

File No. K-22019/2/2020-EOU
Ministry of Commerce & Industry
Department of Commerce
EOU Section

Udyog Bhawan, New Delhi
Dated: 21st May, 2020

MEETING NOTICE

Subject: 3rd Meeting (2020 series) of Board of Approval (BOA) for EOU Scheme scheduled to be held on 29.05.2020 at 11:00 A.M. through video conferencing - forwarding of Agenda reg.

The undersigned is directed to forward herewith a copy of Agenda items of the 3rd Meeting (2020 series) of the Board of Approval (BOA) for EOU scheme scheduled to be held on 29.05.2020 under the Chairmanship of Commerce Secretary at 11.00 A.M. through video conferencing. The Commerce Secretary will be in Room No. 141, Udyog Bhawan, New Delhi during the meeting and officers of nearby buildings may attend the meeting in that room, if they so like.

2. The addressees are requested to make it convenient to attend the meeting.

Encl: As Above



(Sumit Kumar Sachan)

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1. Department for Promotion of Industry and Internal Trade (DPIIT).
2. CBEC [Member (Customs)], M/o Finance.
3. CBDT [Member (Income Tax)], M/o Finance.
4. DG, DGFT.
5. The Joint Secretary, M/o Environment & Forest.
6. The Joint Secretary, M/o Science & Technology
7. M/o Micro, Small and Medium Enterprises.
8. All DCs.

Copy to: PSO to CS/PS to AS(BBS)/PS to DS (SNS).

AGENDA FOR THE 3rd BOA MEETING (2020 SERIES) FOR EOU SCHEME TO BE HELD ON 29.05.2020 at 11:00 A.M. through NIC Video Conferencing.

3.1 (20) Confirmation of Minutes of the 2nd BOA (2020 Series) meeting held on 26.02.2020.

Deferred proposal (1 proposal)

3.2 (20) M/s. Krishna Enterprises – proposal for setting up a new unit under 100% EOU Scheme under KASEZ with lower investment criteria.

The proposal of M/s. Krishna Enterprises is for setting up a new unit under 100%EOU Scheme at second floor, 201-202, Sarkar II, Ellisbridge, Ahmedabad - 380006 for manufacturing (assembling) and export of PCB Assembly & Electronics Items:-

1. PHOTOCCELL,
2. DATA CONCENTRATOR UNIT AND
3. INTELLIGENT PHOTOCCELL

Projection for the next five years:

(Rs. In Lakhs)

FOB value of export	2189.00
Imported Capital Goods/ Spares	0
Total investment in Plant & Machinery (Indigenous	15.00
Imported Raw materials, components etc.	1417.00
Other F.E. out go in Commission, Foreign Tour etc.	0
Total F.E. outgo	1417.00
Net foreign exchange earnings	772.00

The proposed investment in plant & machinery is Rs. 15 lakh which is much lower than the prescribed investment criteria of Rs. 1 crore in plant and machinery for setting up of an 100% EOU.

The said proposal was placed before the 2nd meeting (2020 series) of the BOA for EOU Scheme held on 26.02.2020. The BOA deferred the proposal for want of complete details/information and directed DC-KASEZ to examine the functioning of existing DTA/EOU units under the jurisdiction of KASEZ which are involved in similar activities to analyse the viability and genuineness of the proposal.

DC-KASEZ has informed that the matter was discussed with the Representatives of the unit and other persons having knowledge of the subject. It is learnt that the assembly process mainly involves soldering and related operations and the equipments (Capital Goods) used during the process are small equipments like Soldering Iron, Tweezer cutter, de-solder pump and clearing brush which are hand-held devices and not very expensive. Further, the raw materials involved are Printed Circuit Board (PCB) and small electronic components which again are not very expensive.

Further informed that no EOU units are involved in similar activities under the jurisdiction of KASEZ.

The unit vide letter dated 29.04.2020 has stated that as they will assemble and solder the electronic parts and cables on the PCB (Printed Circuit Board) and test the same with the help of computer and programming tools, they do not require much plant and machinery.

O/o KASEZ has also furnished the following documents:

1. Detailed worksheet for manufacture of the 3 products i.e. (i). PHOTOCCELL, (ii). DATA CONCENTRATOR UNIT AND (iii). INTELLIGENT PHOTOCCELL including the Raw materials, cost of procurement by way of import/DTA etc.
2. Data of projected business and production.
3. Manufacturing process/flow chart.

Relevant Provision: As per Para 6.06 of FTP 2015-2020:

Projects having a minimum investment of Rs.1 Crore in plant & machinery shall be considered for establishment as EOUs. BOA may allow establishment of EOUs with a lower investment criteria.

DC's Recommendation: DC-KASEZ has recommended the proposal.

3.3 (20) Proposals for renewal of LOA of Worn and used clothing units & Plastic Recycling units under KASEZ for next five years (Annexure – A).

Six proposals w.r.t. worn and used clothing units & Plastic Recycling units under KASEZ for their renewal of LOAs for the next five years have been received. Among these 6 proposals, two proposals pertain to worn and used clothing units & rest of the proposals pertain to Plastic recycling units.

MoEF&CC has notified Hazardous and Other Waste (Management and Transboundary Movement) Amendment Rules, 2019 dated 01.03.2019 which prohibits import of Solid Plastic Waste (B3010) in the country including units in Special Economic Zones (SEZ) and to the Export Oriented Units (EOU). Further that in view of ongoing industrial activities in such units and to ensure smooth compliance of these norms, vide O.M. dated 07.03.2019, a window of six months i.e. up to 31.08.2019 was provided to the units operating in SEZ and EOU.

The Board of Approval in its 6th meeting (2019 Series) held on 15.11.2019, after deliberations, decided to grant an extension of validity of LoA for a period of six months. BoA in its 6th meeting (2019 Series) also directed the Committee on policy for plastic recycling and worn and used clothing units to discuss the policy matters and while the policy provisions are deliberated, the physical exports of the units shall be assessed on annual basis.

The details of performance of the units is enclosed as Annexure A. Meanwhile, DC, KASEZ has vide letter dated 15.05.2020 furnished the recommendations of the Committee on plastic waste recycling and worn and used clothing units along with the observations of the DGEP, MoEF&CC and DGFT. The recommendations of the Committee constituted by

the BoA for all issues related to plastic recycling units in SEZs is not agreeable with MoEF&CC. With respect to the recommendations of Committee related to worn and used clothing units in SEZs, MoEF&CC has no objections. DGEP did not recommend further extension of LoP of plastic and used/worn clothing units in DC, KASEZ has further informed that DGFT recommended that "they shall abide by the recommendations made by the MoEF&CC (in case of plastic recycling units) and Ministry of textile (in case of used/worn clothing units) regarding their renewal".

In respect of EOUs, the committee noted that there are two EOUs functioning in the worn clothing sector in Gujarat, namely M/s. Geetanjali Woollens Pvt. Ltd & M/s. Prayas Woollens Pvt.Ltd. These two EOU units are outside the ambit of the policy of DoC which prescribes a minimum physical export obligation of 66.67% in value terms and 50% in quantity terms creating an anomalous situation where similarly placed units are receiving a differential treatment. Therefore, the committee recommends that the minimum physical export policy be extended to these two units for which suitable amendments may be carried out in the Foreign Trade Policy.

All these proposals are recommended by DC, KASEZ.

Worn and Used clothing units:

Relevant Provision: As per Public Notice No. 31/2015-20 dated 26.08.2015 issued by DGFT (amendment in para (7) of Appendix 6B):

"Activities pertaining to reprocessing of garments/ used clothing/secondary textiles materials /clipping/rags/ industrial wipers/shoddy wool/ yarn/blankets/ shawls and other recyclable textile materials will not be allowed under EOU schemes. Provided that extension of Letter of Permission for an existing unit shall be decided by the Board".

DC's Recommendation: DC, KASEZ has recommended the proposal of the units with the following recommendations:

- i) All the conditions as prescribed in Policy guidelines dated 17.09.2013 for SEZ units dealing in recycling of used/worn clothing as amended vide letter dated 18.05.2018 to regulate functioning of old and used clothing EOUs units issued by the Ministry of Commerce & Industry vide F.No. 13/36/2011-EOU shall be strictly followed.
- ii) Ministry of Commerce should amend Appendix 6B of Appendices and Aayat Niryat Forms of FTP 2015-20, extended upto 31.03.2021, to include the condition that such worn and used clothing reprocessing units shall be required to physically export not less than 66.67% i.e. 2/3rd of the total annual turnover in terms of value and in volume terms not less than 50% (Annual turnover = value of physical export + value of DTA sale + value of any other sale as permissible under FTP & HBP). Subsequent to amendment in Appendix 6B, MOC should issue a notification under Appendix 6B and incorporate in this notification all the rules and regulations for export obligation it wants the worn clothing units to follow (in order to avoid any new litigation).

Plastic Recycling units:

Plastic recycling units have filed SCA before the High Court of Gujarat in the year 2015 challenging the imposition of additional condition and also the guidelines dated 17.09.2013 and the Hon'ble High Court vide order dated 24.01.2017 quashed the said policy guidelines and also the additional export obligation conditions in the LoAs.

Aggrieved with the judgment, KASEZ decided to file an appeal (LPA) before the Divisional Bench of High Court. The Hon'ble Court vide order dated 20.03.2019 upheld department's appeal and quashed and set aside the directions and impugned judgment dated 24.01.2017 of learned single judge. Thus, with the above order dated 20.03.2019 of the Hon'ble High Court of Gujarat, it is evident that the said progressive physical export obligations was in force during during all the relevant period since the issuance of policy guidelines dated 17.09.2013 co-terminus with the validity of the LoA renewed by the BoA.

Relevant Provision: As per Policy Guidelines dated 17.09.2013 issued by DoC extension of LOA for an existing Units shall be decided by the Board.

DC's Recommendation: DC, KASEZ has recommended the proposal of the units with the following recommendations:

i) All the conditions as prescribed in Policy guidelines dated 17.09.2013 as amended vide letter dated 18.05.2018 shall be strictly followed.

ii) Ministry of Commerce should amend Appendix 6B of Appendices and Aayat Niryat Forms of FTP 2015-20, extended upto 31.03.2021, to include the condition that such plastic recycling units shall be required to physically export not less than 35% of its total annual turnover (Annual turnover = value of physical export + value of DTA sale + value of any other sale as permissible under FTP & HBP). Subsequent to amendment in Appendix 6B, MOC should issue a notification under Appendix 6B and incorporate in this notification all the rules and regulations for export obligation it wants the plastic recycling units to follow (in order to avoid any new litigation).

ANNEXURE - A

3.3.1(20) M/s Prayas Woollens Pvt. Ltd., EOU under KASEZ – Proposal for renewal of LOA for next five year i.e. 01.06.2020 to 31.05.2025.

The unit had been issued LOA dated 02.01.2002 for rags, completely mutilated & sorted into colours, shoddy wool fibres/blends, shoddy synthetic fibres/blends etc. The unit commenced its operation w.e.f. 21.10.2004. LOA of the unit was earlier valid upto 30.11.2019. BOA in its 6th meeting (2019 series) held on 15.11.2019, extended the validity of the LOA for 6 months i.e. upto 31.05.2020.

It is to be mentioned that DoC vide letter dated 18.05.2018, physical export obligation/condition for EOU units engaged in reprocessing of used/worn clothing was amended as below and made applicable to EOUs w.e.f 13.02.2018:

“To ensure that worn/used clothing Export Oriented Units fulfill their export obligations, in addition to meeting their NFE obligation, all such units would be required to export not less than 66.67% i.e. 2/3rd of the total annual turnover. Further, physical export obligation (by volume) of 50% shall also apply.”

Physical export obligation achieved by the unit as per the above amendment is as below:

(Rs. In lakhs)

Period	Total turnover	% of Physical export to total turnover
01.12.2018 to 30.11.2019	1088.47	81.41%

01.12.2019 to 31.03.2020	345.31	84.35%
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The unit has also achieved the physical export obligation (by volume) of 50% during the above mentioned period.

NFE for 2013-2018 = Rs. 771.27 lakhs

NFE for 2018-2019 = Rs. 404.05 lakhs

Proposed NFE for the next five year = Rs. 3233.00 lakhs

3.3.2(20) M/s Geetanjali Woollens Pvt. Ltd., EOU under KASEZ – Proposal for renewal of LOA for next five year i.e. 01.06.2020 to 31.05.2025.

The unit had been issued LOA dated 01.10.1997 for Non-woven Blankets, Wipers and Clippings, Shoddy Wool Blends, etc. The unit commenced its operation w.e.f. 24.10.2002. LOA of the unit was earlier valid upto 30.11.2019. BOA in its 6th meeting (2019 series) held on 15.11.2019, extended the validity of the LOA for 6 months i.e. upto 31.05.2020.

It is to be mentioned that DoC vide letter dated 18.05.2018, physical export obligation/condition for EOU units engaged in reprocessing of used/worn clothing was amended as below and made applicable to EOUs w.e.f 13.02.2018:

“To ensure that worn/used clothing Export Oriented Units fulfill their export obligations, in addition to meeting their NFE obligation, all such units would be required to export not less than 66.67% i.e. 2/3rd of the total annual turnover. Further, physical export obligation (by volume) of 50% shall also apply.”

Physical export obligation achieved by the unit as per the above amendment is as below:

(Rs. In lakhs)

Period	Total turnover	% of Physical export to total turnover
01.12.2018 to 30.11.2019	713.73	100%
01.12.2019 to 31.03.2020	63.74	100%

The unit has also achieved the physical export obligation (by volume) of 50% during the above mentioned period.

NFE achieved for 2013-2018 = Rs. 936.92 lakhs

NFE achieved for 2018-2019 = Rs. 627.72 lakhs

Proposed NFE for the next five year = Rs. 4370.00 lakhs

It is to be mentioned that an SCN dated 18.09.2017 was issued to the unit for non-fulfillment of stipulated NFE and penalty of Rs. 75 lakhs has been imposed vide O-I-O No. 15/2017-18 dated 07.11.2017. The unit appeal against said O-I-O and the same is pending before appellate authority.

3.3.3(20) M/s Aasu Plastics Pvt. Ltd., EOU under KASEZ – Proposal for renewal of LOA for next five year i.e. from 01.07.2020 to 30.06.2025.

The unit had been issued LOA dated 24.10.1996 for manufacturing of “Recycled Granules of Plastics, Recycled Granules of Plastics Polypropylene, Polyethylene LDPE/LLDP/HD/HM, etc”. The unit commenced its operation w.e.f. 03.08.1998. BOA in its

6th Meeting held on 15.11.2019 extended the LOP of the unit for 6 months upto 30.06.2020.

It is to be mentioned that DoC vide letter dated 18.05.2018 had amended physical export obligation required to be achieved by Plastic recycling EOUs (as mentioned in Policy guidelines for SEZ issued on 17.09.2013) as under and made applicable to EOUs w.e.f 13.02.2018:

"To ensure that plastic reprocessing EOUs units fulfill their export obligation, in addition to meeting their NFE obligation, all such units would be required to export not less than 35% of the total annual turnover."

Physical export obligation achieved by the unit as per the above amendment is as below:

It is to be mentioned that due to fire accident in the factory premises, the unit had not exported goods during the period of FY 2014-15 to 2016-17.

(Rs. In lakhs)

Period	Total turnover	NFE achieved	Physical Export
01.01.2017 to 31.12.2017	21.35	21.35	100%
01.01.2018 to 31.12.2018	45.21	45.21	100%
01.12.2018 to 30.11.2019	31.96	-	73.19%
01.12.2019 to 31.03.2020	6.23	-	0

Proposed NFE for the next five year i.e. from 2020-2025 = Rs. 2007.00 lakhs

It is to be mentioned that as per para 5(i) & (v) of Appendix 6B of Appendices and Aayat Niryat Forms of FTP 2015-20:

- Extension of LOP of the existing EOU may be granted based on the terms & conditions of earlier LOP.
- Existing units shall make physical exports as may be stipulated by BOA.

3.3.4(20) M/s Aaacorp Exim India Pvt. Ltd., EOU under KASEZ – Proposal for renewal of LOA for next five year i.e. 01.07.2020 to 30.06.2025.

The unit had been issued LOA dated 27.01.1998 for Recycled Plastics Crums, Agglomer, Granules, Garbage Bags/Refuse Bags and Extruded & Moulded Goods of Virgin HDPE/LDPE/PP. The unit commenced its operation w.e.f. 27.09.2001. The unit was formerly known as M/s Aishwarya Plast Exports Pvt. Ltd. BOA in its 6th Meeting held on 15.11.2019 extended the LOP of the unit for 6 months upto 30.06.2020.

It is to be mentioned that DoC vide letter dated 18.05.2018 had amended physical export obligation required to be achieved by Plastic recycling EOUs (as mentioned in Policy guidelines for SEZ issued on 17.09.2013) as under and made applicable to EOUs w.e.f 13.02.2018:

"To ensure that plastic reprocessing EOUs units fulfill their export obligation, in addition to meeting their NFE obligation, all such units would be required to export not less than 35% of the total annual turnover."

Physical export obligation achieved by the unit as per the above amendment is as below:

(Rs. In lakhs)

Period	Total turnover	% of Physical export to total turnover
01.12.2018 to 30.11.2019	2652.87	34%
01.12.2019 to 31.03.2020	319.31	83%

NFE achieved for 2013-14 to 2017-2018 = Rs. 6887.42 lakhs

NFE achieved for 2018-19 = Rs. 189.75 Lakhs

Proposed NFE for the next five year = Rs. 3058.29 lakhs

It is to be mentioned that as per para 5(i) & (v) of Appendix 6B of Appendices and Aayat Niryat Forms of FTP 2015-20:

- Extension of LOP of the existing EOU may be granted based on the terms & conditions of earlier LOP.
- Existing units shall make physical exports as may be stipulated by BOA

3.3.5(20) M/s Prime Exporters, EOU under KASEZ – Proposal for renewal of LOA for next five year i.e. 02.04.2020 to 01.04.2025

The unit had been issued LOA dated 18.09.1998 for manufacturing of Black Regenerated Methyle Metha Acrylate Monomer etc. The unit commenced its operation w.e.f. 06.11.2000. BOA in its 6th Meeting held on 15.11.2019 extended the LOP of the unit for 6 months upto 01.04.2020.

It is to be mentioned that DoC vide letter dated 18.05.2018 had amended physical export obligation required to be achieved by Plastic recycling EOUs (as mentioned in Policy guidelines for SEZ issued on 17.09.2013) as under and made applicable to EOUs w.e.f 13.02.2018:

"To ensure that plastic reprocessing EOUs units fulfill their export obligation, in addition to meeting their NFE obligation, all such units would be required to export not less than 35% of the total annual turnover."

Physical export obligation achieved by the unit as per the above amendment is as below:

(Rs. In lakhs)

Period	Total turnover	% of Physical export to total turnover
01.12.2018 to 30.11.2019	829.89	100%
01.12.2019 to 31.03.2020	0	0

NFE for 2014-15 to 2017-2018 = Rs. 380.94 lakhs

NFE for 2018-19 = Rs. – 57.75 lakhs (Due to fire accident in the factory premises, the unit had not exported goods during the FY 2018-19).

Proposed NFE for the next five year = Rs. 3682.38 lakhs.

It is to be mentioned that as per para 5(i) & (v) of Appendix 6B of Appendices and AayatNiryat Forms of FTP 2015-20:

- a) Extension of LOP of the existing EOU may be granted based on the terms & conditions of earlier LOP
- b) Existing units shall make physical exports as may be stipulated by BOA

3.3.6(20) M/s PMS Exports Pvt. Ltd., EOU under KASEZ – Proposal for renewal of LOA for next five year i.e. from 01.07.2020 to 30.06.2025.

The unit had been issued LOP dated 22.05.1995 for manufacturing of Plastic (Polymer) Bags, Films, Layfalt Tubings, Refuse Bags and Moulded Articles of Plastics, etc. The unit commenced its operation w.e.f. 15.11.1997. BOA in its 6th Meeting held on 15.11.2019 extended the LOP of the unit for 6 months upto 30.06.2020.

It is to be mentioned that DoC vide letter dated 18.05.2018 had amended physical export obligation required to be achieved by Plastic recycling EOUs (as mentioned in Policy guidelines for SEZ issued on 17.09.2013) as under and made applicable to EOUs w.e.f 13.02.2018:

"To ensure that plastic reprocessing EOUs units fulfill their export obligation, in addition to meeting their NFE obligation, all such units would be required to export not less than 35% of the total annual turnover."

Physical export obligation achieved by the unit as per the above amendment is as below:

Since the unit has not received renewal permission from the pollution department, they have not undertake any kind of imports or export. Therefore, the unit has made no sale during 01.12.2018 to 31.03.2020

Proposed NFE for the next five year = Rs. 987.80 lakhs.

It is to be mentioned that as per para 5(i) & (v) of Appendix 6B of Appendices and Aayat Niryat Forms of FTP 2015-20:

- a) Extension of LOP of the existing EOU may be granted based on the terms & conditions of earlier LOP
- b) Existing units shall make physical exports as may be stipulated by BOA