

CIRCULAR

In order to align the SEZ Rules, 2006 with the GST laws as well as for removal of various difficulties faced, a committee under the Chairmanship of Dr. L. B. Singhal, Development Commissioner, Noida SEZ was constituted by the Department of Commerce, Ministry of Commerce and Industry to review the SEZ Rules, 2006 and to make necessary recommendations. The committee after deliberations has submitted its report on the issue a copy of which is enclosed herewith.

2. Stakeholders are requested to go through the recommendations of the Committee and send their comments along with the requisite formulations, if any, to email id: moc_epz@nic.in latest by 31st December, 2017.
3. It would be appreciated if the comments are sent only by e-mail along with a soft copy in MS- Word format by 31.12.2017. Also, the comments may be confined to the provisions of the SEZ Rules, 2006 only.

Existing provision	Amendment suggested	Justification for amendment
Rule 2(1)(k)	Deleted	The scheme has been discontinued.
Rule 2(1)(l)	Deleted	The scheme has been discontinued.
<p>Rule 3</p> <p style="text-align: center;">CHAPTER– II</p> <p>PROCEDURE FOR ESTABLISHMENT OF SPECIAL ECONOMIC ZONE</p> <p>Proposal for setting up of Special Economic Zone.- Every proposal under sub-sections (2) to (4) of section 3 shall be made in Form – “A” and be submitted to the concerned Development Commissioner as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his inspection report, State Government’s recommendation and other details specified under rule 7.</p>	<p>Proposal for setting up of Special Economic Zone.- Every proposal under sub-sections (2) to (4) of section 3 shall be made in Form – “A” and be submitted to the concerned Development Commissioner as specified in Annexure III, who, within a period of fifteen days, shall forward it to the Board with his inspection report, State Government’s recommendation, <u>National Security Clearance as per guidelines issued by the MHA and other details specified under rule 7.</u></p>	<p>This is required as per letter No.F.2/7/2016-SEZ dated 19th December, 2016 issued by the Ministry of Commerce. A confirmation to this effect has to be furnished by the applicant in their application for setting of SEZ.</p>
<p><u>Chapter 2 : Procedure for Establishment of SEZ</u></p> <p>Rule 4 The State government shall forward the proposals received under the subsections 2 and 4 of section 3 to the Board of Approval.</p>	<p>The State government shall forward the proposals received under the subsections 2 and 4 of section 3 to the Development Commissioner of the jurisdiction concerned.</p>	
<p><u>Proviso 4 to Rule 5(2)(b)(ii):</u></p> <p>Provided also that in case a Special Economic Zone for a specific sector is proposed to be set up in Assam, Meghalaya, Nagaland, Arunachal Pradesh, Mizoram, Manipur, Tripura, Himachal Pradesh, Uttarakhand, Sikkim, Jammu and Kashmir, Goa or in a Union Territory, the area shall be twenty five</p>	<p>Provided also that in case a Special Economic Zone for a specific sector is proposed to be set up in Assam, Meghalaya, Nagaland, Arunachal Pradesh, Mizoram, Manipur, Tripura, Himachal Pradesh, Uttarakhand, Sikkim, Jammu and Kashmir, Goa or in a Union Territory,</p>	<p>This amendment has been proposed to encourage SEZs in bio-technology, non-conventional energy, including solar energy</p>

<p>hectres or more for the Special Economic Zone not covered under the first, second and third provisos:</p>	<p>the area shall be twenty-five hectres or more for the Special Economic Zone not covered under the first, second and third provisos: <u>However in respect of SEZ covered under first, second and third provisos and service sector in these States, the minimum area requirement shall be 4 hectare.</u></p>	<p>equipment or cell, or gems and jewellery sectors, agro-based food processing, service sector in these States. State Government of Uttarakhand has also recommended the same. A copy of the recommendation of State Government of Uttarakhand is given in Report.</p>
<p>Rule 6 2 (a) The Letter of Approval of a Developer granted under clause (a) of sub rule (1) shall be valid for a period of three years within which time at least one unit has commenced production and the Special Economic Zone became operational from the date of Commencement of such production.</p>	<p>2 (a) The Letter of Approval of a Developer granted under clause (a) of sub rule (1) shall be valid for a period of three years or <u>as may be extended by BoA</u> within which time at least one unit has commenced production and the Special Economic Zone became operational from the date of Commencement of such production.</p>	<p>To get a clarity regarding validity period of the Letter of Approval issued to the Developer/Co-developer.</p>
<p>Rule 10 Permission for procurement of items: The Approval Committee may permit goods and services to carry on the operations authorized under rule 9. PROVIDED that for the Special Economic Zone set up by Central Government, the Goods and Services required for the authorized operations may be approved by the Board.</p>	<p>Permission for procurement of items: The Approval Committee may permit goods and services to carry on the operations authorized under rule 9. PROVIDED that for the Special Economic Zone setup by Central Government, the Goods and Services required for the authorized operations may be approved by the <u>Approval Committee of SEZ.</u></p>	<p>This power may be delegated to the Approval Committee.</p>
<p>Rule 11 Processing and non-processing area (2)The processing area and free trade and warehousing zone shall have specified entry and exit points and be fully secured by taking such measures as approved by the Board of Approval. PROVIDED that in case of Special Economic Zone for information technology for Information Technology enabled services or Electronic</p>	<p>(2)The processing area and free trade and warehousing zone shall have specified entry and exit points and be fully secured by taking such measures as approved by the Board of Approval. PROVIDED that in case of Special Economic Zone for information technology for Information Technology enabled services or Electronic Hardware or Bio Technology, the Development Commissioner shall</p>	<p>This will facilitate ease of operation in SEZs.</p>

<p>Hardware or Bio Technology, the Development Commissioner shall approve such measures and inform the Board accordingly.</p>	<p>approve such measures and inform the <u>Approval Committee</u> accordingly.</p>	
<p>Insert Rule 11 (9) A</p>	<p>11 (9) (A) The Developer shall ensure sufficient and adequate space, as per CPWD norms, for the Office of Development Commissioner and Customs Officers posted in the SEZ.</p>	
<p>Rule 12(6) The Developer shall maintain a proper account of the import or procurement, consumption and utilisation of goods and submit quarterly and half-yearly returns to the Development Commissioner in Form E for placing the same before the Approval Committee for consideration.</p>	<p>After “utilisation of goods” the words “services” may be added.</p>	<p>Service portion has not been covered in the present Rules.</p>
<p>Rule 12(7) The Developer shall submit a half-yearly certificate for the period ending 31st March and 30th September of every financial year regarding utilisation of goods from an independent Chartered Engineer...</p>	<p>After the word ‘Goods’ the word ‘Services’ may be included. After the word ‘Independent chartered Engineer’ the word ‘or Independent Chartered Accountant as the case may be’ added.</p>	<p>Service portion has not been covered in the present Rules.</p>
<p>Rule 17</p> <p style="text-align: center;">CHAPTER– III PROCEDURE FOR ESTABLISHMENT OF A UNIT</p> <p>Proposal for approval of Unit</p> <p>(1) A consolidated application seeking permission for setting up of a Unit and other clearances, including those indicated below, shall be made to the Development Commissioner, in Form F, <u>in five copies</u>, with a copy to the Developer:-</p> <p>(a) Setting up of unit in a Special Economic Zone;</p> <p>(b) Annual permission for sub-contracting;</p> <p>(c) Allotment of Importer-Exporter Code number;</p>	<p>(1) <u>One copy of</u> consolidated application seeking permission for setting up of a Unit and other clearances, including those indicated below, shall be made to the Development Commissioner, in Form F.</p>	<p>At present there is requirement of five copies of application for setting up of unit in SEZ to the Development Commissioner of the SEZ. Now only one copy is proposed.</p>

<p>(d) Allotment of land/industrial sheds in the Special Economic Zone;</p> <p>(e) Water connection;</p> <p>(f) Registration-cum-Membership Certificate;</p> <p>(g) Small Scale Industries Registration; (h) Registration with Central Pollution Control Board;</p> <p>(i) Power connection;</p> <p>(j) Building approval plan;</p> <p>(k) Sales tax registration;</p> <p>(l) Approval from inspectorate of factories;</p> <p>(m) Pollution control clearance, wherever required;</p> <p>(n) Any other approval as may be required from the State Government.</p> <p>(2) The Development Commissioner shall get the proposal scrutinised and get it placed before the Approval Committee for its consideration.</p> <p>(3) The proposals received under clauses (c) and (e) of sub-section (2) of section 9 shall be placed before the Board by the Development Commissioner for its consideration.</p>	<p>(k) <u>GST registration certificate;</u></p>	<p>Under GST regime, GST registration of the SEZ is mandatory.</p>
<p>Rule 18(2) (i) the proposal meets with the positive net foreign exchange earning requirement as provided in rule 53.</p>	<p>Rule 18(2) (i) the proposal meets with the positive net foreign exchange earning requirement or <u>value addition earning requirement, as the case may be, as provided in Rule 53 and Rule 54.</u></p>	<p>As per Department of Commerce instructions in respect of Gem & jewellery units value addition is required to be maintained. Accordingly, this is being incorporated.</p>
<p>Rule 18</p> <p>Consideration of proposals for setting up of Unit in a Special Economic Zone.</p> <p>(2) (ii) PROVIDED FURTHER that a copy of the registered lease deed shall be furnished to the Development Commissioner concerned within six</p>	<p>(2) (ii) PROVIDED FURTHER that a copy of the registered lease deed shall be furnished to the Development Commissioner concerned within six months</p>	<p>Some of the units in SEZ are not able to submit the copy of the registered lease deed</p>

<p>months from the issuance of the Letter of Approval and failure to do so, the Approval Committee may take action to withdraw the Letter of Approval after hearing an opportunity of being heard.</p>	<p><u>or within the time period as may be extended by the Development Commissioner from time to time</u> from the issuance of the Letter of Approval and failure to do so, the Approval Committee may take action to withdraw the Letter of Approval after hearing an opportunity of being heard.</p>	<p>within the six months period since there is delay in getting registered copy of lease deed from the sub-registrar's office.</p>
<p>Rule 18(3)(c) to be inserted</p>	<p><u>Rule 18(3)(c) For Gems & Jewellery, the minimum Value Addition earning requirement shall be as prescribed in the Foreign Trade Policy/Handbook of Procedures, as amended from time to time.</u></p>	
<p>Rule 19 Sub Rule 2 below 3rd proviso (new proviso to be inserted)</p>	<p><u>Proviso to allow merger of LOAs of two or more units</u></p> <p>Provided that Approval Committee may also approve proposals for merger of LOAs of two or more units of same company or firm subject to the condition that these units fall within the same SEZ. After merger, block period for calculation of NFE shall be from the date of commencement of production of the unit which commenced operation first. In case unit(s) is/are getting income tax exemption, then income tax exemption period will be considered from the date of start of operations of the first unit.</p>	<p>Enabling provision incorporated for merger of two or more units in SEZ. Similar provision is available in respect of EOUs in para 6.34(10) of Handbook of Procedure 2015-20.</p>
<p>Insert Rule 19 (6) A</p>	<p>(A) Renewal of LoA</p> <p>The units who intend to renew the validity of Letter of Approval shall submit, before two months from the date of expiry of LoA, the completed application form (in form F1) along with requisite document, to the Development Commissioner, duly signed by the proprietor/managing partner or if it is a company, by the Managing Director or the Director(s) or any person who has or have been duly authorized for this purpose by a resolution of the Board of Directors of the Company. Failure to comply with the above procedures shall lead to non-renewal of LoA.</p>	<p>There is no format devised for renewal of LOA. A format for renewal of LOA is attached as Form F1 at Annexure-IV and format for renewal of Letter of Approval is to be given at Form F2 at Annexure-V.</p>

	<p>Development Commissioner may renew the Letter of Approval for a period of five years or for a shorter period, in form F2 (copy attached), based on the evaluation of the Unit as per 19 (6) B. In case the application is not submitted before 2 months, then on such request a view may be taken, on merits, by the Approval Committee.</p>	
<p>Insert Rule 19 (6) B</p>	<p>(B) Renewal of LoA shall be based on evaluation of the following criteria.</p> <ul style="list-style-type: none"> i) Export performance of the unit in the last block vis-a-vis the initial export projection submitted by the unit. ii) Projected employment vis-à-vis actual employment generated. iii) Instance of violation of applicable statutes related to the functioning of the unit. iv) Cases of default, if any, of statutory payments. v) Undertaking of any activity not sanctioned/approved by the Development Commissioner. <p>The decision of the Development Commissioner/Approval Committee in this regard shall be final and binding on the unit except in cases where the unit prefers an appeal before the BoA, in accordance with Rule 55.</p>	<p>The renewal of LOA is to be granted on the basis of projections and evaluation on performance of the unit as per conditions given at 19 (6) (B).</p> <p>This amendment also takes care of the observations submitted by CAG vide Report No. 21 of 2014 in its para No. 2.3, 2.4, 2.5 & 6.1.1.</p>
<p>Rule 26 Rule 26: General Conditions of Import and Export: A Unit may export goods and services, including agro-products.....with the approval of the Board of Approval.</p>	<p>Following provisions may be inserted under Rule 26:</p> <p>Provided that SEZ Units are permitted to export prohibited items, provided they import raw-material for the same. However, each such case will be placed before BOA for approval so that views of DGFT, DoR and others can be considered before taking a decision.</p>	<p><i>The suggested provision is in terms of Instruction no. 47</i></p>

	<p>Provided that items which are prohibited for import, SEZ units will be permitted to import the same provided they export goods made out of the same. As in the case of exports, each such case will be placed before BOA for consideration and approval.</p>	
<p>Rule 26 Provided also that export of iron-ore shall be subject to the conditions as imposed by the Central Government.</p>	<p>Provided also that export of <u>or supply from DTA of any</u> ore shall be subject to the conditions as imposed by the Central Government.</p>	<p>Export duty and cess is leviable on certain Ores. Dispute wrt applicability of export duty on chrome Ore is pending before Hon'ble Supreme Court in Review Petition filed by the Department, no.1848/2010 in SLP (C) 19498/2010 in the case of Essar Steel and SLP No. 134 of 2013 in the case of Kamyab Overseas. In both the cases, Hon'ble High Courts of Gujarat & Kolkata respectively, passed Orders in favour of the SEZ Unit/DTA supplier rejecting imposition of export duty on procurement of Ore from DTA.</p>
<p>Rule 27 Import and Procurement (1) A Unit or Developer may import or procure from the Domestic Tariff Area without payment of duty, taxes or cess or procure from Domestic Tariff Area after availing export entitlements or procure from other Units in the same or other Special Economic Zone or from Export Oriented Unit or</p>	<p>(1) A Unit or Developer may import or procure from the Domestic Tariff Area without payment of duty, taxes or cess or procure from Domestic Tariff Area after availing export entitlements or procure from other Units in the same or other Special Economic Zone or from Export Oriented Unit or Software Technology Park unit or Electronic</p>	<p>When rule 30 (12) enumerates the procedure of goods by units from warehouses, the enabling provision ie. Rule 27, which enumerates the list places from where</p>

<p>Software Technology Park unit or Electronic Hardware Technology Park unit or Bio-technology Park unit, all type of goods, including capital goods (new or second hand), raw materials, semi-finished goods, (including semi-finished Jewellery) component, consumables, spares goods and materials for making capital goods required for authorized operations except prohibited items under the Import Trade Control (Harmonized System) Classifications of Export and Import Items.</p> <p>PROVIDED that exemptions from payment of duty on taxes or cess or drawbacks and concessions on all types of goods and services, required for setting up and maintenance of the factory building allowed to a unit shall also be available to the contractors appointed by such unit and all the documents in such cases shall bear the name of the unit alongwith the contractor and these shall be filed jointly in the name of the unit and the contractor.</p>	<p>Hardware Technology Park unit or Bio-technology Park unit, <u>Warehouse,....</u></p> <p>PROVIDED that exemptions from payment of duty on taxes or cess or drawbacks and concessions on all types of goods and services, required for setting up and maintenance of the factory building allowed to a unit shall also be available to the contractors <u>including subcontractors</u> appointed by such unit and all the documents in such cases shall bear the name of the unit alongwith the contractor and these shall be filed jointly in the name of the unit and the contractor.</p>	<p>procurements can be made, dose not include bonded warehouses.</p> <p>The unit cannot source all the goods required for the authorized operations through the contractor. The contractor can source the goods through the sub-contractor. Without the assistance from sub-contractor, the contractor could not complete the work. Therefore, the word “Sub-contractor” should be included.</p>
<p>Rule 27(3) The import of duty free material for setting up educational institutions, hospitals...And import of no duty free material shall be permitted and maintenance of such facilities..</p>	<p>In the said provisions after the word “The import” and domestic procurement from DTA to be included. After the word “and import in the last but one line the word procurement of goods from DTA to be included.</p>	<p>The DTA goods have not been mentioned for exemption as well O & M Exclusion leading to litigations.</p>

<p>Rule 37 Rule heading: Duration of goods or services in a SEZ</p>	<p>The word “Services” appearing in the Heading of the Rule 37 may be deleted</p>	<p>Rules relates to Storage of goods. Hence, “Service” in the heading to be deleted.</p>
<p>Rule 42 Procedure for sub-contracting in Domestic Tariff Area or in a Unit in other Special Economic Zones or in Export Oriented Unit or in Electronic Hardware Technology Park unit or in Software Technology Park Unit or Bio-technology Park Unit or sub-contracting abroad (2) The Specified Officer may permit the Unit to export the finished goods directly from the sub-contractor’s premises subject to following conditions, namely:- (v) goods for such export shall be removed from the sub-contractor’s premises under bond: PROVIDED that in case of subcontracting abroad, the goods shall either be returned to the Unit or may be sold to buyers in that country or any third country.</p>	<p>(v)goods for such export shall be removed from the sub-contractor’s premises under bond. Provision to be deleted</p>	<p>The provision to bring back the goods into unit premises after sub contracting abroad may be inserted at rule 41 (2) (c) is more relevant.</p>
<p>Rule 43 Sub-contracting for Domestic Tariff Area unit for export— A Unit may, on the basis of annual permission from the Specified Officer, undertake sub-contracting for export Domestic Tariff Area exporter shall be eligible for refund of duty paid on the inputs by way of brand rate of duty drawback</p>	<p>Following sub-rule may be inserted under Rule 43 as sub-rule 2 Provided :- (i) Only employees temporarily de-capacitated, employees travelling and off-site employees of SEZ may be permitted to work from home or from place outside the SEZ subject to the following conditions: (a) the person should be an employee of the SEZ unit (b) the person will carry out the work related to a project of the SEZ unit</p>	<p><i>The suggested provision is in terms of Instruction no. 55, 58 and 85</i></p>

	<p>(c) Ensure export revenue of the resultant products/services should be accounted for by the SEZ unit to which the employee is tagged and at no given point should work from home involve the export of services from outside the SEZ unit</p> <p>(ii) IT units in DTA can carry out their job-work in a SEZ unit by following the procedure as laid down in sub-rule (i) above</p> <p>(iii) For the purpose of work from home, SEZ unit should provide laptop/desktop and secured connectivity (for eg. VPN, VDI etc) to establish a connection between the employee and the work related to the project of the SEZ unit.</p> <p>(iv) Once the employee ceases to be part of the project of SEZ unit, the employee shall be untagged from the respective SEZ unit and the unit shall surrender the I-Card (Form K) to S.O. as per rule 70 (2) of SEZ Rules 2006</p> <p>(v) For SEZ units registered as Other Service Providers (OSPs with Department of Telecommunication (DOT) and availing the benefit of work from home, the prescribed OSP guidelines issued by DOT and amended from time to time, will be strictly followed by SEZ units.</p>	
<p><u>Rule 43</u></p> <p>A Unit may, on the basis of annual permission from the Specified Officer, undertake sub-contracting for export on behalf of a Domestic Tariff Area exporter, subject to following conditions, namely:—</p> <p>(a) all the raw materials including semi-finished goods and consumables including fuel shall be supplied by Domestic Tariff Area exporter;</p>	<p><u>Sub-contracting for Domestic Tariff Area unit for exports</u></p> <p><u>(A)</u> A Unit may, on the basis of annual permission from the Specified Officer, undertake sub-contracting for export on behalf of a Domestic Tariff Area exporter, subject to following conditions, namely:—</p> <p>(a) all the raw materials including semi-finished goods and consumables including fuel shall be supplied by Domestic Tariff Area exporter;</p>	

<p>(b) finished goods shall be exported directly by the Unit on behalf of the Domestic Tariff Area exporter: Provided that in case of sub-contracting on behalf of an Export Oriented Unit or an Electronic Hardware Technology Park unit or a Software Technology Park unit or Bio-technology Park unit, the finished goods may be exported either from the Unit or from the Export Oriented Unit or Electronic Hardware Technology Pak unit or Software Technology Park unit or Biotechnology Park unit;</p> <p>(c) export document shall be jointly in the name of Domestic Tariff Area exporter and the Unit;</p> <p>(d) the Domestic Tariff Area exporter shall be eligible for refund of duty paid on the inputs by way of brand rate of duty drawback</p>	<p>(b) finished goods shall be exported directly by the Unit on behalf of the Domestic Tariff Area exporter: Provided that in case of sub-contracting on behalf of an Export Oriented Unit or an Electronic Hardware Technology Park unit or a Software Technology Park unit or Bio-technology Park unit, the finished goods may be exported either from the Unit or from the Export Oriented Unit or Electronic Hardware Technology Pak unit or Software Technology Park unit or Biotechnology Park unit;</p> <p>(c) export document shall be jointly in the name of Domestic Tariff Area exporter and the Unit;</p> <p>(d) the Domestic Tariff Area exporter shall be eligible for refund of duty paid on the inputs by way of brand rate of duty drawback</p> <p><u>Provided :-</u> <u>(i) Only employees temporarily de-capacitated, employees travelling and off-site employees of SEZ may be permitted to work from home or from place outside the SEZ subject to the following conditions:</u></p> <p><u>(a) the person should be an employee of the SEZ unit</u> <u>(b) the person will carry out the work related to a project of the SEZ unit</u> <u>(c) Ensure export revenue of the resultant products/services should be accounted for by the SEZ unit to which the employee is tagged and at no given point should work from home involve the export of services from outside the SEZ unit</u></p>	<p>Existing Rule 43 is renamed as 43 A in order to introduce new proviso as Rule 43 B.</p> <p>Provision has been incorporated as per instruction No. 55, 58 & 85.</p>
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	<p><u>(ii) IT units in DTA can carry out their job-work in a SEZ unit by following the procedure as laid down in sub-rule (i) above</u></p> <p><u>(iii) For the purpose of work from home, SEZ unit should provide laptop/desktop and secured connectivity (for eg. VPN, VDI etc) to establish a connection between the employee and the work related to the project of the SEZ unit.</u></p> <p><u>(iv) Once the employee ceases to be part of the project of SEZ unit, the employee shall be untagged from the respective SEZ unit and the unit shall surrender the I-Card (Form K) to S.O. as per rule 70 (2) of SEZ Rules 2006</u></p> <p><u>(v) For SEZ units registered as Other Service Providers (OSPs with Department of Telecommunication (DOT) and availing the benefit of work from home, the prescribed OSP guidelines issued by DOT and amended from time to time, will be strictly followed by SEZ units</u></p>	
<p><u>Rule 43 B (new proviso to be inserted)</u></p>	<p>A unit may, on the basis of annual permission from the Specified Officer, undertake sub-contracting on behalf of the DTA unit for supplying it back in the DTA, subject to following conditions, namely;</p> <p>(a) Supply of goods from DTA to SEZ unit shall be entitled for benefits as available to the DTA unit for supplies to the SEZ unit.</p> <p>(b) After sub-contracting, supply of goods back in the DTA shall be subject to Duty as per Section 30 of the SEZ Act.</p>	<p>SEZ units have been requesting to permit sub-contracting facility to the DTA unit on the ground that this will help to utilize their surplus/idle capacity and in turn would increase manufacturing activities and employment in SEZ.</p> <p>Committee has suggested this facility only to the extent of 15% of FOB value of exports. It may be mentioned that even in the DTA an exporter importing capital goods under</p>

	<p>(c) This facility will be permitted to the extent of 15% of the FOB value of exports of the SEZ unit in the preceding financial year.</p> <p>(d) The value of goods so procured from DTA shall not be computed for the purpose of NFE.</p>	<p>EPCG scheme can utilize capital goods simultaneously for domestic production as well.</p>
<p>53. <u>Net Foreign Exchange Earnings</u> — The Unit shall achieve Positive Net Foreign Exchange to be calculated cumulatively for a period of five years from the commencement of production according to the following formula, namely:—</p> <p>Positive Net Foreign Exchange = A - B >> 0</p> <p>Where :—</p> <p>A : is Free on Board value of exports, including exports to Nepal and Bhutan against freely convertible currency, by the Unit and the value of following supplies of their products, namely:—</p>	<p>53. <u>Net Foreign Exchange Earnings</u> — The Unit shall achieve Positive Net Foreign Exchange to be calculated cumulatively for a period of five years from the commencement of production according to the following formula, namely:—</p> <p>Positive Net Foreign Exchange = A - B >> 0</p> <p>Where :—</p> <p>A : is Free on Board value of exports, including exports to Nepal and Bhutan against freely convertible currency, by the Unit and the value of following supplies of <u>their products, manufactured in the SEZ and the value of the services (excluding traded goods)</u> namely:—</p>	<p>Comprehensive changes are suggested in Rule 53 to increase manufacturing activities in SEZ and exports. For this purpose condition of supply of goods manufactured in SEZs has been incorporated, as in terms of para 7.01 of Foreign Trade Policy, deemed export benefits are admissible only if goods are manufactured in the country. This will help increasing value addition/manufacturing in SEZs. Supply of goods in the DTA counted towards NFE in 15 categories have been reduced to 11 categories.</p> <p>This also takes care of the observations made in para 5.16 by CAG in its Report No. 21 of 2014 that “ DOC may intimate the mechanism they have to ensure that the foreign exchange earning as contemplated in SEZ scheme has been safeguarded in case</p>

<p>a. supply of goods against Advance Licence or Duty Free Replenishment Certificate under the Duty Exemption or Remission Scheme or Diamond Imprest Licence under the Foreign Trade Policy;</p> <p>b. supply of capital goods to holders of licence under the Export Promotion Capital Goods Scheme under the Foreign Trade Policy;</p> <p>c. supply of goods to projects financed by multilateral or bilateral agencies or funds as notified by the Department of Economic Affairs, Ministry of Finance under International Competitive Bidding in accordance with the procedures of those agencies or funds, where the legal agreements provide for tender evaluation without including the customs duty;</p> <p>d. supply of capital goods, including those in unassembled or disassembled condition as well as plants, machinery, accessories,</p>	<p>a. supply of goods against <u>Advance Authorization/Advance Authorization for annual requirement/Duty Free Import Authorization {DFIA} under the Duty Exemption or Remission scheme under the Foreign Trade Policy.</u></p> <p>b. supply of capital goods to holders of licence under the Export Promotion Capital Goods Scheme under the Foreign Trade Policy;</p>	<p>of deemed exports”. The amendments proposed in Rule 53, 54 & 76 will take care of this requirement pointed out by CAG. This also takes care of observations made by CAG in para 2.5 of Report No. 21 of 2014.</p> <p>In addition, procurement of goods from DTA is also proposed to be incorporated in NFE criteria as on the goods procured from DTA also duty benefits are provided. Otherwise if units are procuring goods from DTA only, practically there shall not be any NFE obligations. Value Addition requirement for Gems & Jewellery units prescribed through DOC instructions have been incorporated in the rule excepting for Nominated Agency working as a service unit in SEZ. This is also essential specifically keeping in mind the implementation of GST wherein now exemption from IGST has also been provided for.</p>
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<p>tools, dies and such goods which are used for installation purposes till the stage of production and spares to the extent of ten per cent. of the free on rail value to fertilizer plants;</p> <p>e. supply of goods to any project or purpose in respect of which the Ministry of Finance, by a notification, permits the import of such goods at zero customs duty;</p> <p>f. supply of goods to the power projects and refineries not covered in (e) above;</p> <p>g. supply to projects funded by United Nations Agencies;</p> <p>h. supply of goods to nuclear power projects through competitive bidding as opposed to International Competitive Bidding;</p>	<p>c. supply of goods to projects financed by multilateral or bilateral agencies or funds as notified <u>vide Public Notice No. 1 (FT)/DEA/2010 dated 05.05.2010 by the Department of Economic Affairs, Ministry of Finance, as amended from time to time</u>, under International Competitive Bidding in accordance with the procedures of those agencies or funds, where the legal agreements provide for tender evaluation without including the customs duty;</p> <p>d. <u>Deleted</u></p>	<p>DFRC Scheme has been withdrawn for exports w.e.f. 01.05.2006. Aligned with para 7.02 of (A)(a) of FTP.</p> <p>No change.</p> <p>Provision amended as per para 7.02 (B) (e) (i) (iii) (iv) of FTP 2015-20 read with Appendix 7A of Appendices and Aayat Niryat Forms of FTP 2015-20.</p>
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<p>i. supply made to bonded warehouses set up under the Foreign Trade Policy or under section 65 of the Customs Act and free trade and warehousing zones, where payment is received in foreign exchange;</p> <p>j. supply against special entitlements of duty free import of goods under the Foreign Trade Policy;</p> <p>k. export of services by services units including services rendered within Special Economic Zone or services rendered in the Domestic Tariff Area and paid for in free foreign exchange or such services rendered in Indian Rupees which are otherwise considered as having been paid for in free foreign exchange by the Reserve Bank of India;</p> <p>l. supply of Information Technology Agreement items and notified zero duty telecom or electronic items, namely, Color Display Tubes for monitors and Deflection components for colour monitors or any other items as may be notified by the Central Government;</p> <p>m. supply to other units and Developers in the same or other Special Economic Zone or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Unit or Bio-technology Park Unit provided that such goods and services are permissible for import or procurement by such Units and Developers;</p>	<p>e. supply of goods to any project or for any purpose in respect of which the Ministry of Finance, by notification <u>No. 12/2012-Customs dated 17.03.2012, as amended from time to time, subject to conditions specified in the above said notification provided the supply is made under procedure of ICB.</u></p> <p>f. <u>Deleted</u></p> <p>g. Supply <u>of goods to United Nations or International Organisations for their official use or supplied to the projects financed by the said United nations or an International Organisations approved by Government of India. List of such organisation and conditions applicable to such supplies is given in the Excise Notification No. 108/95-CE dated 28.08.1995, as amended from time to time. A list of Agencies, covered under this paragraph, is given in Appendix -7B of FTP 2015-20.</u></p> <p>h. Supply of goods to nuclear power projects <u>provided they are as per the conditions stipulated in para 7.02 (B) (h) of FTP 2015-20.</u></p> <p>i. <u>Deleted</u></p>	<p>Deleted as the facility is discontinued under FTP.</p> <p>Aligned with para 7.02(B)(f)(i) of FTP 2015-20.</p> <p>Deleted as the facility is discontinued under FTP.</p>
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<p>n. supply of goods to Domestic Tariff Area against payment in foreign exchange from the Exchange Earners Foreign Currency account of the Domestic Tariff Area buyer or Free Foreign Exchange received from overseas;</p> <p>o. supply of goods against free foreign exchange by a Free Trade and Warehousing Zone Unit.</p> <p>Explanation : For the purposes of this sub-rule, the supplies under clause (m) shall be against procurement certificate, as applicable and the supplies under clauses (d) to (h) and (j) shall be as per the terms and conditions of the respective duty exemption notified by the Central Government, in the Ministry of Finance; and</p> <p>B : consist of sum of the following:—</p> <p>(a) sum total of the Cost Insurance and Freight value of all imported inputs used for authorized operations during the relevant period and the Cost Insurance and Freight value of all imported capital goods including goods purchased on high seas basis even though paid for in Indian Rupees and the value of all payments made in foreign exchange by way of export commission, royalty, fees, dividends, interest on external commercial borrowings during the first five year period or any other charges;</p> <p>(b) value of goods obtained from other Unit or Export Oriented Unit or Electronic Hardware</p>	<p>j. Supply against special entitlements of duty free import of goods under the FTP.</p> <p>k. export of services by services units including services rendered within Special Economic Zone or such services rendered in Indian Rupees which are otherwise considered as having been paid for in free foreign exchange by the Reserve Bank of India;</p> <p>l. supply of Information Technology Agreement items and notified zero duty telecom or electronic items, namely, Color Display Tubes for monitors and Deflection components for colour monitors or</p>	<p>Aligned with paragraph 7.02(B)(g) of FTP 2015-20.</p> <p>Aligned with para 7.02(B)(h) of FTP 2015-20.</p> <p>Category (i) of the present Rule needs to be deleted as under this category unit may supply to bonded warehouse and count towards NFE and then from bonded warehouse they sell to DTA on payment of duty. Hence, practically it</p>
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<p>Technology Park or Software Technology Park Unit or Bio-technology Park Unit or from bonded warehouses or procured from international exhibitions held in India or precious metals procured from nominated agencies;</p> <p>(c) the Cost Insurance Freight value of the goods and services, including pro-rata Cost Insurance Freight of capital goods, imported duty free or leased from a leasing company or received free of cost and/or on loan basis or on transfer for the period they remain with Unit.</p> <p>Explanation : For the purposes of this sub-rule “Inputs” mean raw materials, intermediates, components, consumables, parts and packing materials;</p> <p>(d) for annual calculation of Net Foreign Exchange, value of imported capital goods and lump sum payment of foreign technical know-how fee shall be amortized at the rate of ten per cent. every year from the first year to tenth year.</p>	<p>any other items as may be notified by the Central Government;</p> <p>m. supply to other units and Developers in the same or other Special Economic Zone or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Unit or Bio-technology Park Unit provided that such goods and services are permissible for import or procurement by such Units and Developers;</p> <p>n. <u>Deleted</u></p>	<p>is sale to DTA through bonded warehouse.</p> <p>No change.</p> <p>From the present (k) the words “or services rendered in the Domestic Tariff Area and paid for in free foreign exchange” should be deleted because trading is part of services as per Rule 76 and under this Rule traded goods can be sold in DTA against free foreign exchange and can be counted towards NFE. This needs to be discouraged. Deemed Export facility as given above is only for supplies of manufactured goods and not traded goods as explained above.</p> <p>No change.</p>
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- o. supply of goods against free foreign exchange by a Free Trade and Warehousing Zone Unit.

B : consist of sum of the following:—

(a) sum total of the Cost Insurance and Freight value of all imported /indigenous inputs used for authorized operations during the relevant period and the Cost Insurance and Freight value of all imported capital goods including goods purchased on high seas basis even though paid for in Indian Rupees and the value of all payments made in foreign exchange by way of export commission, royalty, fees, dividends, interest on external commercial borrowings during the first five year period or any other charges;

(b) value of goods obtained from other Unit or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Unit or Bio-technology Park Unit or from bonded warehouses or procured from

No change.

The present provisions under (n) is proposed to be deleted because there are instances in many zones in various sectors specifically used textiles, plastics etc. wherein the production in SEZ is sold in the DTA under this provision and NFE is achieved. In the past there have been hardly any exports from this sector. After operating this provision for more than a decade, now keeping in mind the GST, we should delete this provision.

No change.

international exhibitions held in India or precious metals procured from nominated agencies;

(c) the Cost Insurance Freight value of the goods and services, including pro-rata Cost Insurance Freight of capital goods, imported duty free or leased from a leasing company or received free of cost and/or on loan basis or on transfer for the period they remain with Unit.

Explanation : For the purposes of this sub-rule “Inputs” mean raw materials, intermediates, components, consumables, parts and packing materials;

(d) for annual calculation of Net Foreign Exchange, value of imported capital goods and lump sum payment of foreign technical know-how fee shall be amortized at the rate of ten per cent. every year from the first year to tenth year.

C: Gems & Jewellery units shall achieve minimum Value Addition as prescribed in Foreign Trade Policy/Hand Book of Procedures. However, Nominated Agencies working as a service unit for precious metals supply within SEZ shall be subjected to the requirement of positive NFE only.

D: For Gems & Jewellery, the minimum Value Addition shall be in terms of Foreign Trade Policy/Hand Book of Procedures and it would be calculated as under:-

$$VA = \frac{A-B}{B} \times 100$$

Where,

A = FOB value of the export realised/FOR value of supply received

B = Value of inputs (including domestically procured) such as gold/silver/platinum content in export product plus admissible wastage along with value of other items, such as gemstone etc. wherever gold has been obtained on loan basis, value shall also include interest paid in free foreign exchange to foreign supplies.

Department of Commerce vide its letter dt. 19.07.2013 has prescribed minimum Value Addition for exports of Gems & Jewellery. Hence it is proposed to be incorporated in Rule 53. However Nominated Agencies cannot achieve value addition hence exempted.

Procurement of goods from DTA is also proposed to be incorporated in NFE criteria as on the goods procured from DTA also duty benefits are provided. Otherwise if units are procuring goods from DTA only, practically there shall not be any NFE obligations. Value Addition requirement for Gems & Jewellery units prescribed through DOC instructions have been incorporated in the rule excepting for Nominated Agency working as a service unit in SEZ.

		<p>This is also essential specifically keeping in mind the implementation of GST wherein now exemption from IGST has also been provided for.</p> <p>Value addition formula as given in para 4.38 of the FTP 2015-20 is incorporated.</p>
<p>54. Monitoring of performance —</p> <p>(1) Performance of the Unit shall be monitored by the Approval Committee as per the guidelines given in Annexure appended to these rules.</p> <p>(2) In case the Approval Committee comes to the conclusion that a Unit has not achieved positive Net Foreign Exchange Earning or failed to abide by any of the terms and conditions of the Letter of Approval or Bond-cum-Legal Undertaking, without prejudice to the action that may be taken under any other law for the time being in force, the said Unit</p>	<p>54. Monitoring of performance —</p> <p>(1) Performance of the Unit shall be monitored by the Approval Committee as per the guidelines given in Annexure appended to these rules.</p> <p>(2) In case the Approval Committee comes to the conclusion that a Unit has not achieved positive Net Foreign Exchange Earning [or stipulated Value Addition*] or failed to abide by any of the terms and conditions of the Letter of Approval or Bond-cum-Legal Undertaking, without prejudice to the action that may be taken under any other law for the time being in force, the said Unit shall be liable for penal action under the provisions of the Foreign Trade (Development and Regulation) Act, 1992.</p> <p>* For Gems & Jewellery, the minimum Value Addition shall be in terms of Foreign Trade Policy/Hand Book of Procedures and it would be calculated as under:-</p> <p>VA = $\frac{A-B}{A}$ x 100</p>	

	<p style="text-align: center;">B</p> <p>Where,</p> <p>A = FOB value of the export realised/FOR value of supply received</p> <p>B = Value of inputs (including domestically procured) such as gold/silver/platinum content in export product plus admissible wastage along with value of other items, such as gemstone etc. wherever gold has been obtained on loan basis, value shall also include interest paid in free foreign exchange to foreign supplies.</p>	<p>Similarly the formula for calculation of Value Addition as given in para 4.61 of Handbook of Procedures read with para 4.38 of the FTP 2015-20 is proposed to be incorporated in Rule 54.</p>
<p><u>Rule 72(1)</u></p> <p><u>Revival of sick units</u></p> <p>Existing rule provides that a unit which has been declared sick by the appropriate authority shall submit a revival package through Development Commissioner to Board for consideration and the Board shall consider the extension in the period for fulfillment of Positive Net Foreign Exchange for a further period up to a maximum of five years at the prevalent norms.</p>		<p>Rule 72 may be amended along with changes brought about by Insolvency and Bankruptcy Code (IBC) in consultation with Law Ministry.</p>
<p>Rule 74</p> <p>Exit from SEZ Scheme</p>	<p>Format for Legal Undertaking for exit of the unit from the SEZ scheme has been devised and is attached at Annexure-VII</p>	<p>Presently, format prescribed under EOU scheme is being used <i>mutatis mutandis</i> for SEZ units</p>
<p>Rule 74 (A)</p> <p>Transfer of assets by Special Economic Zone units upon their exit-</p> <p>The unit may opt out of Special Economic Zone by transferring its assets and liabilities to another person by way of transfer of ownership including</p>		

<p>sale of Special Economic Zone units subjects to the following conditions.</p> <p>(i) the unit has held a valid Letter of Approval as well as lease deed of land for not less than a period of five years on the date of transfer;</p>	<p>(i) the unit has held a valid Letter of Approval as well as lease deed of land /standard design factory for not less than a period of five years on the date of transfer;</p>	<p>There is no mention of built space (SDF) in the rules.</p>
<p>Rule 75 read with Rule 27 and 29 of SEZ Rules, 2006 Rule 75 provides as under: “Self Declaration:- Unless otherwise specified in these rules all inward or outward movement of goods into or from the Zone by the Unit or Developer shall be based on self declaration made and no routine examination of these goods shall be made unless specific orders of the Development Commissioner or the Specified Officer are obtained.”</p> <p>The provisions of Rule 27 inter-alia also mentions regarding self-declaration and no routine examination of goods, and that of Rule 29 regarding verification of marks and numbers and verification of seal only.</p>	<p>A Risk Management System (RMS) may be incorporated in SEZ Rules, which may provide for checking of certain number / percentage (even sector wise percentage may be fixed) of consignments of SEZ units.</p>	<p>Presently, there is no such provision and in terms of provisions of Rule 27(10) based on prior intelligence where the examination of consignments becomes necessary, the same may be carried out by the Authorized Officer(s) after obtaining written permission from the Development Commissioner or the Specified Officer.</p> <p>Further, Rule 75 also deals with inward or outward movement of goods into or from the SEZ on self-declaration basis and there is no provision of routine examination except with the specific orders of the Development Commissioner or the Specified Officer.</p>
<p>76.The “services” for the purposes of [1][clause] (z) of section 2 shall be the following, namely:— Trading, warehousing, research anddevelopment services, computer software services, including information enabled services such as back-office operations, call centres, content development or</p>	<p>76.The “services” for the purposes of [1][clause] (z) of section 2 shall be the following, namely:— Trading, warehousing, research anddevelopment services, computer software services, including information enabled services such as back-office operations, call centres, content development or animation, data processing,</p>	<p>For the purposes of Income Tax exemption we are permitting only international trading. However, trading is otherwise allowed in the SEZ except for precious metals</p>

<p>animation, data processing, engineering and design, graphic information system services, human resources services, insurance claim processing, legal data bases, medical transcription, payroll, remote maintenance, revenue accounting, support centres and web-site services, off-shore banking services, professional services, rental/leasing services without operators, other business services, courier services, audio-visual services, construction and related services, distribution services (excluding retail services), educational services, environmental services, financial services, hospital services, other human health services, tourism and travel related services, recreational, cultural and sporting services, entertainment services, transport services, services auxiliary to all modes of transport, pipelines transport.</p> <p><i>Explanation:</i> The expression “trading”, for the purposes of the Second Schedule of the Act, shall mean import for the purposes of re- export</p>	<p>engineering and design, graphic information system services, human resources services, insurance claim processing, legal data bases, medical transcription, payroll, remote maintenance, revenue accounting, support centres and web-site services, off-shore banking services, professional services, rental/leasing services without operators, other business services, courier services, audio-visual services, construction and related services, distribution services (excluding retail services), educational services, environmental services, financial services, hospital services, other human health services, tourism and travel related services, recreational, cultural and sporting services, entertainment services, transport services, services auxiliary to all modes of transport, pipelines transport.</p> <p><i>Explanation:</i> The expression “trading”, for the purposes of the Second Schedule of the Act, shall mean import for the purposes of re- export. <u>Trading of goods for sale in DTA i.e. import for sale in DTA, shall not be allowed except for FTWZ.</u></p>	<p>wherein we have specifically discontinued trading. Recently, a number of instances have come to the notice wherein trading activities by the units for sale into the DTA only have been grossly mis-utilized leading to mis-declaration in terms of value as well as quantity specifically in the consumer goods. Hence, it is suggested that trading for sale in the DTA should not be allowed. This is also important keeping in mind that SEZ is meant for export. Activities in FTWZ shall be guided by specific provisions relating to FTWZ like Rule 18(5) of the SEZ Rules 2006.</p> <p>This also take care of observations made by CAG in its Report No. 21 of 2014 at para 5.25.</p>
<p>New Rule 80 to be inserted</p>	<p><u>Interpretation of SEZ Rules</u></p> <p>SEZ Rules Interpretation Committee (IC) may be constituted for the purpose of interpretation of the SEZ Rules. The composition of this Interpretation Committee (IC) would be as follows:-</p> <ol style="list-style-type: none"> 1. Addl. Secretary/Joint Secretary - (SEZ Division) of Deptt. Of Commerce - Chairperson 2. Addl. DGFT – Member 3. Addl. DG (DGEP, Deptt. Of Revenue) – Member 	<p>This measure will help in ease of operations. When a reference is made by trade & industry and field formations, then DOC has to sometimes consult DGFT, DGEP and this process takes time. This IC can meet periodically say fortnightly and dispose of all the references. This will help</p>

	<p>4. Director (SEZ Division) of Deptt. Of Commerce – Member Secretary</p> <p>5. Any other person as may be co-opted by the Chairperson</p>	<p>in faster clarifications to the trade & industry as well as Field Formations.</p> <p>Similar provision is already provided in para 2.57 of the FTP.</p>
<p>New Rule 81 to be inserted</p>	<p><u>Relaxation from the provisions of the SEZ Rules</u></p> <p>BOA may in public interest pass such orders or grant such exemption, relaxation or relief, as it may deem fit and proper, on grounds of genuine hardship and adverse impact on trade to any person or class or category of persons from any provisions of SEZ Rules. While granting such exemption, BOA may impose such conditions as it may deem fit.</p>	<p>At present there is no provision for relaxation of the provisions of SEZ rules. Even when BOA considers it appropriate it has to take approval of Hon'ble CIM. Hence, wherever BOA feels that there is genuine hardship to the trade & industry and relaxation in SEZ rule is required, it should be empowered to do so.</p> <p>Section 55 of the SEZ Act, 2005 empowers Central Government to make rules. In the same way, Central Government can make rules for relaxation in the provisions of the SEZ Rules as well.</p>
<p>New Rule 82 to be inserted</p>	<p><u>Regularization of Bona fide default</u></p> <p>If an SEZ unit, in case of bona fide default, fails to achieve the minimum prescribed NFE or prescribed value addition, then such shortfall can be regularized after the unit deposits an amount equal to 1% of shortfall in FOB Value.</p>	<p>Sometimes SEZ unit is not able to achieve positive NFE and then case has to be adjudicated under FT (D&R) Act. In case import quantity is duly accounted for by exports, sale in the DTA, other available supplies, stock available etc and shortfall in only NFE or prescribed value</p>

		addition, then such case should be regularized on payment of penalty with 1% of shortfall in FOB value. This will reduce unnecessary adjudication. Similar provisions is provided in para 4.49 (b) of Handbook of Procedures 2015-20.
Form D And whereas the Specified Officer has permitted the obligors admission of duty free imported goods and duty free goods procured from the DTA ...	And whereas the Specified Officer has permitted the obligors admission of duty free imported goods and services and duty free goods and services procured from the DTA ...	Services not covered in this portion of Form D.
Form E 6. "Details of imports or procurement of goods" covered.	After 6, details of imports or procurement of services to be covered.	Services not covered.
FORM F1		
(LoA renewal application form)		
Application for renewal of Letter of Approval for the _____ block of five years under Rule 19 (6) of SEZ Rules, 2006		
<u>PART 1</u>		
Sl No	Particulars	
1.	Name of Unit and full address in SEZ	
2.	Full address of Registered Office	
3.	Telephone/Fax Nos:	
4.	Permanent E-Mail address	
5.	Original Letter of Approval No. and Date	
6.	Date of renewal of Letter of Approval, if any	dd/mm/yyyy
7.	Date of commencement of production	dd/mm/yyyy
8.	Date of expiry of Letter of Approval	dd/mm/yyyy
		To get the uniformity in processing of applications of validation of LoA and for renewal of LoA.

9.	ID and date of application for renewal of LOA filed in SEZonline-ndml.com	
10.	Income Tax PAN Number	
11.	Constitution of the Applicant Firm (Tick the appropriate entry)	Public Ltd/Private Ltd /Partnership/Proprietorship/Others

PART II

Activity of Unit		Existing	Proposed for the renewed period
Item of Manufacture/service activity (including by product/co-products)			
Investment in Capital Goods (in Rs lakhs)	Indigenous		
	Import		
Investment in Raw Materials (in Rs. Lakhs)	Indigenous		
	Import		
Employment	Men		
	Women		

FOREX Balance Sheet for the current block

(In Rs. Lakhs)

Sl No	Items	1 st	2 nd	3 rd	4 th	5 th	Total
1	FOB value of Exports in first 5 years						
2	*Foreign Exchange Outgo on for the first five years						
3	Net Foreign Exchange earnings for the first five years (1-2)						

FOREX Balance Sheet proposed for next block

(In Rs. Lakhs)

Sl No	Items	1 st	2 nd	3 rd	4 th	5 th	Total
1	FOB value of Exports in first 5 years						
2	*Foreign Exchange Outgo on for the first five years						
3	Net Foreign Exchange earnings for the first five years (1-2)						
<p>* Foreign Exchange outgo shall include CIF value of import of machinery, raw material, components, consumables, spares, packing materials and amount of repatriation of dividends and profits, royalty, lump sum knowhow fee, design and drawing fee, payment of foreign technicians, payment on training of India technicians abroad, commission on export, interest on external commercial borrowings, interest on deferred payment credit and any other payments</p> <p>Place: Date:</p> <p style="text-align: right;">Signature of the Applicant Name in Block Letters Designation Telephone No: Mobile No. E-Mail Address</p>							
<p>Form - G (FORMAT FOR LETTER OF APPROVAL FOR UNIT) (See rule 19) OFFICE OF DEVELOPMENT COMMISSIONER, -----SPECIAL</p>		<p>Form - G (FORMAT FOR LETTER OF APPROVAL FOR UNIT) (See rule 19) OFFICE OF DEVELOPMENT COMMISSIONER, ----- -----SPECIAL ECONOMIC ZONE DEPARTMENT OF COMMERCE, GOVERNMENT OF INDIA</p>					

ECONOMIC ZONE DEPARTMENT OF
COMMERCE, GOVERNMENT OF INDIA

Dated the-----

Subject: Your proposal for setting up a unit in the
Special Economic Zone.

Reference: Your application No. ----- dated-----

Dear Sirs,

With reference to the above mentioned application, Development Commissioner, _____, Special Economic Zone is pleased to extend to you all the facilities and entitlements admissible to a unit in a Special Economic Zone subject to the provisions of the Special Economic Zones Act, 2005 and the rules and orders made there-under and for the establishment of a unit at _____ in the State of _____ for undertaking authorized operations, namely, manufacture and rendering services including trading as under:-

Authorized Operations

1. Items (s) of manufacture

2. Service activities:

This approval is subject to following terms and conditions:

- (i) You shall export the goods manufactured/ goods imported/procured for trading and services, including items of trading, as per provisions of the Special Economic Zones Act, 2005 and Rules made there-under for a period of five years from the date of commencement of production/service activities. For this purpose, you shall execute

Dated the-----

Subject: Your proposal for setting up a unit in the Special
Economic Zone.

Reference: Your application No. ----- dated-----

Dear Sirs,

With reference to the above mentioned application, Development Commissioner, _____, Special Economic Zone is pleased to extend to you all the facilities and entitlements admissible to a unit in a Special Economic Zone subject to the provisions of the Special Economic Zones Act, 2005 and the rules and orders made there-under and for the establishment of a unit at _____ in the State of _____ for undertaking authorized operations, namely, manufacture and rendering services including trading as under:-

Authorized Operations

1. Items (s) of manufacture

2. Service activities:

<u>Sl No</u>	<u>Items</u>	<u>1^s t</u>	<u>2ⁿ d</u>	<u>3^r d</u>	<u>4^t h</u>	<u>5^t h</u>	<u>T ot al</u>
<u>1</u>	<u>FOB value of Exports in first 5 years</u>						
<u>2</u>	<u>*Foreign Exchange Outg</u>						

This should be incorporated in the format of LOA issued to the unit in terms of 19 (2) of SEZ rules 2006.

the Bond-cum-Legal Undertaking as prescribed under the Special Economic Zone Rules, 2006.

(ii) You shall fulfil the pollution control requirements, as may be prescribed by the Pollution Control authorities.

(iii) You shall achieve positive Net Foreign Exchange (NFE) as prescribed in the Special Economic Zone Rules, 2006 for the period you operate as a Unit in the Special Economic Zone from the commencement of production, failing which you shall be liable for penal action under the Foreign Trade (Development and Regulation) Act, 1992.

(vii) Date of commencement of production shall be intimated to the Development Commissioner.

Yours faithfully,
Development Commissioner
-----SEZ

Copy forwarded to: -
Asstt Commissioner/Deputy Commissioner/Joint Commissioner(Custom).....Special Economic Zone

	<u>o on for the first five years</u>						
<u>3</u>	<u>Net Forei gn Exch ange earn ings for the fist five years (1-2)</u>						

This approval is subject to following terms and conditions:

- (i) You shall export the goods manufactured/ goods imported/procured for trading and services, including items of trading, as per provisions of the Special Economic Zones Act, 2005 and Rules made there-under for a period of five years from the date of commencement of production/service activities. For this purpose, you shall execute the Bond-cum-Legal Undertaking as prescribed under the Special Economic Zone Rules, 2006.
- (ii) You shall fulfil the pollution control requirements, as may be prescribed by the Pollution Control authorities.

In terms of rule 53 of SEZ rules 2006 NFE is to be calculated cumulatively for period of five years.

As per condition of BLUT.

This condition should be incorporated as part of the LOA.

	<p>(iii) You shall achieve positive Net Foreign Exchange (NFE) as prescribed in the Special Economic Zone Rules, 2006 <u>for every block of five years</u> you operate as a Unit in the Special Economic Zone from the commencement of production, failing which you shall be liable for penal action under the Foreign Trade (Development and Regulation) Act, 1992.</p> <p>(vii) <u>Date of commencement of production shall be intimated to the Development Commissioner within a period of one month from the date of commencement of prouction.</u></p> <p>(xv) <u>A copy of registered lease deed executed with the Developer shall be furnished to the Development Commissioner within six months from the issuance of the Letter of Approval.</u></p> <p style="text-align: right;">Yours faithfully, Development Commissioner -----SEZ</p> <p>Copy forwarded to: - Asstt Commissioner/Deputy Commissioner/Joint Commissioner(Custom).....Special Economic Zone</p>	
<p>Form G –Letter of Approval for unit The Letter of Approval (LoA) is issued for setting up of a unit in the SEZ subject to the terms and conditions contained vide S. Nos. (i) to (xiv) in Form G.</p>	<p>Following additional condition may be added as S.No.(xi) :-</p> <p><u>(xi) You shall submit monthly report on Investment, Employment and INR value of all merchandise and services through SEZ online system on or before 4th of the following month.</u></p>	<p>This would facilitate compilation of updated information on sezone.</p>
<p style="text-align: center;">Form – F2</p>		

(FORMAT FOR RENEWAL OF LETTER OF APPROVAL FOR UNIT)

(See rule 19 (6))

OFFICE OF DEVELOPMENT
 COMMISSIONER, -----SPECIAL
 ECONOMIC ZONE DEPARTMENT OF
 COMMERCE, GOVERNMENT OF INDIA

F No.

Dated:

To

M/s Name and Address of the unit

Subject: Renewal of Letter of Approval issued to M/s -----, a unit in ----- Special Economic Zone for Continued Operation under the SEZ Scheme – reg.

Sir,

With reference to your application No. ----- dated -----, the validity of Letter of Approval No. ----- dated ----- issued to M/s ----- is hereby extended for ----- block of 5 years i.e. from *dd.mm.yyyy* to

To get the uniformity in processing of applications of validation of LoA and for renewal of LoA.

Sl No	Items	1 st	2 ⁿ d	3 ^r d	4 ^t h	5 ^t h	Total
1	FOB value of Exports for 5 years						
2	*Foreign Exchange Outgo for five years						
3	Net Foreign Exchange earnings for five years (1-2)						

dd.mm.yyyy for undertaking authorized operations, namely, ----- in ----- Special

<p>Economic Zone, in -----state. All other terms and conditions stipulated in the original Letter of Approval shall remain unchanged. Your application for renewal of LOA has been considered on the basis of projections given therein and the same has been given below.</p> <p>2. You are required to execute a fresh Bond Cum Legal Undertaking with this office in respect of the extended period.</p> <p>3. Please keep this letter attached with the original Letter of Approval cited above and acknowledge the receipt.</p> <p style="text-align: right;">Yours faithfully</p> <p style="text-align: center;">(Development Commissioner)SEZ</p> <p>Copy to:</p> <p>1. The Specified Officer, Special Economic Zone.</p> <p>2. NSDL database management.</p>		
<p>Form H And whereas, the obligors ... wherein dutiable goods, imported or procured from DTA or procured from EOU or STP units or EHTP units or STP units in the same SEZ or other SEZ for the purpose of carrying out authorized officers...</p>	<p>And whereas, the obligors ... wherein dutiable goods and taxable services, imported or procured from DTA or procured from EOU or STP units or EHTP units or STP units in the same SEZ or other SEZ for the purpose of carrying out authorized officers...</p>	<p>Services not covered.</p>
<p>Form H – Bond-cum-Legal Undertaking In terms of provisions of Rule 22 (1)(b) of SEZ Rules, 2006, the value of Bond-cum-Legal Undertaking executed in Form-H is calculated taking into account the amount of effective duties</p>	<ul style="list-style-type: none"> • The Bond amount should be inclusive of the duty saved amount along with applicable interest in the event of default. • <u>Due procedure for enforcement of the Bond-cum-LuT should also be precribed.</u> 	<p>This becomes more important in cases where the units, especially the ‘trading units’, either do not have or have very little inputs / finished goods etc. available in their premises</p>

<p>leviable on import or procurement from the DTA of the inputs.</p>		<p>to ensure recovery of duty benefits availed. Presently, there is no procedure in place to enforce the Bond for recovery of the benefits availed, in the event of default by the unit.</p>
<p>Form I - APR</p>	<p>Revised Format of APR enclosed as Annexure-VI.</p>	<p>To ensure value addition achievement in terms of para 4.61 of Handbook of FTP 2015-20, domestic procurement have also been proposed to be included in APR format.</p>
<p>RBI Cir No. 46 dated 23/10/2012 Authorised Dealers are permitted to sell foreign Exchange to a unit in the DTA for making payment in Foreign Exchange to a unit in SEZ for the services rendered by it to a DTA Unit, provided it is mentioned in the LOA issued by the Development Commissioner, that the supply of goods/services by the SEZ unit to the DTA and its payment in Foreign Exchange.</p>	<p>There is no enabling guidelines to the office of the Development Commissioner as to in which cases supply of the goods/services by the SEZ unit to the DTA unit and for its payment in Foreign Exchange.</p>	
<p>FORM OF LEGAL UNDERTAKING FOR EXIT OF THE UNIT FROM SEZ SCHEME</p> <p>M/s _____ _____ were granted LOA/LOP No. _____ _ dated _____ for setting up a SEZ Unit _____ at _____ for the manufacture and export of _____</p>	<p>An undertaking has to be obtained from the unit, who proposes to exit out of the SEZ scheme for recovery of any dues which has arisen in future.</p>	

_____ subject inter-alia to the condition that they would achieve positive NFE on cumulative basis as per provisions of SEZ Scheme.

The unit filed a legal undertaking as per rule 22 of SEZ Rules, 2006 in Form H of SEZ Scheme on _____ with the President of India through the Development Commissioner, _____ SEZ for achieving the above mentioned commitments.

As against the above commitments, the unit's actual performance has been as under: -

Year	Import (Rs. In Lakh)		Export (Rs. In Lakh)
	CG	RM	

The unit applied for exit from the SEZ Scheme which was subject inter-alia to the condition that penalty imposed by appropriate Authority under the F.T.(D&R) Act, 1992 for non fulfilment of the conditions of approvals would be paid.

In view of the approval for exit, I/Wehereby undertake as under:

(i) That I/We

_____ shall pay whatever penalties are imposed by the Development Commissioner under FT(DR) Act for non-fulfilment of the terms and conditions of LOA/LOP.

(ii) That we

.....shall pay tax/duty alongwith interest, if any, if found availed for the unit mentioned above, shall be paid to any statutory agency without any demur or protest within the time frame specified in this regard.

(ii) That

I/We _____

_____ shall adhere to the mode of payment of penalties, if any, and time frame in which penalties are required to be paid to the Development Commissioner without any demur or protest.

(Full and expanded description of the unit with full address.)

Signature

Seal of the Company to be affixed

IN WITNESS WHEREOF the unit hereto has duly executed this agreement on

_____ this
_____ day of

_____201__ signed,
sealed and delivered by the unit in the presence of :

1. Name _____

Address _____

2. Name _____

Address _____

Accepted by me on behalf of the President of
India.

Dy./Jt. Development Commissioner, ___SEZ