

File No. K-22019/2/2021-EOU
Ministry of Commerce & Industry
Department of Commerce
EOU Section

Udyog Bhawan, New Delhi
Dated: 22 May, 2021

MEETING NOTICE

Subject: 3rd Meeting (2021 series) of BOA for EOU Scheme scheduled to be held on 28.05.2021 at 11:30 A.M. through video conferencing - forwarding of Supplementary Agenda reg.

In continuation of this Department's O.M. of even number dated 18.05.2021 on the above mentioned subject, the undersigned is directed to enclose herewith the Supplementary Agenda for the 3rd Meeting (2021 series) of the BOA for EOU scheme scheduled to be held on 28.05.2021 at 11.30 A.M. for information. The supplementary agenda has also been hosted on the website: www.sezindia.gov.in

2. The addressees are requested to kindly make it convenient to attend the meeting through video conferencing.

Encl: As Above

Sd/-
(Vijay Kumar Meena)
Deputy Director
Tel: 23038608
E-mail: moc_ep@nic.in

1. Department for Promotion of Industry and Internal Trade (DPIIT).
2. CBIC [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(SK)/PS to JS(AK)/PS to Dir(SNS).

SUPPLEMENTARY AGENDA FOR THE 3rd BOA MEETING (2021 SERIES) FOR EOU SCHEME TO BE HELD ON 28.05.2021 at 11:30 A.M. through Video Conferencing.

3.3(21) Proposal for setting up of a Captive Wind Farm of 40 MW outside the premises of EOU and sale of surplus power i.e. 1/3rd of the total power generated to their Non-EOU (DTA) unit - M/s Gujarat Flurochemicals Ltd. (EOU under jurisdiction of KASEZ).

M/s Gujarat Flurochemicals Ltd., an EOU (converted from DTA unit) under jurisdiction of KASEZ, Bharuch, has sought approval of BOA for the following:

- a) for setting up of a Captive Wind Farm of 40 MW outside the premises of EOU, at Botad and Amreli Distt. Of Gujarat &
- b) sale of surplus power i.e. 1/3rd of the total power generated to their Non-EOU (DTA) unit.

Relevant Provision:

(i) [Para 6.16 of HBP 2015-20](#), permitted EOUs for transfer of power from captive power plants (DG sets) from one unit of EOU to another as prescribed in sector specific condition in Appendix 6B of Appendices & ANFs.

(ii) [Para 4 of Appendix 6B](#) describes the procedure for sale of surplus power by EOU unit as under:

a) Henceforth whenever the Development Commissioner received proposals for sale of surplus power, it would be examined in consultation with the State government, including State Electricity Board. The Development Commissioner will report the norms of raw materials and consumables required for generation of a unit of power for consideration and approval by the Board of Approval.

b) No duty shall be required to be paid on sale of surplus power from an EOU unit to another EOU/SEZ unit. Development Commissioner of SEZ concerned would be informed in writing of such supply and proper account of the consumption of raw material would be maintained by the supplying unit. The value of importer inputs and consumables shall be taken into account for NFE calculations of the supplying unit.

c) The unit will obtain permission of the Assistant Commissioner of Customs/Central Excise for sale of surplus power in DTA, after obtaining permission from the SEBs under the relevant statute. Duty on sale of power to the DTA shall be as per the notification of the Department of Revenue in this regard.

d) Due care shall be taken by the Development Commissioner/Board of Approval while approving the power plants by EOU units vis-à-vis their actual requirement.

DC-KASEZ has submitted the following points:

- the unit was granted permission for conversion from DTA to EOU unit only after examining financial viabilities of the project and the firm's existing operations and profitability for the last three years.
- on being read together para 6.01(b)(i) of HBP, para 6.16 of HBP and Appendix 6B (4), it is clear that the provisions cover any type of captive power plant and not just DG sets.
- In terms of [Para 4 of Appendix 6B](#), permission/no objection of State Government, State Electricity Board subject to certain conditions & Assistant Commissioner of Central Customs/Central Excise has been obtained.
- The captive wind farm would be established at the location which is outside the premises of the EOU against the LOP dated 20.10.2020 issued by KASEZ and that location would be added as an additional location of the EOU in the LOP as [per para 6.34\(7\) of HBP](#), once the approval is given by the BOA.
- The unit has not started production and no mandatory compliances completed. Therefore, at this stage, the facts regarding production of surplus and the possible impact with reference to applicable duty on DTA sale, cannot be determined.
- The unit is holding the Authorised Economic Operator (AEO)T-2 status certificate which demonstrates the genuineness and past tract record of the company.
- The BOA in its 3rd meeting (2016 series) held on 22.06.2016, approved the proposal of M/s Archean Chemicals Industries Pvt. Ltd. for sale of surplus power (Thermal) generated in their EOU plant to non-EOU plant.

It is to be mentioned that the Customs Authority vide letter dated 11.03.2021 has stated that NOC does not seem to be required in view of the following points:

- EOU unit has not started production and no mandatory compliances completed. Therefore, at this stage Customs authority cannot determine the facts regarding production of surplus and the possible impact with ref. to applicable duty on DTA sale.
- As far as setting up of Captive Wind Farm at dist. Botad and Amreli is concerned, both the locations are outside the proposed EOU unit.
- Para 6.16 of HBP stipulated transfer of power from captive power plants (DG sets), whereas in the instant case the unit sought NOC in ref. to wind mills.

Since EOU comes under the provision of FTP which is dealt by DGFT, vide OM dated 19.05.2021, following clarification (views/comments) has also been sought from DGFT:

- i) whether a Wind Farm can be set up by an EOU outside the premises of EOU and whether the establishment of such wind farm would be covered under para 6.16 of HBP 2015-20, if not, then under which para would the proposed wind farm be covered?
- ii) If an EOU engaged in manufacturing intends to set up such a wind farm, outside the premises of the EOU, for generation of electricity through wind power for captive consumption of such EOU, can the EOU also supply a part of such electricity to others? If so, to what extent? and
- iii) Would such a wind farm to be set up by the EOU outside the premises of EOU be eligible for tax benefits under FTP?

Reply is awaited from DGFT.

Recommendation: DC-KASEZ has recommended the proposal of the unit.