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Proposal for inclusion of SEZ units & EOUs in RoDTEP Scheme

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Executive summary

The RoDTEP scheme proposes to rebate duties and taxes at the Central, State, and local level, incurred in the process of manufacture and distribution of export products, which are currently not being rebated under any other scheme. However, at present, it appears that this scheme has not been extended to SEZ units and EOUs, even though these exporters also have to bear such taxes and duties in respect of export products because of the domestic procurement of inputs by these units.

S. No.	Points to be considered	Brief explanation
A.	Significant domestic procurement of inputs/capital goods by SEZ units/ EOUs	<p>1. As per the data enclosed in the proposal, approximately 25% of inputs/raw materials/consumables required for manufacturing export products are procured domestically by SEZ units and EOUs, just like other DTA units. Therefore, SEZ units and EOUs also bear such taxes and duties on inputs which get embedded in the prices of exported goods.</p> <p>2. In fact, there are certain industries in SEZs and EOUs such as Information Technology (IT) hardware, tea, coffee, spices etc which procure more than 50% of their inputs from domestic markets.</p>
B.	Embedded taxes on domestic procurement by SEZ units and EOUs	<p>Below mentioned taxes on domestic procurement of inputs/ raw materials/ consumables are being embedded in the cost structure of exported products. Similar is the case with DTA units, however, as these units are being included in RoDTEP scheme, embedded taxes in respect of these DTA units will be reimbursed.</p> <p style="text-align: center;">1. State Value Added Tax and Central Excise Duty on fuel used in inbound and outbound</p>

transportation constitute approximately 0.60% and approximately 1.22% (based on limited sample) of the export turnover for SEZ units and EOUs respectively, and on captive consumption of approximately 0.41% and approximately 0.04% (based on limited sample) of the export turnover for SEZ units and EOUs respectively, thus forming an embedded cost for which incentive under RoDTEP scheme is being denied. However, actual average percentage will be similar to the DTA units in respect of different products.

2. **Electricity duty levied on electricity charges** incurred for manufacture of goods is not being rebated. In some States, there are exemptions to SEZ units, however, the same are conditional in nature and are limited to specific time-period. SEZ units, which are not covered by the exemption (or exemption has expired), are incurring an embedded tax cost of approximately 0.14% (based on the limited sample) of export turnover. Further, no such benefits are extended to EOUs resulting in an embedded tax cost of approximately 0.16% (based on the limited sample) of export turnover being embedded to EOUs. However, actual average percentage will be similar to the DTA units in respect of different products.
3. **Embedded GST paid on procurement** from various small and composite scheme suppliers constitute around approximately

		<p>0.99% and approximately 0.14% (based on the limited sample) of the export turnover, forming an embedded cost for SEZ units and EOUs respectively. However, actual average percentage will be similar to the DTA units in respect of different products.</p> <p>4. Other taxes such as stamp duty, mandi tax etc are also being embedded as tax costs to SEZ units and EOUs, as they are levied on units operating in numerous sectors. However, actual average percentage will be similar to the DTA units in respect of different products.</p>
C.	SEZ units and EOUs becoming uncompetitive due to export of such unrebated/unrefunded taxes and duties	Non-inclusion of SEZ units and EOUs under RoDTEP Scheme would make these units uncompetitive in global market due to export of such unrebated/unrefunded taxes and duties.
D.	No significant financial implications on exchequer by inclusion of SEZ units and EOUs	Exports from non-IT SEZ units and EOUs (which will be eligible for RoDTEP) constitute only about 11.28% of overall exports of goods and services from India (approximately 19.05% of total export of goods). Therefore, including SEZ units and EOUs under RoDTEP scheme will not cause any major financial burden to the Government.
E.	Immediate and Long-term effect on SEZ units and EOUs	<p>Apart from increase in cost of exported products and disparities within the Indian exporting community, major repercussions on exclusion of SEZ units and EOUs from scheme of RoDTEP would be:</p> <p>1. Increase in cost of exported products may lead these units to either scale down their operations or close down;</p>

		<ol style="list-style-type: none"> 2. Disincentivising such units for domestic procurement and procuring raw materials from outside India which would be against the “Make in India” and “Atmanirbhar Bharat” initiatives of the Government; 3. SEZ units and EOUs may move outside the country; 4. New entities not setting up under SEZ/EOU scheme; 5. Investments made by Government of India and the units in respect of such SEZs and EOUs may go waste since these units may have to exit from SEZ/EOU scheme considering said schemes may not remain a viable business proposition.
<p>F.</p>	<p>Central schemes not to be left at State’s discretion</p>	<ol style="list-style-type: none"> 1. Presently, some exemptions are given by some State Governments for some of the taxes and duties covered under the RoDTEP scheme which vary from State to State. 2. Since a comprehensive and uniform RoDTEP scheme has been formulated by Central Government for refund of such taxes and duties, and SEZs and EOUs are also Central Government schemes, it is logical that SEZs and EOUs should not be left at the discretion of the State Governments and hence covered under the RoDTEP scheme. These units are willing to provide undertaking that they will not claim exemptions for taxes and duties which have been covered under RoDTEP under any other scheme either Central/ State-level.

P.I Exports in India

It is an accepted international principle of global trade that **taxes and duties should not be exported** to ensure that there is a **level playing field** in the global marketplace.

Adhering to this principle, numerous schemes have been formulated by the Government from time to time. Foreign Trade Policy formulated under the Foreign Trade (Development and Regulation) Act, 1992 provides for many such schemes such as Advance Authorisation, Export Promotion Capital Goods, Rebate of State Levies (RoSL), Rebate of State and Central Tax Levies (RoSCTL), Merchandise Export from India Scheme (MEIS) and Services Export from India Scheme (SEIS).

Exports from India grew at approximately 37% between FY 2015-16 and FY 2019-20 from approximately INR 27 lac crores to approximately INR 37 lac crores. Several policies made by the Government of India helped in promoting export of goods and services from India, despite the adverse conditions faced by Indian exporters in terms of higher logistics costs, higher financing and regulatory costs, lack of free/preferential trade agreements with crucial destination countries/regions, etc.

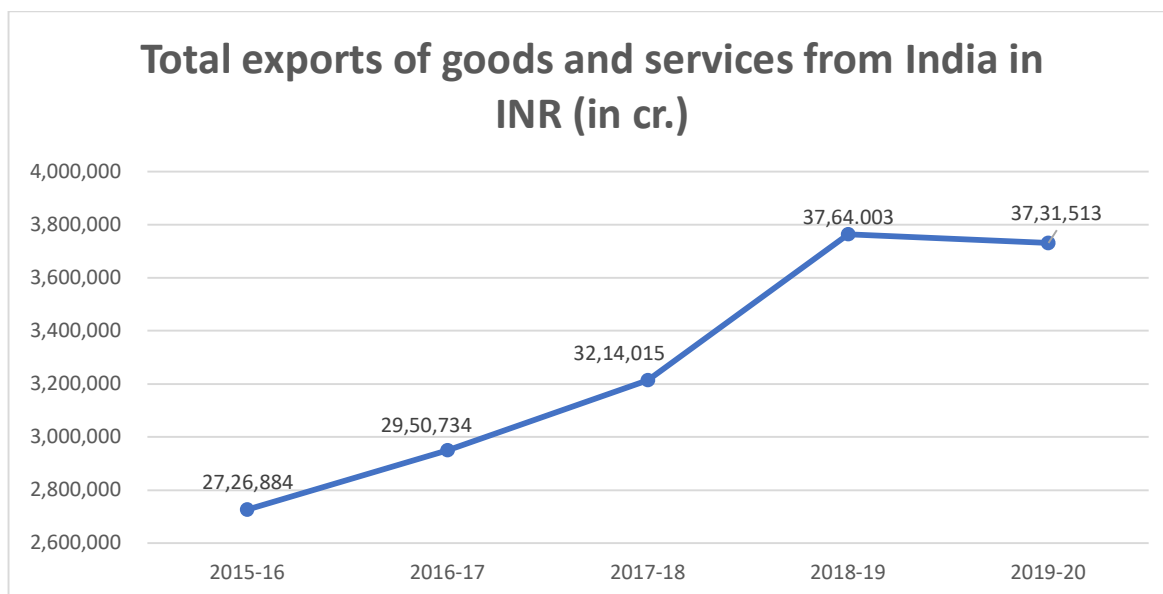


Figure-1: Graph representing total exports of goods and services from India from FY 2015-16 till FY 2019-20¹

¹<https://dashboard.commerce.gov.in/commercedashboard.aspx>

P.II Overview of Special Economic Zones (SEZ units) and Export Oriented Units (EOUs)

SEZs

- A. With Asia's first Export Processing Zone (EPZ) being set up in Kandla in 1965, India became one of the first countries in Asia to recognize effectiveness of the EPZ model in promoting exports. With a view to overcome the shortcomings experienced on account of the multiplicity of controls and clearances, absence of world-class infrastructure, unstable fiscal regime and to attract larger foreign investments in India, the Special Economic Zones (SEZs) Policy was announced in April 2000.

This policy intended to make SEZs an engine for economic growth supported by quality infrastructure and complemented by an attractive fiscal package, both at the Centre and the State level, with the minimum possible regulations. SEZs in India functioned from 1st November 2000 to 9th February 2006 under the provisions of the Foreign Trade Policy and fiscal incentives were made effective through the provisions of relevant statutes.

- B. To instil confidence in investors and signal the Government's commitment towards a stable SEZ policy regime, the Special Economic Zones Act, 2005, was enacted in June 2005. SEZ Rules came into effect on 10th February 2006, providing for drastic simplification of procedures and for single window clearance on matters relating to Central as well as State Governments.

The main objectives of the SEZ Act are:

- generation of additional economic activity
- promotion of exports of goods and services
- promotion of investment from domestic and foreign sources
- creation of employment opportunities
- development of infrastructure facilities

- C. By the end of FY 2019-20, SEZs employed about 25 lac people, generating export turnover of approximately INR 7 lac crores with an investment of INR 5.7 lac crores. This is a drastic change from FY 2005-06, wherein employment in SEZs was about 1.34 lac

people, export turnover of approximately INR 0.23 lac crores and investment of about INR 0.04 lac crores. There are about 423 formally approved SEZs, 358 notified SEZs, 248 operational SEZs and about 5,500 units in these operational SEZs².

- D. SEZ Act, 2005 provided for special fiscal provision for SEZs providing exemptions, drawbacks and concessions. Further, benefits under Income-tax Act, 1961 were also provided.

However, the following key incentives have been withdrawn which has led to the crisis of confidence in the stability of Government policies and fiscal provisions provided under the SEZ Act:

- Section 10AA of the Income Tax Act, 1961 which provided 100% income tax exemption on export income for SEZ units for the first 5 years and 50% income tax exemption for the next 5 years. Further, 50% income tax exemption was provided for ploughed back export profit for subsequent 5 years if the unit has commenced operations on or after 1st April 2006 and before 01st April 2021. The said exemption has now been withdrawn w.e.f. 31st March 2020.
- Exemption from Income Tax in terms of Section 80 IAB of Income Tax Act i.e. deduction of 100% of profits and gains derived from business of developing SEZs by the developer. This exemption has been withdrawn w.e.f. 01st April 2017.
- Exemption from payment of Dividend Distribution Tax in terms of Sec 80 IA of Income Tax Act. This has also been withdrawn w.e.f. 01st June 2011.
- 'Minimum Alternate Tax or MAT' under Section 115JB of the Income Tax Act, 1961, was exempted for SEZ units established under SEZ Act, 2005. However, this exemption was also withdrawn w.e.f. 1st April 2012.

EOUs

- E. Some inherent limitations to the Export processing Zones/Free Trade Zone were noticed such as fixed geographical area, non-suitability for medium and large industrial units and for units which intended to set up manufacturing facilities near the source of raw material or specialised labour. EPZ were supplemented by Exported Oriented Units (EOUs). It

² Source – Export Promotion Council for EOUs and SEZs – A Comprehensive Book on EOUs and SEZs

provides freedom of location at a place of choice subject to long term commitment to exports under Customs Bond.

The EOU scheme was introduced in 1980. Subsequent refinements, modifications and fine-tuning coupled with liberalisation of Foreign Trade Policy, Customs and Excise laws and procedures and relaxation in export obligations have made EOU a popular scheme among exporting community. Details of the scheme are given in the Chapter-6 of the Foreign Trade Policy governed by Foreign Trade (Development and Regulation) Act, 1992.

- F. Government has granted incentives to EOUs like exemption from Customs duties and Integrated Goods and Services Tax (IGST) on imports of goods as well as treating procurement of goods from DTA (Domestic Tariff Area) units as deemed exports. There are about 1700 EOUs in the country. Exports from EOUs have increased from INR 0.50 lac crores in FY 2005-06 to INR 1.02 lac crores in FY 2019-20.

However, post implementation of Goods and Service Tax (GST) effective 1st July 2017, upfront exemption of IGST on domestic procurement has been withdrawn for EOUs. The only benefit available to EOUs is exemption of Custom duties on import of raw material/capital goods. In all other aspects, indirect tax incidence on EOUs is now at par with DTA units. For instance, EOUs are now required to pay IGST upfront on domestic procurement of goods and services and are eligible for refund of IGST paid on domestic procurement of goods through provisions governing deemed exports under GST law.

- G. SEZ units and EOUs also procure a significant quantum of raw materials from domestic markets, on which they bear the incidence of local taxes and duties which are not rebated under any other scheme, such as:
- Value Added Tax (VAT) and Excise Duty on fuel used for transportation/ furnaces/ boilers;
 - Electricity Duty on electricity supplied;
 - Agricultural Produce Market Committee (APMC) taxes and duties levied on procurement of agriculture produce;
 - Procurement of GST paid goods from unregistered DTA suppliers;
 - Compensation cess on coal used in production of electricity

P.III Remission of Duties or Taxes on Exported Products (RoDTEP) scheme

A. Overview of RoDTEP scheme

1. Remission of Duties or Taxes on Exported Products (RoDTEP) scheme will rebate all such taxes/duties/levies at the Central, State and local level, incurred in the process of manufacture and distribution of export products, which are currently not being rebated under any other scheme;
2. The rebate would be given as a percentage of the Freight on Board (FoB) value of exports;
3. Some of the key taxes, duties and levies which will be rebated under the said scheme include:
 - State VAT and Excise Duty on fuel used in inward transportation of raw materials, spares and consumables for manufacture of export products and outward transportation of export products;
 - Mandi tax paid in relation to agricultural products;
 - Electricity duty paid on electricity used in manufacture of goods;
 - Embedded CGST, SGST and GST Compensation Cess on coal used in production of electricity;
 - Embedded CGST and SGST paid on procurement from unregistered suppliers;
 - Embedded CGST and SGST paid on inputs used in production of agricultural products; and
 - Stamp duty paid on export documents.
4. Under the new scheme, refunds will be issued to exporters in form of transferable duty credit/electronic scrips, which will be maintained in an electronic ledger;
5. A monitoring and audit mechanism combined in Information Technology based Risk Management System would be introduced to physically verify the records of the exporters. This will enable faster clearance through digital platform;

6. The RoDTEP scheme will enclose all sector industries including textile sector. Further, a dedicated committee shall decide the sequence of introduction of the scheme across sectors, prioritization of the sectors and degree of benefit to be given to various items

B. Current Status of the RoDTEP Scheme:

The Government of India has issued a **press release on 31st December 2020 to implement benefit of RoDTEP scheme to all export goods** w.e.f. 1st January 2021 subject to certain specified conditions and exclusions. However, via **Advisory No. 01/2021 dated 1st January 2021**, Government has made it clear that **the scheme is not applicable on SEZ units and EOUs** and shall be applicable only on DTA units. No justification has been indicated as to why SEZs and EOUs have been excluded.

P.IV Justification for inclusion of SEZ units and EOUs under RoDTEP scheme

SEZ units and EOUs must be included in the RoDTEP Scheme. Key reasons for including SEZ units and EOUs for incentives under the RoDTEP scheme are mentioned below:

A. Significant domestic procurement of inputs/capital goods by SEZ units/EOUs

1. **SEZ units and EOUs procure roughly 25% of their raw materials/capital goods from DTA units** and bear taxes and duties levied at various levels on these products such as State VAT and Excise Duty on petroleum products used in transportation of goods, generation of power for captive consumption, electricity duty on consumption of electricity, other embedded taxes and duties in these domestic raw materials/goods, etc.

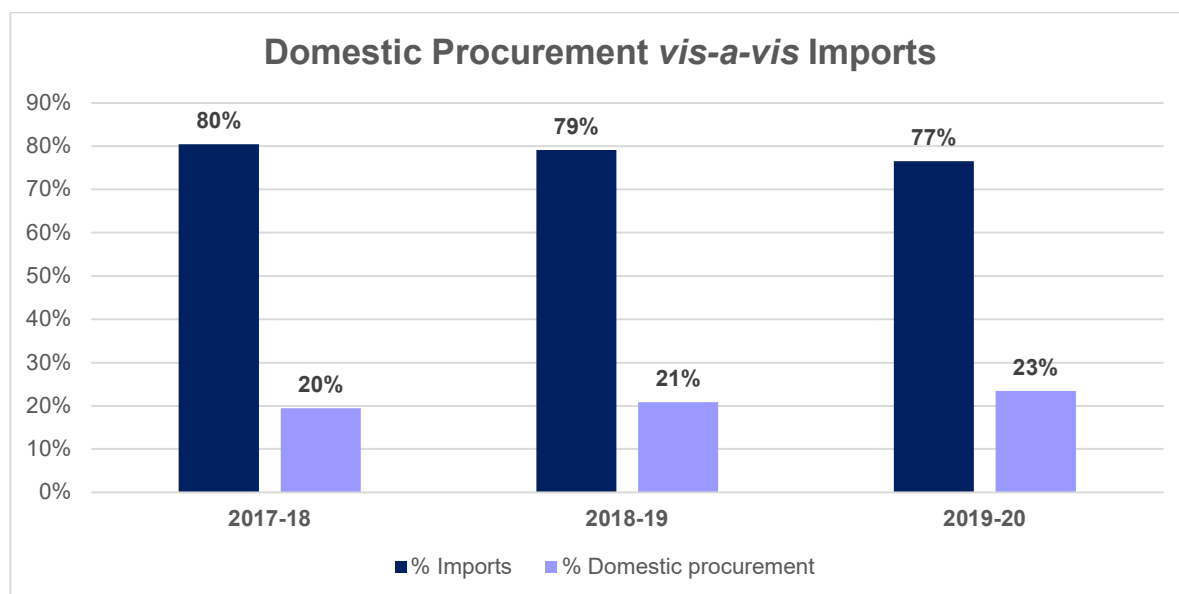


Figure-2: Graph representing DTA procurement and imports (as a percentage of total procurement) for FY 2017-18 till FY 2019-20 by SEZ units³

³ <https://sezonline-ndml.co.in>

Year	Imports	Domestic procurement	Total procurement
2017-18	273,314	66,294	339,608
2018-19	329,719	86,851	416,570
2019-20	317,578	94,947	412,525

Figure-3: Table bifurcating total procurement into import and domestic procurement (in INR Cr.) for FY 2017-18 till FY 2019-20 by SEZ units⁴

It is clear from the above graph and table (Figure-2 and Figure-3) that it is not true that SEZ units are only procuring raw materials/ capital goods via imports. These units have significant domestic procurement of inputs and capital goods wherein various taxes and duties are embedded in the purchase costs.

2. Additionally, India is a major player in global trade of **tea, coffee and spices** exporting approximately INR 23,300 crores⁵ worth of these commodities at growth rate of approximately 5% annually. **SEZ units and EOUs working in these sectors are procuring significant raw materials and other inputs from the domestic markets (more than 50%)** along with other DTA units who are also procuring their raw materials and other inputs from the domestic markets.

Further, India is an emerging market in exports of **Information Technology (IT) and related hardware products** such as computer and mobile peripherals, sim cards etc. SEZ units and EOUs working in these sectors also **procure majority of their inputs from domestic markets (approximately 50%)** making these sectors severely impacted by exclusion from RoDTEP scheme.

3. While it is correct to provide refund of embedded tax costs in local procurement of raw materials and capital goods to DTA units for their export products, **depriving SEZ units and EOUs from such benefit is not justified and it would lead to export of such taxes and duties by such units making them uncompetitive in international markets as it would have been in the case of DTA units in the absence of RoDTEP scheme.**

⁴ <https://sezonline-ndml.co.in>

⁵ <https://tradestat.commerce.gov.in/>

Therefore, inclusion of SEZ units and EOUs in the scheme of RoDTEP is imperative to ensure that there is no export of taxes & duties and these units remain competitive in international markets on the pattern of DTA units.

B. Embedded taxes on procurement by SEZ units and EOUs

Significant domestic procurement by SEZ units and EOUs **leads to various tax costs seeping in into the cost structure of export products.** Exclusion of these exporters in the RoDTEP scheme will lead to following tax costs being embedded in product prices:

- **State VAT and Excise Duty on fuel used in transportation**, manufacture of products, captive consumption etc.;
- **Electricity Duty** paid on electricity used in manufacture of goods;
- **Embedded GST** paid on procurement from various small and composite suppliers.
- **Embedded GST and GST Compensation Cess** on coal used in production of electricity;
- Embedded GST paid on inputs used in production of agricultural products;
- **Mandi tax** paid in relation to agricultural products;
- **Stamp duty** paid on export documents.

We have collated information from our member organisations on similar lines as sought by CBIC in its notification (**F.No. 605/22/2020-DBK dated 10th August 2020**). Basis the study of said information, we have made a detailed analysis of various taxes accumulated into costs of exported products.

a) State VAT and Excise Duty on fuel cost

1. SEZ units and EOUs, much like DTA units, incur various expenses on fuel and related services wherein fuel is used, which forms part of their cost of operations. These costs include fuel cost for (both inward and outward) transportation of raw materials & finished products, fuel used for captive power generation and fuel used for manufacturing process, etc.
2. There are various taxes which are embedded in the sale price of fuel which include Central Excise Duty, State VAT, and certain surcharges. Tax rates of Central Excise Duty and State VAT on fuel are subject to constant revisions by the Central/State Governments. Currently, under the provisions of Chapter 7 of Foreign Trade Policy 2015-2020, EOUs have an option of claiming refund of Terminal excise duty paid on fuel used in manufacturing process. Similarly, as per Section 26 of SEZ Act, 2005, SEZ units have an option of availing

exemption from levy of Excise Duty on fuel used for authorised operations procured directly from oil company/depot for captive consumption only. Further, certain State Governments have exempted⁶ State VAT on fuel for SEZs.

However, it is worth mentioning that this exemption from levy of Central Excise Duty is practically difficult to avail as not every SEZ unit is able to procure fuel directly from the oil companies/ depots/refineries. Hence, they often reach out to retailers for their fuel requirements, who are unwilling to supply with exemption to SEZ units as it leads to hassle in compliances for these retailers.

Further, the aforementioned refund/exemption from levy of Excise Duty on fuel is subject to satisfaction of numerous conditions and regulatory approvals (fire safety, storage capacity etc) which not all SEZ units and EOUs are able to fulfil.

Additionally, these SEZ units and EOUs are willing to provide undertaking that they will not claim exemptions for taxes and duties which have been covered under RoDTEP under any other scheme either Central/ State-level. In any case, DTA units are also required to provide such undertaking before availing any benefit under RoDTEP scheme.

3. RoDTEP scheme provided for rebate of State VAT and Central Excise Duty on purchase of fuel for use in business by an exporting DTA unit. However, **benefit under the said scheme was not extended to SEZ units and EOUs, even though such units also incur significant costs in relation to procurement of fuel.**

For SEZ units:

Particulars	Export turnover	State VAT & Excise Duty	% of exports
State VAT and Central Excise Duty on fuel for inbound & outbound transportation	2,953.13	17.80	0.60%

Figure-4: Table representing State VAT and Excise Duty embedded as % of exports for 8 SEZ member firms of EPCES⁷ (in INR Cr)

⁶ Refer Appendix-A Illustrative list of State VAT exemptions by respective State Governments for SEZs

⁷Data provided is as per samples collected from selected member firms of EPCES as detailed in Appendices. Source: Appendix-B (Part-I and II) details of various procurement made by member SEZ units and EOUs of EPCES

Particulars	Export turnover	State VAT & Excise Duty	% of exports
State VAT and Central Excise Duty paid for fuel used in captive power	106.60	0.43	0.41%

Figure-5: Table representing State VAT and Excise Duty embedded as % of exports for 2 SEZ member firms of EPCES⁸ (in INR Cr)

For EOUs:

Particulars	Export turnover	State VAT & Excise Duty	% of exports
State VAT and Central Excise Duty on fuel for inbound & outbound transportation	558.50	6.82	1.22%

Figure-6: Table representing State VAT and Excise Duty embedded as % of exports for 6 EOU member firms of EPCES⁹ (in INR Cr)

Particulars	Export turnover	State VAT & Excise Duty	% of exports
State VAT and Central Excise Duty paid for fuel used in captive power	436.51	0.15	0.04%

Figure-7: Table representing State VAT and Excise Duty embedded as % of exports for 4 EOU member firms of EPCES¹⁰ (in INR Cr)

Tables above (Figures 4 to 7) represent taxes embedded (as a % of export turnover) in procurement of fuel by members of EPCES for the period October 2019 to March 2020. State VAT and Central Excise Duty is computed on procurement of fuel for inward and outward transportation of raw material and finished goods along with fuel procured for captive consumption. It is apparent from the above tables that taxes of approximately 0.60% and approximately 0.41% on SEZ units (based on a limited sample of 8 units) and taxes of approximately 1.22% and approximately 0.04% (based on a limited sample of 6 units) on EOUs of the export turnover on said procurement is embedded for which incentive under RoDTEP scheme is being denied.

4. Similar incentive is being provided to DTA units on their procurement of fuel for similar activities which will lead to disparities amongst these units. It is made clear that exact cost on account of these taxes/duties as a percentage of export turnover will vary from unit to

⁸Data provided is as per samples collected from selected member firms of EPCES as detailed in Appendices. Source: Appendix-B (Part-I and II) details of various procurement made by member SEZ units and EOUs of EPCES

⁹Data provided is as per samples collected from selected member firms of EPCES as detailed in Appendices. Source: Appendix-B (Part-I and II) details of various procurement made by member SEZ units and EOUs of EPCES

¹⁰Data provided is as per samples collected from selected member firms of EPCES as detailed in Appendices. Source: Appendix-B (Part-I and II) details of various procurement made by member SEZ units and EOUs of EPCES

unit and product to product. Also, the above percentage is based on the data which could be made available to EPCES by limited number of units. However, actual average percentage will be similar to the DTA units in respect of different products. **The important point is that SEZ units and EOUs do incur cost on account of these taxes and duties on a similar pattern as is the case with DTA units.**

b) Electricity Duty

Electricity duty is charged by the State Governments on consumption of electricity by a user and the rate of such duty is directly proportional to actual usage for the particular time period. **As electricity is the primary necessity of all industries, whether exporter or otherwise, such duty is levied on all business.**

1. **SEZ units:** Some of the State Governments in India have **exempted¹¹ the levy of electricity duty on SEZ units for a fixed period (for example 7-10 years)** after commencement of operations by such SEZ unit. It is worthwhile to note that while the exemption from electricity duty has been provided to SEZ units in some States, however, these exemptions were conditional in nature and limited to specific time-period. For many SEZ units, either these **exemptions are over (expiry of time-period for which exemption was allowed) or are about to expire.**

Export turnover	Electricity duty	% of exports	Exemption status
2,875.34	0	-	Availed
77.79	0.11	0.14%	Expired

Figure-8: Table representing electricity duty embedded as % of exports on 8 SEZ member firms of EPCES¹² (in INR Cr)

The table above (Figure-8) represents that out of limited sample of 8 units for the period October 2019 to March 2020, 6 SEZ member firms of EPCES are currently availing exemption provided by respective State Governments and 2 SEZ member firms are bearing embedded electricity duty of approximately 0.14% of the export turnover since exemption provided by the State Governments has expired for these units. It may be noted that above

¹¹ Refer Appendix-C Illustrative list of electricity duty exemptions by respective State Governments for member firms of EPCES

¹²Data provided is as per samples collected from selected member firms of EPCES as detailed in Appendices. Source: Appendix-B (Part-I and II) details of various procurement made by member SEZ units and EOUs of EPCES

analysis is based on limited sample data and in case of larger sample size, the percentage of embedded electricity duty may change. However, actual average percentage will be similar to the DTA units in respect of different products.

To bring SEZ units at par with DTA and to ensure that no double benefit is taken where SEZ units are included in RoDTEP Scheme, SEZ units are willing to provide undertaking that they will not claim the exemptions for taxes and duties which have been covered under RoDTEP under any other scheme either Central/ State-level. In any case, DTA units are also required to provide such undertaking before availing any benefit under RoDTEP scheme.

2. **EOUs:** There are **no similar exemptions extended to EOUs by any State or Central Government from electricity duty** as in the case of SEZ units. EOUs have to mandatorily discharge applicable electricity duty based on their consumption of electricity.

Before the launch of RoDTEP, electricity duty paid by all business undertakings were forming part of their cost structure and was non-rebatable, however, RoDTEP scheme provided for proportionate refund of electricity duty paid by DTA units exporting its products. The scheme, however, did not provide any similar benefit for SEZ units or EOUs also consuming electricity and either not availing the duty exemption provided by State Government (if any) or whose fixed period for such exemption is over.

Export turnover	Electricity duty	% of exports
541.77	0.85	0.16%

Figure-9: Table representing electricity duty embedded as % of exports on 6 EOU member firms of EPCES¹³ (in INR Cr)

The table above (Figure-9) represents electricity duty embedded (as a % of export turnover) in procurement of electricity by EOUs (based on a limited sample of 6 units) for the period October 2019 to March 2020. While SEZ units are eligible for conditional exemption from electricity duty, by the respective State Governments, there is no such benefit extended to EOUs operating in different States of the country. EOUs, therefore, have an embedded cost

¹³Data provided is as per samples collected from selected member firms of EPCES as detailed in Appendices. Source: Appendix-B (Part-I and II) details of various procurement made by member SEZ units and EOUs of EPCES

of approximately 0.16% of the export turnover on account of electricity duty paid by them for which they are being denied benefit under the RoDTEP scheme.

3. It is made clear again that exact cost on account of these taxes/duties as a percentage of export turnover will vary from unit to unit and product to product. Also, the above percentage is based on the data which could be made available to EPCES by limited number of units. However, actual average percentage will be similar to the DTA units in respect of different products. However, **the important point is that SEZ units and EOUs do incur cost on account of these taxes & duties on a similar pattern as is the case with DTA units.**

c) GST on procurement

1. Much like the taxes on fuel and electricity, GST is also embedded on various domestic procurement made by SEZ units, EOUs and DTA units such as:
 - **GST on procurement from various small and composite scheme suppliers;**
 - **GST on procurement of tyres, lube oil, spares etc. (where no Input Tax Credit is available to Goods Transport Agent);**
 - **GST on coal used in production of electricity;**
 - **GST on inputs used in production of agricultural products.**
2. Moreover, in case of supplies from DTA to SEZ units for authorised operations, there are two options available to the supplier (as per the GST law):
 - Supply under a Letter of Undertaking (LUT) and claim refund of unutilized Input Tax Credit; or
 - Pay applicable GST on supply to SEZ units and claim refund of GST paid.

For the supplies which are not considered as authorised operations, claiming benefit under above-mentioned options is not allowed. Accordingly, GST is charged from SEZ units on supplies provided to them. Further, there are suppliers who do not opt for any of the above-mentioned options for their supplies, as they are not willing to file a refund application due to practical challenges. Therefore, they charge GST on their supplies to SEZ units. Since

GST law allows only a supplier to claim refund of supplies made to SEZ units, said GST forms a cost to such SEZ units.

Unit type	Export turnover	GST on inputs	% of exports
SEZ units	277.12	2.74	0.99%
EOUs	413.91	0.59	0.14%

Figure-10: Table representing GST embedded as % of exports on 4 SEZ member firms of EPCES and 4 EOU member firms of EPCES¹⁴ (in INR Cr)

The table above (Figure-10) represents cost of GST embedded (as a % of export turnover) in various procurement made by members of EPCES for the period October 2019 to March 2020. The table shows that GST of approximately 0.99% and approximately 0.14% of the export turnover is being embedded for SEZ units and EOUs, respectively. Such GST paid is borne as cost by all SEZ units, EOUs and DTA units, however, its rebate is being extended to only DTA units depriving the SEZ units and EOUs of this incentive.

3. It is made clear again that exact cost on account of these taxes/duties as a percentage of export turnover will vary from unit to unit and product to product. Also, the above percentage is based on the data which could be made available to EPCES by limited number of units. However, actual average percentage will be similar to the DTA units in respect of different products. However, **the important point is that SEZ units and EOUs do incur cost on account of these taxes and duties on a similar pattern as is the case with DTA units.**

d) Other taxes and duties

1. It is worthwhile to note that there are several other taxes and duties which are embedded as a cost to SEZ units and EOUs whose incentive under the RoDTEP scheme is being denied to these units but is being allowed to DTA units. Examples of such taxes and duties are:
 - **Mandi tax** paid in relation to agricultural products;

¹⁴Data provided is as per samples collected from selected member firms of EPCES as detailed in Appendices. Source: Appendix-B (Part-I and II) details of various procurement made by member SEZ units and EOUs of EPCES

- Embedded **GST and GST Compensation Cess** on coal used in production of electricity;
- Embedded GST paid on inputs used in production of agricultural products;
- **Stamp duty** paid on export documents.

2. In the limited sample of member firms of EPCES, these tax costs were not being incurred. Hence, indicative % of embedded tax cost on said taxes and duties could not be determined. However, these taxes and duties are being levied on SEZ units and EOUs operating in numerous sectors.
3. Further, it is made clear again that exact cost on account of these taxes/duties as a percentage of export turnover will vary from unit to unit and product to product. However, actual average percentage will be similar to the DTA units in respect of different products. However, **the important point is that SEZ units and EOUs do incur cost on account of these taxes and duties on a similar pattern as is the case with DTA units.**

C. SEZ units and EOUs becoming uncompetitive in export markets due to export of taxes and duties covered under RoDTEP and lack of level-playing field *vis-à-vis* DTA units

1. The proposed schema of implementation mechanism of RoDTEP scheme indicates that said incentive under the scheme may not be available to exporters from SEZ units and EOUs while the same is being extended to DTA units exporting similar products to similar markets. Further, as stated above these **SEZ units and EOUs make** approximately 1/4th of their procurement from domestic markets which has embedded costs of fuel, electricity duty and other levies.

Parameter	SEZ unit	EOU	DTA unit (exporter)
Domestic procurement	Yes	Yes	Yes
Embedded tax costs in procurement made domestically	Yes	Yes	Yes
Benefits under RoDTEP scheme	No	No	Yes

Figure-11: Table differentiating amongst SEZ units, EOUs and DTAs on the basis of taxes on procurement.

The table (Figure-11) depicts this disparity proposed by the RoDTEP scheme highlighting that even though **SEZ units, EOUs and DTA units, all are procuring raw materials and other inputs from domestic markets, DTA units are eligible to claim rebate for taxes embedded in domestic procurement while the SEZ and EOUs are deprived of rebate of embedded tax costs in their domestic procurement. This will lead to export of such duties and taxes by SEZ units and EOUs making them uncompetitive in the global export markets. This is unjustified and unfair towards SEZ units and EOUs.**

2. This can be illustrated and better understood with the help of an example below:

	Transaction	Unit A (SEZ/EOU)	Unit B (DTA)	Comments
A	Purchase of raw material from domestic market	1000	1000	Assumed
B	Taxes on purchase (such as GST)	120	120	Assumed to be 12% of the purchase price and procured from a vendor without LUT
C	Inward transportation cost	250	250	Assumed to be INR 250
D	Component of fuel cost in transportation cost above	125	125	Assumed to be 50% ¹⁵ of the total transportation cost
E	Taxes embedded in fuel above (such as State VAT and Excise Duty)	62.5	62.5	Assumed to be 50% of the fuel cost
F	Final purchase cost	1370	1370	Sum of A to C

G	Value addition cost/ manufacturing cost	500	500	Assumed to be INR 500
H	Electricity cost in value addition cost/ manufacturing cost above	100	100	Assumed to be INR 100
I	Component of electricity duty in electricity cost (H) above	10	10	Assumed to be 10% of the electricity cost and no exemption on duty available by the State

J	Final cost	1870	1870	Sum of F and G
K	Sales price	2500	2500	Assumed
L	Surplus to exporter	630	630	Difference between K and J

¹⁵Source - <https://auto.hindustantimes.com/auto/news/daily-fuel-price-hike-may-push-up-freight-charges-by-20-say-truckers-41595309137492.html>. As per source and various articles, it is indicated that fuel cost ranges from approximately 35% to 65% of total transportation cost. Accordingly, we have taken reasonable assumption of 50%.

Benefit to exporter:

M	Taxes on purchase (such as GST)	0	120	Refund of GST
N	Taxes embedded in fuel above (such as State VAT and Excise Duty)	0	62.5	Remission under RoDTEP scheme
O	Component of electricity duty in electricity cost above	0	10	Remission under RoDTEP scheme
P	Total benefits under RoDTEP scheme accruing to exporter	0	192.5	Sum of M to O
Q	Total margin with the exporter	630	822.5	Sum of L and P

Figure-12: Tables illustrating a transaction by SEZ, EOU and DTA with similar assumptions.

The table above (Figure-12) demonstrates that Unit A and Unit B are working as an SEZ/EOU and a DTA unit respectively with similar assumptions as to operations of both the entities. It is also **assumed that both the entities are working in a similar socio-political environment and are operating at similar capacities**. It can very well be observed from rows E and I above, that both Units A & B are expending amounts on fuel and electricity which have embedded various taxes in their cost.

These factors of production are basic to every industry at all levels of production and hence it can be assumed that **all entities**, howsoever big or small and operating at all levels will **incur certain costs relating to these fuel and electricity duties**. A SEZ unit or an EOU situated in Noida (for example) will have similar transaction operational model with almost all DTA units nearby or SEZ units or EOUs or DTA units located anywhere in the country, as only the costs of procurement vary from region to region, but inputs procured and taxes paid are similar in each of them.

3. It is also noteworthy that there are certain incentives which are extended to DTA units by various State level incentives schemes and State Government industrial development policies such as:

- Assam State Government's policy of reimbursing 100% SGST paid in cash, exemption from stamp duty and providing power subsidy to eligible units located in Assam;
- Maharashtra State Government's policy of reimbursing IGST paid, exemption from stamp duty and providing power subsidy to eligible units located in Maharashtra;
- There are many other States in India, which have announced certain incentives such as capital subsidy, transport subsidy and relaxation from electricity duty etc. under their industrial policies to attract industrial investment in industrially backward regions.

Accordingly, DTA units in such States are eligible for availing incentives through State industrial policies. Such DTA units are also eligible under RoDTEP and to avail benefits under RoDTEP, these units will have to furnish undertaking for not availing incentives under other schemes of State Government. Therefore, on a similar logic, SEZ units and EOUs should also be covered under the scheme subject to furnishing a similar undertaking.

Transaction	DTA	DTA	DTA	SEZ / EOU	SEZ / EOU	SEZ / EOU
	Unit A	Unit B	Unit C	Unit D	Unit E	Unit F
Type of procurement	Import	Domestic	Both	Import	Domestic	Both
Purchase cost	1000	1000	1000	1000	1000	1000
Value addition	500	500	500	500	500	500
Total cost	1500	1500	1500	1500	1500	1500
Sales price	2500	2500	2500	2500	2500	2500
Surplus	1000	1000	1000	1000	1000	1000
Drawback	Available	Available	Available	Not Available	Not Available	Not Available
Benefits under RoDTEP	Available	Available	Available	Not Available	Not Available	Not Available

Figure-13: Table highlighting lack of level playing field between SEZ units, EOUs and DTA units.

Further, per the table above (Figure-13), it must be noted that if any DTA unit is entitled for Duty Drawback scheme under Customs Act, 1962, then benefit under RoDTEP Scheme would be available to such DTA unit, irrespective of the proportion of import and domestic products procured by such unit for manufacture of export products. In this manner, the same principle should be applied to SEZ units and EOUs and benefit under RoDTEP scheme should be extended to these SEZ units and EOUs, irrespective of the proportion of inputs

procured via import or from domestic markets for manufacture of export product. The rates are determined based on an average on the basis of data.

While the Government's intervention is welcomed in rebating such un-refunded taxes for DTA units, depriving SEZ units and EOUs of the same is unfair and unjustified.

D. No significant financial implications on exchequer by inclusion of SEZ units and EOUs

Trend of exports by SEZ units & EOUs

1. Over the years, SEZ units in India have shown immense growth in their contribution in overall export from India. On the other hand, EOUs also continue to perform consistently. In the last 5 years, SEZ units have recorded more than 70% growth in their share of exports from India, which speaks volumes about the growth of SEZ units in India and resultant contribution in promoting export of goods and services in India.

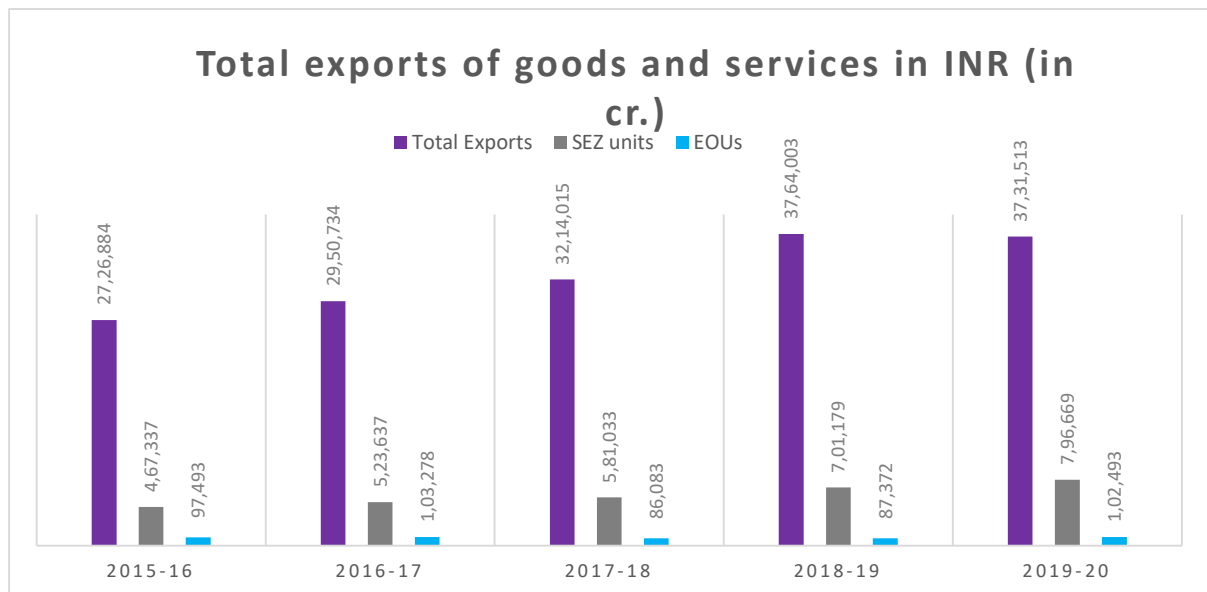


Figure-14: Graph representing total exports of goods and services by SEZ units and EOUs from FY 2015-16 till FY 2019-20¹⁶

Share of Contribution in overall Exports from India

2. SEZ units and EOUs together contribute approximately **24% of the country's total exports** out of which approximately 21% pertains to contribution by SEZ units and balance 3% by EOUs.

¹⁶ <https://dashboard.commerce.gov.in/commercedashboard.aspx> and Export Promotion Council for EOUs and SEZ units

Export performance of SEZ units and EOUs

(Amount in INR Crores)

Years	2015-16	2016-17	2017-18	2018-19	2019-20
Total exports of goods and services from India	27,26,884	29,50,734	32,14,015	37,64,003	37,31,513
Exports of goods and services from SEZ units	4,67,337	5,23,637	5,81,033	7,01,179	7,96,669
Exports of goods and services from EOUs	97,493	1,03,278	86,083	87,372	1,02,493
SEZ (%)	17.14	17.75	18.08	18.63	21.35
EOU (%)	3.58	3.50	2.68	2.32	2.75

Figure-15: Table showing bifurcation of exports of goods and services from India between SEZ units and EOUs from FY 2015-16 till FY 2019-20¹⁷

The table (Figure-15) above represents contribution by SEZ units and EOUs in overall exports of goods and services from India. **SEZ units and EOUs contribute approximately 24% in the overall exports of goods and services from India.**

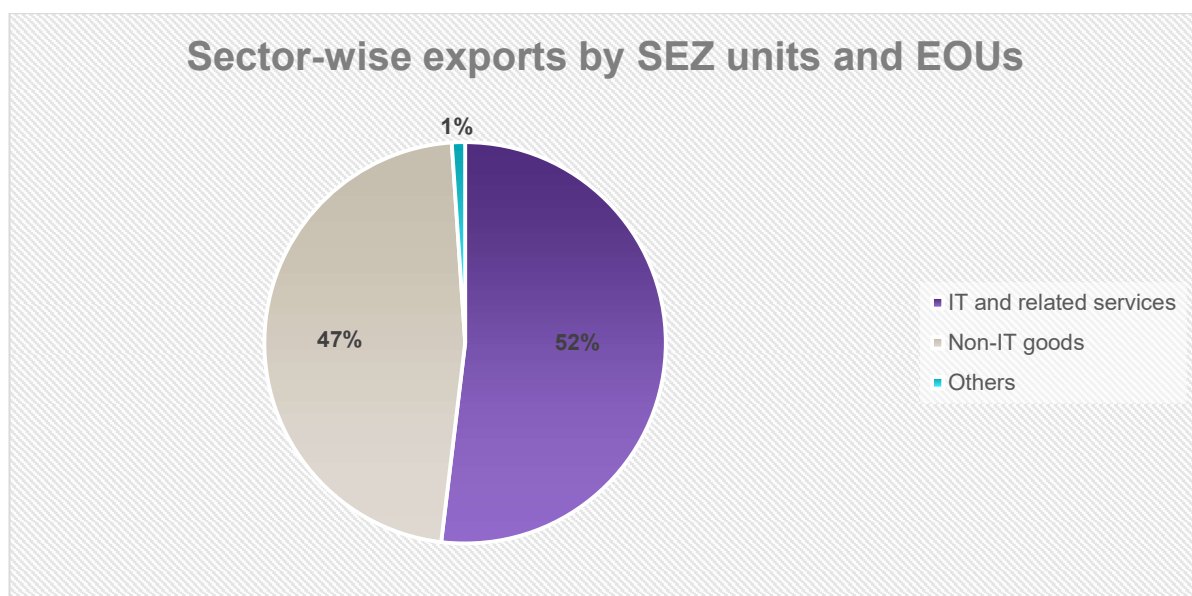


Figure-16: Graph representing share of IT and Non-IT SEZ units and EOUs in total exports¹⁸

¹⁷ Source - Handbook of Statistics on Indian Economy FY 2019-20, Reserve Bank of India, and Ministry of Commerce & Industry

¹⁸ Report by Export Promotion Council for EOUs and SEZs

Sector	Exports	%
IT and related services	4,66,637	52%
Non-IT goods	4,22,991	47%
Others	9,534	1%
Total	8,99,162	100%

Figure-17: Table representing share of IT and Non-IT SEZ units and EOUs in total exports¹⁹ (in INR Cr)

No significant impact on the ex-chequer

- While SEZ units and EOUs contribute approximately 24% to total exports of goods and services made by the country out of which **Non-IT SEZ units and EOUs constitute approximately 47% (Figure-16 and 17) of the total exports of goods and services by SEZ units and EOUs.**

IT SEZ units being service exporters, are not eligible to claim incentives under RoDTEP. Extending RoDTEP benefits to Non-IT SEZ units and EOUs, which contribute **approximately 11.28% of total export of goods and services (approximately 19.05% of total export of goods)**, will **not cause any significant impact to the Government** but would certainly lead to increase in competitiveness of SEZ units and EOUs and parity between SEZ units, EOUs and DTAs.

¹⁹Report by Export Promotion Council for EOUs and SEZs

E. Immediate and long-term effect on SEZ units and EOUs

RoDTEP scheme in its present form and manner will lead to export of taxes and duties from SEZ units and EOUs making them globally uncompetitive and disparities between SEZ units and EOUs vis-à-vis DTAs as far as impact of taxes and duties covered by RoDTEP is concerned.

Immediate effect

1. Non-inclusion of SEZ units and EOUs forming major part of Indian exporting community will lead to increase in cost of exports for these units. This may lead to these units either scaling down their operations or closing down altogether.
2. For example, in the recent past, Government of India denied incentives under MEIS to textiles and apparel manufacturers and extended benefit under the new RoSCTL scheme to DTA units only. Such benefit was not extended to SEZ units and EOUs without any justification. Due to this policy measure, as per local information from Madras Export Processing Zone (MEPZ), thousands of jobs were lost in SEZ units and EOUs located in Madras Export Processing Zone (MEPZ).

Unit name	Employments	Status
Linen Fashions	2200	Unit shut down
Vijay Garments	1800	1200 employees let go
Gokaldas Exports	1500	Unit shut down
Celebrity	1200	800 employees let go
IDD	800	Unit shut down
AR Exports	1200	Unit shut down
Hallmark	800	Unit shut down
Forza	1200	Unit shut down

Figure-18: Table showing loss of jobs in MEPZ after roll out RoSCTL scheme²⁰

3. Similar situation might be there for SEZ units in textiles sector in other regions as well. If we continue denying RoDTEP benefits to SEZs and EOUs in other sectors, similar situation

²⁰Report by Export Promotion Council for EOUs and SEZ units

will arise in those sectors as well. Already, there is a hue and cry and extreme dissatisfaction among the exporters with the discontinuation of MEIS and denial of RoDTEP to SEZs and EOUs. It is double whammy for SEZ units and EOUs as on one hand MEIS has been discontinued, on the other hand, these units are not being covered under RoDTEP, which is unfair and will lead to injustice to these units. Therefore, **Government of India should be wary of the repercussions of these policies which caused severe disparities amongst export houses and should aim to course correct and include SEZ units along with EOUs in the RoDTEP scheme for all sectors.**

Long-term effect

4. Non-inclusion of SEZ units and EOUs in the scheme may have following long-term effects:
 - **Disincentivising domestic procurement by procuring all raw materials from outside India;**
 - **Increase in foreign currency expenditure;**
 - **New entities not coming up under SEZ/EOU scheme;**
 - **Investments made by Government of India on current SEZ units and EOUs going waste** as these units may surrender their SEZ/EOU title;
 - These units may shift operations **outside India.**

5. This would also lead to major deviation from the **'Make in India'** and the **'Atmanirbhar Bharat'** initiatives taken by the Government.

F. Central schemes not to be left at State's discretion

Both SEZ units and EOUs are governed by Special Economic Zones Act, 2005 and Foreign Trade (Development & Regulation) Act, 1992 respectively. **Both these legislations are enactments of the Central Government.** Similarly, the RoDTEP scheme is being formulated by the Central Government. However, electricity duty, State VAT and other state level taxes and duties and its applicability/ non-applicability and other related matters are under the purview of respective State Governments and such exemptions varies from State to State at their discretion.

With the launch of specific scheme of RoDTEP which covers, inter alia, such duties and taxes, which at present may be exempted to certain degree in certain States. **It is appropriate that RoDTEP, being a Central scheme, should be extended to SEZ units and EOUs also and merely few conditional incentives provided by certain States should not jeopardize them from coverage under the new RoDTEP Scheme as these units are ready to give undertaking not to avail double benefits if any.**

P.V Conclusion

We hereby draw following conclusions from the above-mentioned points:

1. **SEZ units and EOUs** operating pan-India **make significant portion of their procurement** of raw materials, capital goods etc **from domestic markets** as against the misconceived notion that these units only import their raw materials and capital goods from outside India;
2. **SEZ units and EOUs**, much alike DTA units, have a **significant portion of tax costs embedded** in their domestic procurement of raw materials and capital goods;
3. SEZ units and EOUs will bear costs on account of non-rebatable taxes and duties embedded in prices of their domestic procurement. **Exclusion of SEZ units and EOUs from the RoDTEP scheme will make these units uncompetitive as goods exported by them would have certain element of taxes and duties and thus will create disparity vis-à-vis DTA units;**
4. Considering that Non-IT SEZ units and EOUs contribute only approximately 11.28% of India's total export of goods and services (approximately 19.05% of total export of goods), there would **not be any significant additional financial burden on the exchequer if SEZ units and EOUs are covered under RoDTEP;**
5. Exclusion of these institutions from RoDTEP scheme would lead to **investments made till date by entrepreneurs and Government of India in these SEZ units and EOUs going waste** as these units would shut down or down-size.
6. Non-inclusion of SEZ units and EOUs in the scheme may lead to severe **decline in their businesses** and also **closure of these units** in some cases.
7. Summary of indicative tax costs embedded as a % of export turnover on limited sample of member firms of EPCES is as follows:

Unit type	Export turnover	Taxes embedded on fuel, electricity and GST	% of exports
SEZ units	2,953.13	21.08	0.71%
EOUs	558.50	8.42	1.51%

Figure-19: Table representing overall embedded tax costs to selected SEZ units and EOU members of EPCES²¹ (in INR Cr)

²¹Data provided is as per samples collected from selected member firms of EPCES as detailed in Appendices. Source: Appendix-B (Part-I and II) details of various procurement made by member SEZ units and EOUs of EPCES

8. *The table above (Figure-19) depicts a clear picture that few **members (limited sample of 14 units) of EPCES are incurring an embedded tax cost** for the period October 2019 to March 2020. It is worthwhile to note these numbers are extracted after analysis of only a small number of units out of a total of more than 7500 SEZ units and EOUs and in case of larger sample size, the percentage of overall embedded taxes & duties may change. Actual average percentage will be similar to the DTA units in respect of different products. However, **the important point is that SEZ units and EOUs do incur cost on account of these taxes and duties on a similar pattern as is the case with DTA units.***
9. Further, it is also submitted that once SEZ units and EOUs are included under RoDTEP, the SEZ Online web platform would be ready to enable the RoDTEP benefit to SEZ units through suitable interface with ICEGATE. The detailed plan of action for bridging the SEZ Online web platform with ICEGATE is enclosed as Appendix-D.

P.VI Proposal

Basis our submissions referred herein above, it is most respectfully requested to consider our proposal as per the following:

1. **SEZ units and EOUs be included in the RoDTEP scheme** and rebate of taxes, duties and other levies embedded (*such as State VAT and Excise Duty on fuel used in inward and outward transportation of raw materials & finished goods, fuel used in the process of manufacturing, Mandi tax paid in relation to agricultural products, electricity duty paid on electricity used in manufacture of goods, embedded CGST, SGST and GST Compensation Cess on coal used in production of electricity, embedded CGST and SGST paid on procurement from unregistered suppliers, embedded CGST and SGST paid on inputs used in production of agricultural products, Stamp duty paid on export documents, etc.*) in manufacturing and distribution of exported products be available to these institutions on similar lines with DTA units;
2. The rates of RoDTEP benefits for SEZ units and EOUs, be same as the **rates of DTA units** for respective products;
3. SEZ units and EOUs will furnish undertaking that they have not availed any exemption from any authority (Central, State, Local Governments) of any taxes and duties covered by RoDTEP. In any case, **similar undertaking** is required to be given by DTA units as well for availing the benefits under the RoDTEP scheme.