13) The Reserve Bank of India (RBI) should re-introduce the Post Shipment Credit Finance (PSCF) Scheme, which was withdrawn in February, since the Scheme was of immense benefit to the EOUs.

14) Premature Repayments of External Commercial Borrowings :- While the Government has allowed the units to repay their existing rupee loans by resorting to fresh External Commercial Borrowings, however, the Financial Institutions are not allowing these units to make a premature repayment of their rupee loans thereby rendering this decision of the authorities inoperative.

15) Export of Cotton Waste :- The Spinning process leads to creation of 30-40% of Cotton waste which is not allowed to be exported by the authorities. However, cotton waste commands a handsome price in the International Market. As a result of this, the country is being deprived of precious foreign exchange earnings, apart from creating operational difficulties for the Spinning Sector EOUs.

16) Supply of Furnace Oil at Concessional/Imported Rates to 100% EOUs :- Attention of Honourable Commerce Minister was invited to a circular No. P-10011/7/92-SUPP dated 25.8.95 issued by the Ministry of Petroleum to the Executive Director, Oil Coordination Committee wherein supply of furnace oil to 100% EOUs at concessional price/international price was reintroduced for a year with effect from 25.8.95.

The aforesaid circular has not been implemented and furnace oil is being supplied to EOUs at the general rates applicable to other consumers. If benefits which are granted by the Government are not passed on to the Units this
would cause undue hardships and would remain a benefit on paper only.

It appears that oil companies are unable to supply imported oil as the procedure of clearance of the oil from their storage tank, to 100% EOUs, is not clear.

The immediate problem is that the circular of 25.8.95 extending this benefit to EOUs is due to expire very shortly and the whole exercise would be of no use if this is not extended. Although the circular is very good in spirit but has not achieved its objective in real terms. It has not resulted in extending to the EOUs the benefits that it intended.

17) Adverse impact on Textile EOUs of inconsistency in policies. :- It is disappointing to note that these very units who have been set up with the blessings of the Government are being subjected to the sudden withdrawal or dilution by the authorities of established parameters or provisions results not only in applying brakes to our export growth but also sends out wrong signals to investors in this country and abroad about the vagaries in doing business with India on a long term basis.

CEU referred to a recent report which says that the Ministry of Textiles has recommended to the Ministry of Finance that there should be a clamp on creation of further capacities for new EOUs in the Cotton Yarn Sector. It was understood that there is a move to prevent EOUs from producing cotton yarn of count 41 and below.

18) Need for separate quotas for EOUs :- As per the present practice, quotas are allocated by the authorities on the basis of past export performance. As a result, the merchant exporters and other traders are able to corner most of the quotas since they have been exporting yarn for a long time. On the other hand, EOU spinning units have started exporting substantially
only in the past 4-5 years and therefore, lose out on this opportunity.

Moreover, there are instances of traders who often obtain sub-standard material from various sources and export the same whereas, EOU's who are actually manufacturing for exports and whose products are of international standards are denied the opportunity to fully export their products due to non-availability of quota. This also leads to an adverse impact on the image of our country.

CEU therefore, requested for a separate export quota, only for 100% EOU's in the Spinning Sector for countries in the European Union.
CEU had undertaken an intense and well planned strategy to project the cause and aspirations of the EOU/EPZ community to all those concerned with the formulation of the Union Budget 1997-98.

Mr. P. Chidambaram, Finance Minister, was complimented by the small, medium and large entrepreneurs and exporters for his exempting export profits from MAT, reducing the corporate tax rate and doing away with the surcharge on corporate tax and freeing real business expenses from impractical ceilings. Allowing EHTP Units, EOU and EPZ units in the electronics sector to sell 50% of their products in the domestic market by paying full customs duty (including CVD) would also help the country in having access to high quality IT hardware.

It was also a matter of immense satisfaction to 100% EOU to note that the Government allowed 100% EOU, utilising indigenous inputs only, to sell 25% of their finished products waste and scrap in DTA by paying only excise duty, instead of 50% of customs duty as per the earlier practice. This made such clearances at par with Sale of similar products by the DTA units. It was hoped that this concept would soon be extended to even products using a mix of indigenous and imported inputs on the basis of a proportionate dispensation.

CEU expected the Commerce Minister to keep pace with his colleague in the Finance Ministry by filling in the gaps in the EOU/EPZ Policy like emphasis on Net Foreign Exchange Earnings instead of value addition, doing away with multiple authorisations, greater freedom of movement of both raw materials and finished products between an EOU and a DTA unit and other related
matters.

It was also hoped that the State Chief Ministers would adopt a definite commitment to insulate all export production units from the vagaries of policies and procedures and consciously extend to export units the maximum consideration in respect of all local duties and levies, so that they in turn become strong and viable partners in the State's developmental objectives.
4.11 CRITIQUE

FIRST DECADE OF THE SCHEME

Resolution of 100% EOU Scheme, Ministry of Commerce, GOI opened with the words “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.” Accordingly such units were given certain concessions to enable them to meet rigours of foreign demand in terms of pricing, quality, precisions etc. At that time the incidence of customs duty was very high. Exporters had to pay very high import duties on capital goods and had to apply for import licence and face numerous hurdles.

The EOU Scheme was almost a non-starter during the first 5 to 6 years, largely due to initial inertia, lack of clear idea of the scheme with the prospective entrepreneurs and non-too-attractive incentives to take up EOUs.

Committee on Export Strategy for Eighties, known as Tandon Committee, was on export planning, export production, export competitiveness and reorientation in export policies as well as strategies to meet effectively the requirements of the overseas markets. The Committee, accordingly expressed strongly in favour of making available to exporters right type of raw material, in adequate quantities and at international prices to impart competitiveness and enhance export profitability of end products. The Tandon Committee recommended extension of incentives and facilities to those enterprises which contributed even marginally to country’s export effort as were available to 100% EOUs.

The Committee recommended additional incentive to exporters who were able
to fulfil commitments without seeking extension of letter of credit, their supplies being in accordance with agreed quality and strict delivery schedules.

The Committee also recommended supply of credit to small-scale exporters on soft terms. It suggested linkages for small-scale manufacturers through franchising facilities by established large scale exporters for helping the former in country's export effort.

The trade policy framework followed in the subsequent years gave an ample evidence of imprint of the above recommendations. A number of incentives and simplification and ease of operation was given to Domestic Tariff Area Units which nullified the benefits of the 100% EOU Scheme. A comparison between the DTA Units and EOU/EPZ Units effectively brings out the discrimination. (Chapter 4A Page 100.)

To conclude, initial inertia, lack of adequate knowledge of the scheme, non-too-attractive incentives, too many customs/excise regulations, were some of the important factors for the slow growth and lesser contribution of EOUs to India's export earnings.

**POST - LIBERALISATION ERA**

In its efforts to integrate the Indian economy with the global economy and to achieve international competitiveness Government adopted a policy framework in the middle of 1991. The policy of economic liberalisation and structural reforms had their reflection in the Union Budgets of 1992-93 and 1993-94. The Exim Policy 1992-97 substantially liberalised the provisions for 100% EOUs. But the Union Budget of 1993-94 resulted in diminishing attraction of 100% EOU Scheme. The attractiveness diminished considerably following extension of the 100% free market convertibility of the Rupee to all Export
Sectors and a number of more attractive propositions offered to DTA units including the considerable liberalisation of the Advance Licensing Scheme, drastic pruning down of the negative list of imports, reduction in Customs & Excise duties and last but not the least the introduction of the EPCG Scheme. (EPCG Scheme - Annexure 1, Chapter 4.)

The cumbersome Customs, Excise procedures involved in compulsory bonding, DTA Sales, disposal and valuation of scrap or waste, a plethora of bonds and guarantees as inbuilt in the EOU/EPZ Schemes led to many units seeking Government approval to switch over to the EPCG Scheme (CEU - Circular No. 66 - All members, March 4, 1993) As for new entrants they preferred the latter. This scheme had no problems regarding DTA Sales, rejects, waste & scrap, sub-contracting etc., and the only concern was export obligation.

Under the drastically changed National Economic Scenario, with steep fall in duties, minimal EXIM controls and Fiscal relief for all export sectors, the CEU demands were perfectly justified. The issues which deserved consideration were:

★ Removal of bonding requirements.
★ Reduction to the barest essential minimum the multiplicity of bonds.
★ A perpetual tax holiday - to serve as an attraction to continue in the scheme.
★ Realistic relaxations in labour laws.
★ Nil duty on waste & scrap.
★ Excise duty on DTA Sales.
★ Freely tradeable import licences.
If the scheme was to be kept alive and revitalised there was no other way except to do away with bonding completely, with focus only on NFE earnings over the stipulated period of 10 years.

There appeared realisation and due consideration, of various problems of EOUs, both at the ministerial and secretarial levels. This resulted in formation of ‘Gill Panel’.

A Committee to ‘Review the Policy and Procedures Applicable to EOU/EPZ Units’ known as ‘Gill Committee’ submitted its report on 14th December, 1993. It was a commendable work encompassing several policy and procedural areas, concerning EOU/EPZ Units. On this background the concessions announced on December 27, 1993 for the EOU/EPZ Units were only meagre. Later it was revealed that the announcement was the result of ‘Inter-ministerial Discord’.

‘Phenomenal and long awaited changes to the Exim Policy occurred during years 1993-94 & 1994-95. The EOU/EPZ Sector contributed nearly 10% of the National Export figures in year 1995-96, which was up from a share of 9% in 1993-94. The total exports from Export Processing Zones in 1995-96 were Rs. 3,235.62 Crores and from EOU Sector approximately Rs. 6,500 Crores. The total exports were to the tune of Rs. 9,735.62 Crores. The Net Foreign Exchange (NFE) earnings by the EOU/EPZ units in this period were Rs. 6,117.07 Crores, an increase of about 133.02% from 1993-94. There were 509 EOUs operating inside the Export Processing Zones and 700 EOUs operating outside the Export Processing Zones in the country.

(Source : CEU President’s Address to Forum of Economic Writers CEU News Letter, December, 1996)
2. The growth rate of exports by EOU\(s\) was 50\% between 1994-95 and 1995-96, in comparison to the country's overall export growth rate of 21\%. The per unit realisation of EOU\(s\) was higher as compared to other exporting units.

(Source : CEU News Letter, January, 1997)

In conclusion, though a certain injustice was made to EOU/EPZ Scheme in the beginning years of economic liberalisation, with the appropriate amendments to Exim Policy over last three years a conducive atmosphere is created for their performance. Mr. Nripendra Misra, Additional Secretary, Ministry of Commerce assured that "with the new EXIM Policy under preparation, the EOU/EPZ Schemes are being given a fresh look. The Schemes are being reviewed to make these more attractive, especially in the context of situation when domestic exporters are getting more benefits as compared to the EOU\(s\)".

In turn, the EOU/EPZ Units have devoted themselves to the 'cause'. The creditable achievement of exports by EOU\(s\) are indicative of high technology to the global standard, global competitiveness, high value added production and better job creation. This is what the country should look for in future considering our natural resources and human resources. By maximising these resources, our country should achieve higher export performance for which EOU is the main avenue.
ANNEXURE - 1
EXPORT PROMOTION CAPITAL GOODS SCHEME

Under this scheme Capital Goods (including spares upto 10% of CIF value of Capital Goods) can be imported with a licence at a concessional rate of customs duty of 15% subject to an export obligation of four times the CIF value of the imports. The export obligation is to be fulfilled within a period of 5 years from the date of issue of the Import Licence. Import of Capital Goods under this scheme is subject to actual user condition till the export obligation is completed. Both new and second hand Capital Goods can be imported under this scheme. The export obligation is also subject to certain specified conditions.
HIGHLIGHTS OF SPEECHES
M/S NATHANI, PRANAB MUKHERJEE, SIVARAMAN, GILL

Highlights of Welcome Address by President CEU, Mr. Ikbal Nathani.

★ The EOU Scheme was formulated in 1980 when the Exim Laws were most restrictive and Customs & Exercise duties were quite high. It was then that concessions in duties and freedom from import-licensing had some charm and meaning for investors and entrepreneurs, to enter the EOU/EPZ scheme, as against setting up export related ventures in the normal course. Units entered the scheme on the assurance of such distinct advantages.

★ In recent times, however, the National Economic Scenario had drastically changed, with steep fall in duties, minimal Exim controls and fiscal relief for all export sectors. Our disappointment is that, whereas all the DTA schemes have been liberalised and become more attractive, EOUs continue to be chained and controlled without any compensatory advantages vis-a-vis DTA exporters.

★ The Primary areas where find difficulties are : stringent bonding procedures and multiplicity of bonds & guarantees; Inability to dispose off even the waste and scrap generated during production, due to unrealistic duties, which a DTA seller of such scrap or waste does not have to pay; Inability to sell the permitted 25% in DTA - again due to an unrealistic duty structure; Difficulty to sub-contract part of production or finishing processes in DTA.

★ Apart from continuing with present obligations of 75% export performance over a 10 year period with minimum NFE value of addition of at least 20%, EOUs are willing to even pay 5% duty on C.G. imports as against
the duty now payable on depreciated value of C.G. after 10 years.

★ The issues which merit consideration & decision are:

- removal of bonding requirements.
- reduction to the barest essential minimum the multiplicity of bonds.
- a perpetual tax holiday - as against the 5 years period now - to cover period of the export obligation and to serve as an attraction to continue in the scheme.
- realistic relaxations in labour laws.
- nil duty on waste & scrap.
- excise duty on DTA sales.
- freely tradeable special import licences.

The President stressed the point that there was no other way to keep the scheme alive and revitalise it except to do away with bonding completely, with focus only on NFE earnings over the stipulated period of 10 years.

**Highlights of Inaugural Address by Mr. Pranab Mukherjee,**

**Hon'ble Union Minister for Commerce**:

★ Efficiency should be present throughout the production line. Efficiency in the use of resources will lead to evolution of an export culture.

★ There are a majority of issues on which the Ministry of Commerce and Department of Revenue have agreed but no announcement could be made due to some technicalities as certain legal formalities are required to be met with.
Substantial improvement in the package for the EOU/EPZ has been agreed upon by the Government.

On an experimental basis, provision of data through the computer net in Bombay has been allowed and it can be expanded in certain other areas depending on the success of this experiment.

In respect of problems of DTA and various issues connected with taxation, these will require fulfilling some sort of legal formalities.

The concessions which export oriented units and export processing zones were allowed have lost much of their relevance due to overall liberalisation process. It would be the Government’s endeavour to see that these units become competitive and do not suffer from any disadvantages.

The process of liberalisation and the changes which have been introduced in the policy initiatives by the Government are not an end in itself.

Performance on the export front from April to August 1993 is quite encouraging.

I am fully aware of this (infrastructure inadequacies) and keeping it in view, apart from trying to improve the overall infrastructural facilities, the entire thrust during the 8th plan is to make massive investments in the infrastructure sector alone.

Unfortunately, there has been a big gap between the requirement and availability (of infrastructure). We are trying to improve and ensure that this gap is filled.

We would like to have the facilities extended to other centres, to eliminate the procedural delays.
In respect of the DTA Sales of the finished products of the EOU/EPZ Units, this may be permitted with the imposition of applicable excise duty only subject to certain safeguards for the domestic industry in the case of sensitive items.

Highlights of Address by Mr. M.R. Sivaraman, Secretary Revenue, Ministry of Finance:

★ I see a major transformation taking place on the export front of the country.

★ In the last seminar I threw a challenge to you and you responded very well. We have had a series of meetings with our colleagues in the Commerce Ministry and as the Hon’ble Minister said many of the issues we have been able to sort out amongst ourselves. I am sure that they will meet your satisfaction.

★ There are certain procedural matters which were referred to in my earlier meeting and on that also we have had discussions and the CBEC is trying to find out that what changes have to be made in the notifications, to help you function better and discharge your responsibilities more ably.

★ Already we see signs of the State Government becoming alive to the issue of attracting Export Oriented Units because they have recognised the need to have newer technology and increased provision of employment opportunities to highly skilled and trained people within their state.

★ I am sure the State Government will definitely be open to the ideas to giving concessions or exempting the goods which are entirely meant for exports.

★ In fact, we will try to address a letter to all the officers down to the field level to have attitudinal changes in dealing with these problems.
anomalies are bound to remain for some time and we cannot correct these overnight. There must be transparency in the transactions both from the Government and from the Industry side.

★ I will personally request the Chairman of the Telecom Commission to intervene in the matter and see these communications lines are made available to you so that your export documentation can take place with the computer.

★ I had also asked the software people to change the software to have a system whereby you need not wait for the communication to be established. Similarly for imports, we are trying to look at the system whether we can use the same system for imports.

★ We are trying to examine how we can allow the containers, as soon as they land, to move straight to the manufacturing unit without any interference from the customs authorities, even if the bill of entries or other documents have to go in parts.

★ Certain other minor points you have referred to all these issues we are constantly examining alongwith the State Governments.

★ We are now contemplating green channel facilities to exporters with good performance and we are going to have shortly a detailed scheme.

★ On an experimental basis we have introduced facilities of transmitting - by computer and fax - the data and exchanging information in relation to Units dealing with the Customs House in Bombay.

★ From our side you can expect a positive response and to the best of our ability, both from CBEC and CBDT, we will try to help you.
Points made by Mr. J.S. Gill, Joint Secretary, Ministry of Commerce.

★ I will only dwell on one basic issue which is, what is government policy addressing itself to in terms of the situation where the EOUs presently are.

★ I have been reading through the REU Scheme carefully.

★ I would imagine that it basically reflects the difficulties and the dilemmas faced by the unit which has come into the EOU Scheme which was the only viable option for export production. What we have been thinking is basically we want that there be an easy mobility for EOUs to go into other schemes - if that is possible that can be one area which we would like to address.

★ We also wish to acknowledge the fact that liberalisation process has diluted some of the advantages within your scheme. The relative advantages that the scheme once enjoyed are no longer there. It is difficult to, in the circumstances that we are in and in the liberalisation direction that we wish to move, to give financial advantages as were earlier available. But there is scope, perhaps, to take a set of measures which will give you the kind of advantages that are required for dedicated export production.

★ Basically the Acquaculture scheme envisages monitoring through financial controls and through controls of inputs and outputs. We are hopeful of introducing this scheme very quickly and once this is done its example can certainly be replicated to certain other areas.
ANNEXURE - 3

Government of India
Ministry of Commerce

New Delhi, the 19th January, 1993.

ORDER

Subject:- Setting-up of a Committee to review the policy and procedures applicable to EOU/EPZ Units and to make suitable recommendations for changes/modifications.

It has been decided to set-up a Committee in the Ministry of Commerce to review the policies and procedures applicable to EOU/EPZs and to recommend suitable changes/modifications.

2. The composition of the committee will be as under:-

1. Shri J.S. Gill, Joint Secretary, Chairman
   Ministry of Commerce.

2. Dev. Commissioner, SEEPZ, Bombay.
   Member

3. Dev. Commissioner, NEPZ, Noida.
   Member

4. Sh. J.K. Batra, Director, CBEC
   Member

5. Dr. R.K. Dhawan, JCCI&E (Policy)
   O/o JCCI&E.
   Member

6. Sh. P.K. Jain, Deputy Secretary,
   Member
   Deprt. of Revenue.

7. Sh. Pradeep Puri, Deputy Secretary,
   Member
   Deprt. of Economic Affairs.

8. Sh. Bimal Julka, Deputy Secretary,
   Member
   Deprt. of I.D.(SIA).

9. Sh. K. D. Mankar, Director(TRU), Deprt.
   Member
   of Revenue.
10. Sh. Jayanta Das Gupta, Deputy Secretary, Member
   Ministry of textiles.

11. Sh. Chandrakant G. Rao, Secretary General Member
    Confederation of 100% Export Oriented Units.

12. A representative of MEPZ Manufacturers Member
    Association, Madras.

13. Sh. J.M. Mauskar, Director, Member
    Ministry of Commerce.

3. The Committee may co-opt additional member if and when
   necessary. Members of the Committee shall not be entitled to any
   traveling/daily allowance for attending the meetings of the
   Committee. The Committee will submit its
   recommendations/suggestions by the first week of March, 1993.

   Sd/-
   (J.M. MAUSKAR)
   Director

To: All the Members.