OFFICE MEMORANDUM

Subject: Minutes of the 106th Meeting of the Board of Approval (BoA) for Special Economic Zone (SEZs) held on 07th October, 2021 at 04.00 P.M. through video conferencing– reg.

Please find enclosed herewith Minutes of the 106th meeting of the Board of Approval for SEZs held on 07th October, 2021 under the Chairmanship of Shri BVR Subrahmanyam, Secretary, Department of Commerce for information and necessary action.

2. The Development Commissioners are requested to take urgent necessary action on the directions of BoA requiring follow up action on their part, before the next meeting of the BoA.

Sumit Kumar Sachan
Under Secretary to the Government of India
Tel: 2306 2496
Email: sumit.sachan@nic.in

To

1. Central Board of Excise and Customs, Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (Telefax: 23092107).
3. Joint Secretary, Ministry of Finance, Department of Financial Services, Banking Division, Jeevan Deep Building, New Delhi (Fax: 23344462/23366797).
4. Additional Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), Udyog Bhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi
8. Ministry of Science and Technology, Sc ‘G’ & Head (TDT), Technology Bhawan, Mehrauli Road, New Delhi. (Telefax: 26862512)
9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.
10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, Nirman Bhavan, New Delhi (Fax: 23062315).
11. Secretary, Department of Electronics & Information Technology, Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
12. Joint Secretary (IS-I), Ministry of Home Affairs, North Block, New Delhi (Fax: 23092569)
13. Joint Secretary (C&W), Ministry of Defence, Fax: 23015444, South Block, New Delhi.
14. Joint Secretary, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi – 110003 (Fax: 24363577)
15. Joint Secretary & Legislative Counsel, Legislative Department, M/o Law & Justice, A-Wing, Shastri Bhavan, New Delhi. (Tel: 23387095).
16. Department of Legal Affairs (Shri Hemant Kumar, Assistant Legal Adviser), M/o Law & Justice, New Delhi.
17. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhawan, New Delhi.
18. Joint Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chanakyapuri, New Delhi. (Fax: 24674140)
19. Chief Planner, Department of Urban Affairs, Town Country Planning Organisation, Vikas Bhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
20. Director General, Director General of Foreign Trade, Department of Commerce, Udyog Bhavan, New Delhi.
21. Director General, Export Promotion Council for EOUs/SEZs, 8G, 8th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi – 110 001 (Fax: 223329770)
22. Dr. Rupa Chanda, Professor, Indian Institute of Management, Bangalore, Bennerghata Road, Bangalore, Karnataka.
23. Development Commissioner, Noida Special Economic Zone, Noida.
24. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
25. Development Commissioner, Falta Special Economic Zone, Kolkata.
26. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
27. Development Commissioner, Madras Special Economic Zone, Chennai.
29. Development Commissioner, Cochin Special Economic Zone, Cochin.
30. Development Commissioner, Indore Special Economic Zone, Indore.
31. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
32. Development Commissioner, Dahej Special Economic Zone, Fadia Chambers, Ashram Road, Ahmedabad, Gujarat.
33. Development Commissioner, Navi Mumbai Special Economic Zone, SEEPZ Service Center, Central Road, Andheri (East), Mumbai – 400 096.
34. Development Commissioner, Sterling Special Economic Zone, Sandesara Estate, Atladra Padra Road, Vadodara - 390012.
35. Development Commissioner, Andhra Pradesh Special Economic Zone, Udyog Bhawan, 9th Floor, Siripuram, Visakhapatnam – 3.
37. Development Commissioner, Surat Special Economic Zone, Surat, Gujarat.
38. Development Commissioner, Mihan Special Economic Zone, Nagpur, Maharashtra.
40. Development Commissioner, Mangalore Special Economic Zone, Mangalore.
41. Government of Andhra Pradesh, Principal Secretary and CIP, Industries and Commerce Department, A.P. Secretariat, Hyderabad – 500022. (Fax: 040-23452895).
42. Government of Telangana, Special Chief Secretary, Industries and Commerce Department, Telangana Secretariat Khairatabad, Hyderabad, Telangana.
43. Government of Karnataka, Principal Secretary, Commerce and Industry Department, Vikas Saudha, Bangalore – 560001. (Fax: 080-22259870)
44. Government of Maharashtra, Principal Secretary (Industries), Energy and Labour Department, Mumbai – 400 032.
45. Government of Gujarat, Principal Secretary, Industries and Mines Department Sardar Patel Bhawan, Block No. 5, 3rd Floor, Gandhinagar – 382010 (Fax: 079-23250844).
46. Government of West Bengal, Principal Secretary, (Commerce and Industry), IP Branch (4th Floor), SEZ Section, 4, Abanindranath Tagore Sarani (Camac Street) Kolkata – 700 016
47. Government of Tamil Nadu, Principal Secretary (Industries), Fort St. George, Chennai – 600009 (Fax: 044-25370822).
48. Government of Kerala, Principal Secretary (Industries), Government Secretariat, Trivandrum – 695001 (Fax: 0471-2333017).
49. Government of Haryana, Financial Commissioner and Principal Secretary), Department of Industries, Haryana Civil Secretariat, Chandigarh (Fax: 0172-2740526).
50. Government of Rajasthan, Principal Secretary (Industries), Secretariat Campus, Bhagwan Das Road, Jaipur – 302005 (0141-2227788).
51. Government of Uttar Pradesh, Principal Secretary, (Industries), Lal Bahadur Shastri Bhawan, Lucknow – 226001 (Fax: 0522-2238255).
52. Government of Punjab, Principal Secretary Department of Industry & Commerce Udyog Bhawan), Sector -17, Chandigarh- 160017.
53. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
54. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneswar – 751001 (Fax: 0671-536819/2406299).
55. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), Vallabh Bhavan, Bhopal (Fax: 0755-2559974)
56. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
57. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
58. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).
59. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.
60. Government of Chhattisgarh, Commissioner-cum-Secretary Industries, Directorate of Industries, LIC Building Campus, 2nd Floor, Pandri, Raipur, Chhattisgarh (Fax: 0771-2583651).

Copy to: PPS to CS / PPS to SS(SK) / PPS to JS(AK)/ PPS to Dir(SNS).
Minutes of the 106th meeting of the Board of Approval for SEZs
held on 7th October, 2021

The One Hundred and Sixth (106th) meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) was held on 7th October, 2021 under the chairmanship of Shri B.V.R Subrahmanyan, Secretary, Department of Commerce, at 3.00 P.M. in Room No. 141, Udyog Bhawan, New Delhi. The list of participants is annexed (Annexure-1).

106.1 Ratification of the minutes of the 105th meeting of the Board of Approval held on 29.07.2021.

The Board, ratified the minutes of the 105th meeting of the Board of Approval held on 29.07.2021.

106.2 Request for extension of LoA of the Developer (one proposal)

106.2(i) Request of M/s. DLF Info Park (Pune) Ltd. for further extension of the validity period of Formal Approval for setting up of a IT/ITES Special Economic Zone at Plot No.29 & PL-2, Rajiv Gandhi Infotech Park, Phase II, Hinjewadi, Pune, Maharashtra.

The Board, after deliberations, noted that LOA of developer has already expired and decided not to grant further extension. Development Commissioner, SEEPZ was directed to take consequential action as per SEZ laws.

106.3 Request for extension of LoA of the units (five proposals)


The Board, after deliberations, approved extension of the validity of LoA up to 3rd September, 2022.


The Board, after deliberations, approved extension of the validity of LoA up to 26th October, 2022.

106.3(iii) Request of M/s. Sands Infrabuild Private Limited, unit in Smartcity (Kochi) Infrastructure Private Limited SEZ for extension of the Letter of Approval (LoA) beyond 25.9.2021 for a period of one year i.e. up to 25.9.2022.
The Board, after deliberations, approved extension of the validity of LoA up to 25th September, 2022.

106.3(iv) Request of M/s. Anthea Aromatics, a Unit in Mangalore SEZ, Karnataka for extension of LoA beyond 30th October 2021.

The Board, after deliberations, approved extension of the validity of LoA up to 30th October, 2022.

106.3(v) Request of M/s. JBF Petrochemicals Limited, a Unit in Mangalore SEZ, Karnataka for extension of LoA beyond 15th September 2021.

The Board, after deliberations, approved extension of the validity of LoA up to 15th September, 2022.

106.4 Request for co-developer status (five proposals)

106.4(i) Request for Approval of M/s. Uma Corporation as Co-developer for Weigh Bridge facility in Dahej SEZ (Part-1 & Part-2) at Dahej SEZ, Dist. Bharuch.

The Board, after deliberations, approved the proposal of M/s. Uma Corporation for co-developer status to develop facilities for providing & running Weigh Bridge Service in Dahej SEZ (Total-2 Weigh Bridges, one each in SEZ Part-1 and Part-2) for an area of approx. 100 sq. mtr. in each part of Dahej SEZ in accordance with the co-developer agreement dated 07.07.2021 entered into with the developer subject to standard terms and conditions as per the SEZ Act and Rules provided that the lease period shall be in accordance with DoC’s Instruction No. 98 dated 29.08.2019.

106.4(ii) Request of M/s. Mindspace Infratech Pvt. Ltd., an IT/ITES Unit for approval as Co-Developer status in MIDC-IT/ITES SEZ, Rajiv Gandhi Infotech Park, Hinjewadi, Phase-III, Pune 411 057 for the purpose of construction of all type of buildings in processing area, operation and maintenance of infrastructure and leasing of floors to SEZ units.

The Board, after deliberations, approved the proposal of M/s. Mindspace Infratech Pvt. Ltd. for co-developer status in MIDC-IT/ITES SEZ, Rajiv Gandhi Infotech Park, Hinjewadi, Phase-III, Pune for the purpose of construction of all types of buildings in processing area, operation and maintenance of infrastructure and leasing of floors to SEZ units in accordance with the co-developer agreement dated 25.03.2021 entered into with the developer i.e. MIDC, subject to standard terms and conditions as per the SEZ Act and Rules provided that the lease period shall be in accordance with DoC’s Instruction No. 98 dated 29.08.2019.

106.4(iii) Request of M/s. Infinit Infratech LLP., for approval as a Co-Developer in Plot No. 13/4, MIDC-IT/ITES SEZ, Rajiv Gandhi Infotech Park, Hinjewadi, Phase-III, Pune 411 057 for the purpose of construction of all type of buildings in processing area, operation and maintenance of infrastructure and leasing of floors to SEZ units.

[Signature]
The Board, after deliberations, approved the proposal of M/s. Infinit Infratech LLP, for co-developer status in Plot No. 13/4, MIDC-IT/ITES SEZ, Rajiv Gandhi Infotech Park, Hinjewadi, Phase-III, Pune for the purpose of construction of all types of buildings in processing area, operation and maintenance of infrastructure and leasing of floors to SEZ units in accordance with the co-developer agreement dated 16.06.2021 entered into with the developer i.e. MIDC, subject to standard terms and conditions as per the SEZ Act and Rules provided that the lease period shall be in accordance with DoC’s Instruction No. 98 dated 29.08.2019.

106.4(iv) Proposal of M/s. AEML SEEPZ Limited for Co-Developer status for implementation of reduction of tariff charges for electricity in SEEPZ SEZ.

The Board, after deliberations, approved the proposal of M/s. AEML SEEPZ Limited for Co-Developer status for implementation of reduction of tariff charges for electricity in SEEPZ SEZ in accordance with the draft co-developer agreement, subject to standard terms and conditions as per the SEZ Act and Rules provided that the lease period shall be in accordance with DoC’s Instruction No. 98 dated 29.08.2019.

106.4(v) Request of International Financial Services Centres Authority (IFSCA), for Approval as Co-Developer in Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, developed by M/s. GIFT SEZ Limited.

The Board, after deliberations, approved the proposal of International Financial Services Centres Authority (IFSCA), for Co-Developer status in Multi Services SEZ at Ratanpur, District Gandhinagar, Gujarat, developed by M/s. GIFT SEZ Limited for development and regulation of International Financial Services Centres. The board noted that IFSCA is having development rights for 3,00,000 Sq. ft. (27,870.91 sq. Mts) of build up area of IFSCA Headquarters building within GIFT-SEZ processing area. The approval further will be, in accordance with the co-developer agreement and draft lease-cum-development agreement, subject to standard terms and conditions as per the SEZ Act and Rules provided that the lease period shall be in accordance with DoC’s Instruction No. 98 dated 29.08.2019.

106.5 Change of name, shareholding pattern, merger/demerger etc. (five proposals)

106.5(i) Request for approval of change of 100% shareholding pattern in the co-developer entity – Mundra International Airport Pvt. Ltd. (MIAPL) from Adani Ports and SEZ Ltd. to Adani Airport Holdings Limited.

The Board, after deliberations, approved the proposal for change of 100% shareholding pattern in the co-developer entity – Mundra International Airport Pvt. Ltd. (MIAPL) from Adani Ports and SEZ Ltd. to Adani Airport Holdings Limited with the following conditions:-

i. Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered co-developer entity;
ii. Fulfillment of all eligibility criteria applicable to co-developer, including security clearances etc., by the altered co-developer entity and its constituents;
iii. Applicability of and compliance with all relevant rules of Revenue/Company
Affairs/SEBI etc., which regulate issues like capital gains, equity change, transfer, taxability etc.
iv. Full financial details relating to change in equity/merger, demerger, amalgamation or transfer in ownership etc. shall be furnished immediately to Member (IT), CBDT, Department of Revenue and to the jurisdictional Authority.
v. The Assessing Officer shall have the right to assess the taxability of the gain/loss arising out of the transfer of equity or merger, demerger, amalgamation, transfer and ownerships etc. as may be applicable and eligibility for deduction under relevant sections of the Income Tax Act, 1961.
vi. The applicant shall comply with relevant State Government laws, including those relating to lease of land, as applicable.
vii. The co-developer shall furnish details of PAN and jurisdictional assessing officer of the co-developer to CBDT.

106.5(ii) Request for approval of transfer of 100% equity shareholding in MPSEZ Utilities Limited (co-developer) from Adani Ports and SEZ Ltd. to Adani Transmission Limited.

The Board, after deliberations, approved the proposal for transfer of 100% equity shareholding in MPSEZ Utilities Limited (co-developer) from Adani Ports and SEZ Ltd. to Adani Transmission Limited with the following conditions:-

i. Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered co-developer entity;
ii. Fulfillment of all eligibility criteria applicable to co-developer, including security clearances etc., by the altered co-developer entity and its constituents;
iii. Applicability of and compliance with all relevant rules of Revenue/Company Affairs/SEBI etc., which regulate issues like capital gains, equity change, transfer, taxability etc.
iv. Full financial details relating to change in equity/merger, demerger, amalgamation or transfer in ownership etc. shall be furnished immediately to Member (IT), CBDT, Department of Revenue and to the jurisdictional Authority.
v. The Assessing Officer shall have the right to assess the taxability of the gain/loss arising out of the transfer of equity or merger, demerger, amalgamation, transfer and ownerships etc. as may be applicable and eligibility for deduction under relevant sections of the Income Tax Act, 1961.
vi. The applicant shall comply with relevant State Government laws, including those relating to lease of land, as applicable.
vii. The co-developer shall furnish details of PAN and jurisdictional assessing officer of the co-developer to CBDT.

106.5(iii) Request for change of name of M/s Nokia Telecom SEZ Park Society, co-developer at Nokia Telecom SEZ located at SIPCOT Industrial Park, Kancheepuram Distt., Tamil Nadu to M/s Salcomp Industrial Park Society.

The Board, after deliberations, approved the proposal for change of name from M/s Nokia Telecom SEZ Park Society to M/s Salcomp Industrial Park Society with the following conditions:-
i. Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered co-developer entity;

ii. Fulfilment of all eligibility criteria applicable to co-developer, including security clearances etc., by the altered co-developer entity and its constituents;

iii. Applicability of and compliance with all relevant rules of Revenue/Company Affairs/SEBI etc., which regulate issues like capital gains, equity change, transfer, taxability etc.

iv. Full financial details relating to change in equity/merger, demerger, amalgamation or transfer in ownership etc. shall be furnished immediately to Member (IT), CBDT, Department of Revenue and to the jurisdictional Authority.

v. The Assessing Officer shall have the right to assess the taxability of the gain/loss arising out of the transfer of equity or merger, demerger, amalgamation, transfer and ownerships etc. as may be applicable and eligibility for deduction under relevant sections of the Income Tax Act, 1961.

vi. The applicant shall comply with relevant State Government laws, including those relating to lease of land, as applicable.

vii. The co-developer shall furnish details of PAN and jurisdictional assessing officer of the co-developer to CBDT.

106.5(iv) Request of M/s. Experion Hospitality (Hyderabad) Pvt. Ltd. for approval for transfer of their shares to M/s. Phoenix Ventures Pvt. Ltd., developer of the IT/ITES SEZ at Ranga Reddy District, Telangana.

The Board while considering the proposal noted that certain inquiry was being conducted by office of the Directorate of Enforcement, Jaipur under the provisions of FEMA, 1999 against M/s Experion Hospitality Hyderabad Pvt Ltd (formerly known as Gold Resorts and Hotel (Hyderabad) Pvt Ltd), RoC- Delhi claiming FDI investment for purchase of land. Accordingly, the Board took the view of representative of Directorate of Enforcement (ED) during the meeting who confirmed that the ED has no objection to the proposed transfer of their shares to M/s Phoenix Ventures Pvt. Ltd, developer. Further, the Board also noted that in case of any further findings emerging in investigations, the ED may initiate necessary steps on any concerned entity, as required. The Board, after deliberations, approved the proposal for transfer of shares with the following conditions:

i. Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered co-developer entity;

ii. Fulfilment of all eligibility criteria applicable to co-developer, including security clearances etc., by the altered co-developer entity and its constituents;

iii. Applicability of and compliance with all relevant rules of Revenue/Company Affairs/SEBI etc., which regulate issues like capital gains, equity change, transfer, taxability etc.

iv. Full financial details relating to change in equity/merger, demerger, amalgamation or transfer in ownership etc. shall be furnished immediately to Member (IT), CBDT, Department of Revenue and to the jurisdictional Authority.

v. The Assessing Officer shall have the right to assess the taxability of the gain/loss arising out of the transfer of equity or merger, demerger, amalgamation, transfer and ownerships etc. as may be applicable and eligibility for deduction under relevant sections of the Income Tax Act, 1961.

vi. The applicant shall comply with relevant State Government laws, including those
relating to lease of land, as applicable.

The co-developer shall furnish details of PAN and jurisdictional assessing officer of the co-developer to CBDT.

106.5(v) Request of M/s. TRIL Info Park Limited (Developer) for taking on record change in shareholding pattern of the developer.

The Board, after deliberations, approved the proposal for change of shareholding pattern of the developer subject to approval by relevant statutory body and legal compliances with the following conditions:

i. Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered developer entity;

ii. Fulfilment of all eligibility criteria applicable to developer, including security clearances etc. by the altered developer entity and its constituents;

iii. Applicability of and compliance with all relevant rules of Revenue/Company Affairs/SEBI etc., which regulate issues like capital gains, equity change, transfer, taxability etc.

iv. Full financial details relating to change in equity/merger, demerger, amalgamation or transfer in ownership etc. shall be furnished immediately to Member (IT), CBDT, Department of Revenue and to the jurisdictional Authority.

v. The Assessing Officer shall have the right to assess the taxability of the gain/loss arising out of the transfer of equity or merger, demerger, amalgamation, transfer and ownerships etc. as may be applicable and eligibility for deduction under relevant sections of the Income Tax Act, 1961.

vi. The applicant shall comply with relevant State Government laws, including those relating to lease of land, as applicable.

vii. The developer shall furnish details of PAN and jurisdictional assessing officer of the developer to CBDT.

106.6 Procurement of restricted items from DTA (three proposals)

106.6(i) Procurement of sand/soil by Kandla SEZ units and ratification of approval granted under delegation of powers granted to Development Commissioner.

The proposal from DC, KASEZ for ratification of approval granted by the DC office for procurement of following items was placed before the BoA:

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Name of the Unit</th>
<th>Materials permitted</th>
<th>Quantity Permitted</th>
<th>Date of approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Schmetz India Pvt. Ltd.</td>
<td>Sand</td>
<td>100 MT</td>
<td>05.07.2021</td>
</tr>
<tr>
<td>2.</td>
<td>JMBM Warehousing</td>
<td>Sand</td>
<td>60 MT</td>
<td>05.07.2021</td>
</tr>
<tr>
<td>4.</td>
<td>Transworld Furtichem Pvt. Ltd.</td>
<td>Sand</td>
<td>300 MT</td>
<td>05.08.2021</td>
</tr>
</tbody>
</table>
The Board, after deliberations, decided to ratify the approval granted by the Development Commissioner under DoC’s instruction dated 18.05.2020 for procurement of restricted item viz. sand subject to the condition that it should be ensured that the allowed items are actually used in the SEZ and all the environmental and other relevant regulations are complied with.

106.6(ii) Procurement of sand/soil by SEZ units in various SEZs under DC, VSEZ and ratification of approval granted under delegation of powers granted to Development Commissioner.

The proposal from DC, VSEZ for ratification of approval granted by the DC office for procurement of following items was placed before the BoA:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of the Unit</th>
<th>Name of SEZ</th>
<th>Material</th>
<th>Permitted quantity</th>
<th>Date of approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>M/s. Mylan Laboratories Ltd.</td>
<td>Ramky SEZ</td>
<td>Sand</td>
<td>200 MT</td>
<td>20.11.2020</td>
</tr>
<tr>
<td>5.</td>
<td>M/s. Granules Omnichem Pvt. Ltd.</td>
<td>Ramky SEZ</td>
<td>Soil (Murrum)</td>
<td>800 cubic meter</td>
<td>16.08.2021</td>
</tr>
</tbody>
</table>

The Board, after deliberations, decided to ratify the approval granted by the Development Commissioner under DoC’s instruction dated 18.05.2020 for procurement of restricted item viz. sand subject to the condition that it should be ensured that the allowed items are actually used in the SEZ and all the environmental and other relevant regulations are complied with.

106.6(iii) Proposal of M/s Laxmi Ideal Interiors for procurement of ‘Mother of Pearl’ as raw material in respect of its unit located in the Multi-Product SEZ of M/s Mahindra World City (Jaipur) Ltd. at Village Kalwara, Jhai, Bhamboriya, Bagru Khurd & Newta, Tehsil-Sananer, Distt. Jaipur, Rajasthan.

While considering the proposal, DC, NSEZ informed to the Board that ‘Mother of Pearl (MOP)’ is being procured and placed by the DTA unit on the wooden furniture supplied by the SEZ unit. The SEZ unit is not carrying out any cutting, polishing of MOP in its premises. The Board was also informed that the NOC from the Wildlife Crime Control Bureau would need to be obtained by the DTA unit.

In view of submission by DC, NSEZ, the Board, after deliberations, decided to approve the proposal for procurement of ‘Mother of Pearl’ as raw material in respect of its unit located in the Multi-Product SEZ of M/s Mahindra World City (Jaipur) Ltd. at Village Kalwara, Jhai, Bhamboriya, Bagru Khurd & Newta, Tehsil-Sananer, Distt. Jaipur, Rajasthan.

S. [Signature]
106.7 Miscellaneous cases (two proposals)

106.7(i) Request of M/s. Pooja Scrap Industries, a unit in VSEZ for extension/renewal of validity of LoA for the balance period of three years i.e. from 31.08.2021 to 30.08.2024 in the block of five years i.e. 31.08.2019 to 30.08.2024.

The Board, after deliberations, approved the proposal for extension/renewal of validity of LoA for the balance period of three years i.e. from 31.08.2021 to 30.08.2024 in the block of five years i.e. 31.08.2019 to 30.08.2024.

106.7(ii) Request of M/s. Reliance Aerostructure Ltd., co-developer, MIHAN SEZ for increase in area from existing 104 acre to 123.85 acre i.e. increase by 19.85 acre at Plot No.4B, Sector-9, Mihan SEZ.

The Board, after deliberations, approved the proposal of M/s. Reliance Aerostructure Ltd. for increase in area from existing 104 acre to 123.85 acre i.e. increase by 19.85 acre in accordance with the draft co-developer agreement entered into with the developer, subject to compliance with relevant provisions of SEZ Act & Rules. The lease period shall be in accordance with DoC’s Instruction no. 98 dated 29.08.2019.

106.8 Request for Change in sector (one proposal)


The Board, after deliberations, decided to approve the proposal for change of sector of its Free Trade Warehousing Zone at Village Sai, Taluka-Panvel, Dist. Raigad, Maharashtra into ‘Multi Sector SEZ” in terms of Rule 6(A)(i) of the SEZ Rules, 2006 subject to the condition that all the terms and conditions prescribed under the SEZ law for setting up of a multi sector SEZ, viz. minimum contiguous land area requirement, minimum processing area requirement, FTWZ area duly demarcated being exclusively used for trading and warehousing purpose etc are fulfilled by the developer.

106.9 Proposal for setting up of SEZ (two proposals)

106.9(i) Request of M/s. Dahej SEZ Limited for setting up of a Multi-Product SEZ at Pakhajun, Tal. Vagra, Dist. Bhaurch, Gujarat over an area of 650 Ha.

The Board, after deliberations, granted in-principle approval for setting up of Multi Product Special Economic Zone at Pakhajun, Tal. Vagra, Dist. Bharuch, Gujarat over an area of 650 Ha.

106.9(ii) Proposal of M/s. VSF Projects Limited for setting up of a Multi-Product FTWZ at Ankulpaturu Village, SPSR Nellore District, Andhra Pradesh over an area of 50 Ha (132.96 Acres).
The Board, after deliberations, approved the proposal for setting up of a Multi-Product FTWZ at Ankulpaturu Village, SPSR Nellore District, Andhra Pradesh over an area of 50 Ha. (132.96 Acres).

106.10 Appeal (one appeal)

106.10(i) Appeal dated 18.08.2021 filed by M/s Mikado Realtors Private Limited against the decision of the UAC, NSEZ rejecting the request for exemption for the labour charges paid for installation of electric cable from Electricity Department outside the zone to the power station in the zone.

M/s Mikado Realtors Private Limited was granted formal approval for setting up of sector specific SEZ for Electronic Hardware, IT/ITES over an area of 11.028 Ha at village Behrampur & Balola District, Gurgaon, Haryana on 30.10.2008.

In the course and process of performing their authorized operations, the appellant is required to establish certain facilities including uninterrupted supply of power to the units to be established in the zone. They had accordingly approached the electricity department to provide electrical connection of ultimate load 25992 KW and the electrical department on 02.06.2020 advised them to arrange for laying of cable from their outlet to the zone. They were also advised to engage an authorized contractor for laying of the cable and accordingly they had engaged M/s Serge Engineers for laying the cable. The developer has issued two separate contracts inter alia for supply of materials (goods) and for installation of materials (services).

The developer had applied to the Development Commissioner for permission to lay down the electrical cable from the source to their zone. The Unit Approval Committee (UAC), in its meeting held on 04.03.2021, deliberated on the request of the developer and vide letter dated 24.03.2021 the developer was granted approval for authorized operation of Electrical, Gas and Petroleum Natural Gas Distribution Network including necessary substations of appropriate capacity, pipeline network etc.

Contentions of the appellant:

The appellant submits that in the said approval it has been specified that no tax benefits would be extended to any construction activity outside the premises from source to the SEZ without differentiating the fact that there is an inherent difference between the supply of goods and its utilization thereof and supply of services and its utilization thereof and there cannot be a standard application of law for both as each stand on a different footing and are independent of each other.

The decision of the UAC was received by the developer on 07.04.2021. Being aggrieved by the decision of rejecting approval for exemption from taxes for supply of services, the appellant is preferring this appeal to the BoA as per the powers granted to the board under Section 9(g) read with Section 9(2b) of the SEZ Act, 2005.

Observations & Findings

The Board heard the appellant. Based on submission by appellant and discussion, following was observed:
SEZ law allows for zero rating of IGST payable on inputs and inputs services supplied by a DTA entity to SEZ developer/units for the purpose of carrying out their “Authorised Operations.”

Based on submission by appellant, it is clear that in the instant case the labour charges involved in laying of the cable are connected to authorised operations of the developer and the same are exclusively used by the SEZ developer for authorised operations within the SEZ and not meant for any non-SEZ purpose.

The fact that the labour charges have a clear nexus to the authorised operations of SEZ developer and the same is exclusively used for such purpose has not been disputed by UAC.

Further, the appellant had shared decision of Hon’ble Delhi High Court in the case of Jindal Stainless Steel vs Union of India, wherein para 32 stipulates that

“A plain grammatical reading of section 26(1) (e) of the SEZ Act, 2005 makes it clear that taxable services provided by a service provider to a Developer or a Unit/entrepreneur to carry out authorised operations in a Special Economic Zone are exempted from levy of service tax. Similarly, a bare perusal of Rule 31 of the SEZ Rules, 2006 make it abundantly clear that the exemption from service tax is available on services rendered to a developer or a unit/entrepreneur for carrying out authorised operations. Further, from a combined reading of section 26(1)(e) with Rule 31 makes it evident that the only condition that is required to be satisfied to avail the service tax benefit under the said provisions is that the services must be rendered for the purpose of carrying out the "authorised operations in a special economic zone". Had it been the intention of the legislature that only those services are exempted from levy of service tax that are rendered within the special economic zones, the legislature would have categorically and clearly stated so in the statute. In the absence of such express intention, the court cannot add words to the statute to lead to an interpretation which could not have been the intention of the legislature.”

On examining the above judgment, it is apparent that the only condition that is required to be satisfied to avail the service tax benefit under the said provisions is that the services must be rendered for the purpose of carrying out the "authorised operations" in a special economic zone.

Further, appellant has also drawn attention to the position of IGST Act, 2017, wherein as per provisions of Section 12 which governs the place of supply of services stipulate that in the case of services similar to those provided in instant case, the place of supply shall be the location of the service receiver i.e. in the instant case - SEZ developer.

In the light of above observations as well as the extant legal provisions as pronounced by Hon’ble Delhi High Court in Jindal Case also, the instruction referred by UAC would not restrict the availability of zero rated benefit in the instant case.

Therefore, BoA after deliberation, decided to allow the appeal filed by M/s Mikado Realtors Private Limited for exemption for the labour charges paid for installation of electric cable from Electricity Department outside the zone to the power station in the zone.
Decision on Supplementary Agenda - I

106.11 Request for extension of LoA of the Developer (one proposal)

106.11(i) Request of M/s. Rudrudev Township Private Limited for further extension of the validity period of formal approval, granted for setting up of IT/ITES SEZ at Solankurunai Village, Madurai, Tamil Nadu for a period of two years up to 31.07.2023.

The Board, after deliberations, approved extension of the validity of formal approval up to 31st July, 2022. The Board further directed the DC, MEPZ to submit the progress report on the project in the month of December for further review by the Board.

106.12 Proposal for setting up of SEZ (one proposal)

106.12 (i) Proposal of M/s. DLF Limited for setting up of an IT/ITES SEZ over an area of 20.02 hectares at Villages Kherki Daula and Shikohpur, Tehsil - Manesar, Distt - Gurugram (Haryana).

The Board noted that there are some contiguity issues in the proposal. Accordingly, DC, NSEZ desired to withdraw the proposal, which was allowed by the Board with direction to submit the revised proposal.

106.13 Proposal for increase in area of developer (one proposal)

106.13(i) Request of M/s. J. Matadce Free Trade Zone Private Limited, an FTWZ located at Mannur and Valarpuram Villages, Perambakkam Road, Sripurumbudur Taluk, Kancheepuram District, Tamil Nadu, for an increase in area of 9.333 Ha (beyond 10%) to their existing notified area of 84.775 Ha.

The Board, after deliberations, decided to defer the proposal.

106.14 Miscellaneous Cases (one proposal)

106.14(i) Irregularities and compliance issues in the port based SEZ developed by Cochin Port Trust in Puthuvypeen, Ernakulam.

The Board, after deliberations allowed exit of BPCL and directed DC to re-submit the viable proposal with respect to the rest of the entities within the framework of SEZ law in consultation with the Developer.

106.14(ii) Application of M/s. Mindspace Business Parks Pvt. Ltd. for approval of underpass in form of tunnel for establishment of contiguity with power utilities after proposed partial de-notication (2.23 Ha) of the said IT/ITES SEZ.

The Board, after deliberations, decided to return the proposal to DC.

106.14(iii) Request for ex-post-facto approval for import of raw material (metal
scrap of different grade and specification) for production in the factory of M/s. Cresmac Fourdry Pvt Ltd, a unit of Falta SEZ, 24 Pargana (S).

The Board, after deliberations, decided to return the proposal to DC.

106.15 Industrial License (one proposal)

106.15(i) Application of M/s Reliance Defence Ltd., a unit in Mihan SEZ at Plot no.12, Dhirubhai Ambani Defence Park, Sector 11, Khapri, Mihan, Nagpur, Maharashtra for Industrial License under IDR Act, 1951.

The Board, after deliberations, approved the proposal subject to condition that the stipulations with respect to monitoring, security audit, other compliance verification mechanisms and consequential requirements as per the Security manual issued by Department of Defence Production shall be undertaken by Ministry of Defence and Ministry of Home Affairs as specified in the said Manual who shall be informed fo the same.

Decisions on Supplementary Agenda II

Item No.106.16 Request for co-developer status (one proposal)

106.16(i) Request of M/s. SMEDC Services Private Limited for co-developer status in the Milestone Buildcon Private Limited SEZ for conversion of bare shell buildings into warm shell building and to lease the built-up space in the SEZ.

The Board, after deliberations, approved the proposal of M/s. SMEDC Services Private Limited for co-developer status for conversion of bare shell buildings into warm shell building in an area of 2606.77 Sq. mtrs (28059 Sq. feet) and to lease the built-up space in the above said area of the SEZ in accordance with the co-developer agreement dated 21.07.2021 entered into with the developer subject to standard terms and conditions as per the SEZ Act and Rules provided that the lease period shall be in accordance with DoC’s Instruction No. 98 dated 29.08.2019.

106.17 Miscellaneous cases (six proposals)

106.17(i) Application for approval of Authorized Operations request by Co-Developer M/s. ATS Savvy Developers LLP in GIFT Multi Services SEZ.

The Board, after deliberations, approved the proposal of M/s. ATS Savvy Developers LLP for use of 2220 square meters of area out of the approved total area of 2888 square meters for the multi-level car parking for allotment to approved SEZ units in the category of IFSC, FTWZ, IT/ITES, in order to optimize the use of built-up area subject to standard terms and conditions as per the SEZ Act and Rules provided that the lease period shall be in accordance with DoC’s Instruction No. 98 dated 29.08.2019. The approval further will be subject to adherence/compliance of any other mandatory/statutory norms of all concerned Regulatory Authority (s), local area norms, building use approval/permission.

106.17(ii) Appeal filed by M/s HCL Technologies Ltd. against the decision of the UAC, NSEZ vide order dated 07.01.2020 rejecting the request of the unit for inclusion of
Group Health and Insurance Services as Authorized Operations of the unit and its coverage under default service namely “General Insurance Business Service”.

The Board was informed that the appeal filed by M/s HCL Technologies was heard by the Board in its 95th meeting held on 14.02.2020 and as per direction, the matter was referred to Department of Revenue for their views. Department of Revenue has provided their comments on the matter, which were placed before the Board. The Board, after deliberations, based on submissions received earlier in this context as well as inputs received from Department of Revenue, decided to reject the appeal.

106.17(iii) Request of M/s. Phoenix Ventures Private Limited, an IT/ITES SEZ at Sy. No. 35 P & 36, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, Telangana for inclusion of an additional area of 0.71 Ha (more than 10%) to their notified area of 2.89 Ha.

The Board, after deliberations, approved the request of M/s. Phoenix Ventures Private Limited for increase in area of 0.71 hectares, subject to contiguity of the land in the SEZ being maintained.

106.17(iv) Request of M/s. Phoenix Infraspace India Pvt. Ltd, Co-Developer in M/s. Phoenix Ventures Pvt. Ltd., IT/ITES SEZ at Sy. No. 35 (P) & 36, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, Telangana for amendment in the Co-Developer Agreement.

The Board, after deliberations, approved the proposal of M/s. Phoenix Infraspace India Pvt. Ltd. for amendment in the Co-Developer Agreement in view of increase in area of 0.71 hectares subject to the notification of the additional land area of 0.71 Ha and further subject to compliance with relevant provisions of SEZ Act & Rules. The lease period shall be in accordance with DoC’s Instruction no. 98 dated 29.08.2019.

106.17(v) Request of Kandla Special Economic Zone Industries Association for renewal of LoAs of Plastic recycling units for 5 years.

The Board was informed that after due consultation with all concerned stakeholders, a policy regulating plastic and used/worn cloth units was issued on 27.05.2021 with the approval of competent authority. Accordingly, the request for renewal of LoA of the plastic recycling units were considered by the BoA in its 104th meeting held on 28.05.2021.

Recently, based on examination of the submissions of KASZIA, Ministry of Environment, Forests & Climate Change (MoEF&CC) vide their letter dated 21.09.2021, clarified that as per the amended notification dated 27.01.2021, it is clear that import of ‘post-industrial or pre-consumer polyethylene wastes’ and ‘Polymethyl Methacrylate’ by SEZ and EOU units would not be affected after 18 months from the date of notification. However, the percentage of export obligation may be decided after review/audit undertaken as mentioned in amended notification.

Representatives of Department of Revenue confirmed that the existing revised policy would require that plastic recycling units would have to be assessed for their performance with respect to their performance with respect to export obligations as well as other conditions at the end of 18 months from the date of notification of MoEF&CC i.e. 27.01.2021 and only
based on satisfactorily outcome of such assessment, further extension could be considered for such units.

The Board, after deliberations, decided that considering any extension beyond 18 months would be pre-mature at this juncture.

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Annexure

List of Participants for the Meeting of the Board of Approval for Special Economic Zones held on 7th October, 2021 under the Chairmanship of Commerce Secretary, Department of Commerce.

List of participants presented in Room No. 141:

1. Shri B.V.R. Subrahmanynam, Chairman, BoA & Commerce Secretary, Department of Commerce.
2. Shri S. Kishore, Special Secretary, Department of Commerce.
3. Shri Amit Yadav, DG, DGFT.
4. Shri Amitabh Kumar, Joint Secretary, Department of Commerce.
5. Shri A. Bipin Menon, Development Commissioner, Noida SEZ.
6. Shri Senthil Nathan S, Director, Department of Commerce.
7. Shri Ram Chander Sankhla, Pr.ADG, DGEP, MA) Finance.
8. Shri Saroj Kumar Behera, Additional Director, DGEP.
9. Dr. Amiya Chandra, Development Commissioner, Adani Ports & SEZ, Mundra
10. Shri Akash Taneja, Development Commissioner, Kandla SEZ.
11. Shri Anil Kant Mishra, Research Assistant TCPO, Ministry of Urban Development, Vikas Bhawan, I.P. Estate, New Delhi
12. Dr. S.K. Husain, Research Officer, TCPO/ M/o HUA

List of participants connected via Video Conferencing:

1. Shri Shanmuga Sundaram, Development Commissioner, MEPZ.
2. Shri D V. Swamy, Development Commissioner, CSEZ.
3. Shri A. Rama Mohan Reddy, Development Commissioner, Visakhapatnam SEZ.
4. Shri R. Muthuraj, Development Commissioner, GIFT IFSC SEZ & Dahej SEZ
5. Shri S. Jagannathan, Development Commissioner, SEEPZ SEZ.
6. Shri Virendra Singh, Development Commissioner, Surat SEZ, Gujarat.
7. Shri B.K. Panda, Development Commissioner, Falta SEZ.
8. Shri S.K. Bansal, Development Commissioner, Indore SEZ.
9. Shri V. Sraman, Development Commissioner, Mihan SEZ.
10. Shri C.P.S. Chauhan, Joint Development Commissioner, SEEPZ- SEZ.
11. Shri Praveen Chandra, Joint Development Commissioner, Pune Cluster SEZ.
12. Shri Naveen Kushlappa, Joint Development Commissioner, Bangalore Cluster.
13. Dr. M. Beena, Chairman, Cochin Port Trust
14. Shri Ved Prakash Mishra, Director, M/o EFCC
15. Shri Sachin Dhania, Deputy Secretary, DPIIT
16. Shri Anand Kumar Jha, Deputy Secretary, M/o Petroleum & NG
17. Shri Rajesh Aggarwal, Addl. Director, Government of Haryana
18. Shri Saurabh Jain, Director, ITA, CBDT.
19. Dr. Bahadur Singh, Assistant Legislative Counsel, Legislative Department.
20. Shri Deependra Kumar Agrawal, ED Jaipur