

Minutes of the 139<sup>th</sup> Unit Approval Committee Meeting of Kandla SEZ held on 11.01.2019 at 11:30 hrs. under the Chairmanship of Dr. Amiya Chandra, Development Commissioner, Kandla Special Economic Zone.

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**Following were present:**

1. Shri. Satyadeep Mahapatra : Joint Development Commissioner, KASEZ.
2. Shri. Sanjay Kumar : Joint Commissioner of Income Tax, Gandhidham.
3. Shri. Yatish Patil : Deputy Commissioner, Customs, Kandla, Gandhidham-Representative of Commissioner of Customs Kandla.
4. Shri. P. C. Ravindran : Assistant DGFT, Rep. of Jt. DGFT, Rajkot.

**Absentees:-**

1. Director (Banking)
2. SDM
3. DIC

**Review/Confirmation of the minutes of last meeting (138<sup>th</sup> UAC) of the Approval Committee: -**

Minutes of the last meeting of Approval Committee was confirmed.



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### **139.1 NEW UNIT APPLICATION**

#### **AGENDA ITEM NO. 139.1.1**

**Application for setting up a unit in KASEZ namely M/s. Industrial Bag Packaging, BBZ-S-37, 2nd Floor, Main Market, Gandhidham (Kutch)-370201, India.**

Their proposal was for setting up a unit in Kandla SEZ for manufacturing activity of FIBC PP Jumbo Bags, PP Woven Sacks (Small Bags), PP Webbing, LLDPE Liner, Filler Cord.

Shri. Gulab Gidwani, Partner of the unit appeared before the Approval Committee and explained their proposal.

Shri Gidwani stated that they propose to set up a manufacturing unit for Jumbo Bags, etc. and are already in the business of manufacturing Jumbo Bags at GIDC, Gandhidham. They will manufacture Jumbo Bags from polypropylene granules which will be from pure virgin granules procured from either DTA or by way of import. They will physically export the manufactured goods and no DTA sale will be made.

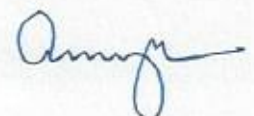
The Approval Committee after due deliberation decided to defer the proposal with the request to the applicant to furnish evidence of their financial status and also an Affidavit to the effect that they will not undertake DTA sale of any manufactured goods and 100% of their manufactured goods will be physical exported.

### **139.2 REQUEST FOR BROADBANDING**

#### **AGENDA ITEM NO. 139.2.1**

**Request for broad-banding for warehousing service Activity in their existing Letter of Approval/Permission No. KASEZ/IA/08/2018-19 dated 21.08.2018 of M/s Sequel Logistics Pvt. Ltd., KASEZ.**

M/s Sequel Logistics Pvt. Ltd., is an approved unit of KASEZ vide LoA No. KASEZ/IA/08/2018-19 dated 21.08.2018 for warehousing service activity of (i) Precious Metal-Gold, (ii) Precious Metal-Silver, (iii) Base Metal-Nickel, (iv) Base Metal-Lead, (v) Base Metal-Zinc, (vi) Base Metal-Copper, (vii) Consumer Goods-Perfumes & Toilet water, (viii) Watches & its Components and (ix) Pharma Drugs. The unit has not commenced its authorized activity and the validity of their LoA is for one year upto 20.08.2019.





Now the unit has requested for Broad Banding of their LoA for addition of 6 items for warehousing service activity.

Shri Sarad Jobanputra, Director of the company appeared before the Approval Committee and explained their proposal.

Shri Jobanputra stated that they are an approved unit for warehousing service activity in the FTWZ approved in KASEZ and now they want to warehouse 6 additional items in their warehouse service activity.

Therefore, the Committee after due deliberation decided to reject their above proposal and directed the applicant to approach for additional warehousing items once they start their authorised operations of warehousing service activity in KASEZ.

**AGENDA ITEM NO. 139.2.2**

**Broad banding application for manufacturing activity and trading activity in Letter of Permission No. 012/2010-11 dated 05.08.2010 as amended for Trading Activity of M/s Jaggo Overseas, Shed No. 243, Special Type, Sector- III, KASEZ, Gandhidham.**

M/s Jaggo Overseas, KASEZ is an approved unit for Trading activity of (1) Sodium Cyanide (ITC-HS 28371100) & (2) Potassium Cyanide (ITC-HS 28371910) vide Letter of Approval No. KASEZ/IA/012/2010-11 dated 05/09-08-2010, amended from time to time.

Now, the unit has requested for broad-banding of their LoA for manufacturing activity for the following items:-

S. No.	Description of goods submitted by the unit	ITC-HS Code
1	Electroplating Salt	38249921

The unit has also requested for broad-banding of additional 05 items in their trading activity as under :-

S. No.	Description of goods submitted by the unit	ITC-HS Code
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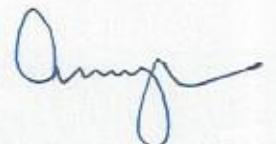
1	COPPER CYANIDE	28371990
2	ZINC CYANIDE	28371990
3	MERCURY	28054000
4	NICKEL ALLOYS	75052200/ 75051200
5	COPPER ALLOYS	74032900/74031 300/74031900/ 74032100/74032 290

Shri Anand Mehta, authorised representative of the firm appeared before the Approval Committee and explained their proposal.

Shri Mehta stated that they want to start manufacturing activity of above items and also 5 additional items for trading activity for which they have export market in Middle East and South East Asia.

The Approval Committee after due deliberation decided to approve their proposal for broad-banding of manufacturing and trading activity subject to the applicant submitting the following : -

1. Map showing the demarcation of the manufacturing and trading activities separately.
2. Storage licences (Poison licence) of Gujarat Govt. in Gujarati language to be translated into English/Hindi and submitted duly notarised.
3. Storage licences (Poison licence) of their DTA unit under Haryana Govt. to be translated and submitted duly notarised.
4. Affidavit that there will be no DTA sale of any manufactured goods & traded items and 100% physical export of the items.
5. Affidavit/certificate on the movement of Hazardous elements.
6. One of the raw material viz. Boric Acid for manufacturing of Electroplating Salt will be allowed to be procured from the domestic area and no import of the same will be permitted.
7. Separate projections to be submitted for Manufacturing and Trading activity.





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**AGENDA ITEM NO. 139.2.3**

**Request of M/s. Jassco Enterprises, 671, Shivaji Road, Azad Market, Delhi-110006 for approval of the items for their approved activities of Trading Activities and warehousing service.**

Nobody appeared for the personal hearing. However, the Committee decided to defer the proposal because a Committee has been constituted consisting of JDC & DC (Cus) which is yet to submit its report related to all business aspects of plastic lumps and other plastic related items requested by such units including marketing extortions, prevailing international business. The said proposal will be taken up in the UAC after said Committee submits its report regarding import of plastic lumps & other plastic related items, market distortion, pattern of international trade and other issues as deemed fit.

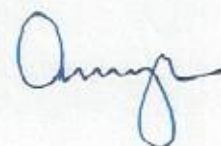
**AGENDA ITEM NO. 139.2.4**

**Request for broad-banding of additional items in Trading Activity in their existing Letter of Approval/Permission No. KASEZ/IA/016/2010-11 dated 12.08.2010, as amended of M/s Zest Marine Services Pvt. Ltd., KASEZ.**

M/s. Zest Marine Services Pvt. Ltd., KASEZ is an approved unit for trading activity for lubricants, marine chemicals, wire ropes and plastic ropes, hatch sealing tapes, ship spares, paints and navigation equipment for ships vide Letter of Approval F.No. KASEZ/IA/016/2010-11/7250 dated 12.08.2010.

The said unit has now requested for Broad Banding of their LoA for addition of following items for trading activity: -

Sl. No.	Item	ITC (HS) Code
1.	Cigarettes and filter cigarettes of various brands	2402 2030
2.	Juices	2202 9920 2009 8990
3.	Soft Drinks	2202 1010 2202 9990
4.	Wine	2204 1000 2204 2210



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5.	Beer	2203 0000
6.	Whisky	2208 3019

Shri Sharad Shetty, Director of the company appeared before the Approval Committee and explained their proposal.

Shri Shetty stated that they are receiving enquiry from agents of foreign bound vessels calling at Port for juices, soft-drink, cigarette and liquor for consumption by crew, captain and seamen of foreign bound vessels and for this they have applied for broad-banding of above trading activity in their existing LoA.

They have stated that they will follow the following procedure for Zone Bond stores:

An Escorting Preventive Officer is deputed to open bond store and load vehicle as per Shipping Bill quantity, once vehicle loaded as per Shipping Bill, Escorting Officer seals Bond store and will seals loaded vehicle too, vehicle then reaches Kandla/Mundra Port Customs for further supply to vessel. On approach a Preventive Officer is deputed by concerned custom department (Bond Section) to escort following sealed cargo to port area. Once material reaches port after completing all port formality, material to be shifted to ship and escorting officer will seal Bond store of vessel, master signs all relevant documents, shipping bill, delivery challan, landing certificate, H form.

The Committee took note of the above suggested procedure and directed that the procedure prescribed in the Customs Manual as well as in the Preventive Manual for supply of Bonded store to ships shall be followed in every case of Ship supply.

The Committee noted that item such as Cigarettes and filter cigarettes of various brands falls under the category of Industrial Licensing requirement and the UAC is not the competent authority to approve such items.

The Approval Committee after due deliberation decided to approve the items at Sr. No. 2 to 6 only mentioned in the table above for trading activity subject to the condition that the same will be supplied to foreign bound vessels calling at Kandla Port & Mundra Port and also an Affidavit that no DTA sale of any traded goods even if damaged or otherwise will be allowed and if the traded goods are found to be sold in DTA penal action will be initiated against them and will be liable for cancellation of the above approval of trading activity.





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**AGENDA ITEM NO. 139.2.5**

**Request for broad-banding for manufacturing Activity in their existing Letter of Approval/Permission No. KASEZ/IA/030/ 2010-11 dated 29.11.2010 of M/s Oswal Tradex, KASEZ.**

M/s Oswal Tradex, KASEZ is an approved unit for Free Trade and Warehousing Service Activity in Kandla Special Economic Zone vide Letter of Approval No. KASEZ/IA/030/2010-11 dated 29.11.2010 amended from time to time. The said LoA was further broad-banded for manufacturing activity of Tarpaulin made from HDPE Laminated Fabrics vide letter No. KASEZ/IA/030/2010-11 dated 13.06.2011.

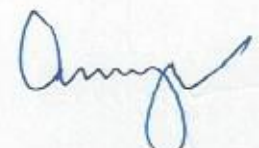
Now, the unit has requested for addition of following manufacturing activity in their existing LoA: -

Sl. No.	Item	ITC (HS) Code
1.	Mix Plastic Floor Sweeping Granules/Grinding/Agglomerates/Powder/Flakes of various Quality like LDPE/PP/HDPE/LLDPE and all other plastic products	3901 to 3914

Shri Pritesh Parekh, Partner of the firm appeared before the Approval Committee and explained their proposal.

Shri Parekh stated that they are already in the business of trading of plastic floor sweeping granules/agglomerates and now they want to start manufacturing activity.

The Approval Committee after due deliberation decided to approve their proposal for broad-banding of above manufacturing activity subject to the applicant submitting undertaking to the effect that the raw materials to be procured for manufacturing the above goods will be in primary form and that they will not undertake any DTA sale and that their activity will be on 100% physical export basis.



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### **139.3 MISCELLANEOUS ITEMS**

#### **AGENDA ITEM NO. 139.3.1**

**Permission to warehouse goods on behalf of foreign clients as well as DTA clients - Request of M/s. Oswal Tradex, KASEZ.**

The Committee observed that the decision taken as recorded in 139.2.3 above holds good here also.

#### **AGENDA ITEM NO. 139.3.2**

**Permission to warehouse goods on behalf of foreign clients as well as DTA clients - Request of M/s Mysore Scents Company- Unit II, Plot No. 153 to 156, Sector-1, New CPWD Type, KASEZ.**

In the 116<sup>th</sup> UAC meeting held on 19.07.2017, it was decided that the warehousing units in KASEZ will have to seek permission for any new items which they intend to warehouse on behalf of foreign clients as well as DTA clients and submit KYC of the client before warehousing the items.

The Committee noted that M/s. Mysore Scents Company (Unit-II) requested for permission to warehouse goods on behalf of DTA clients and submitted list of items to be warehoused in KASEZ alongwith KYC of clients.

The Committee after due deliberation decided to take on records the items to be warehoused by the above unit for respective DTA clients as submitted by the unit.

#### **AGENDA ITEM NO. 139.3.3**

**Permission to warehouse goods on behalf of foreign clients client - Request of M/s Harish Processors Pvt. Ltd., a Warehousing Service Unit of KASEZ.**

In the 116<sup>th</sup> UAC meeting held on 19.07.2017, it was decided that the warehousing units in KASEZ will have to seek permission for any new items which they intend to warehouse on behalf of foreign clients as well as DTA clients and submit KYC of the client before warehousing the items.

The Committee noted that M/s. Harish Processors Pvt. Ltd. (Warehousing Unit) requested for permission to warehouse goods on behalf





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of foreign client and submitted list of item to be warehoused in KASEZ alongwith KYC of clients.

The Committee after due deliberation decided to take on records the items to be warehoused by the above unit for respective foreign client as submitted by the unit.

**AGENDA ITEM NO. 139.3.4**

**Intimation for change in Partnership of M/s Vishwas Enterprises, KASEZ**

M/s Vishwas Enterprises is an approved unit for warehousing service activity vide LoA No. KASEZ/IA/039/2010-11 dated 29.11.2010.

The said unit has now intimated regarding change in partnership of the firm wherein two of the partners have retired and two new partners have joined the firm. They have submitted copy of deed of retirement cum Admission/Reconstitution of Partnership firm.

The Committee noted that the details of present Partners are as under:-

Sl.No.	Name of Partners	Previous, profit and loss ratio	At present, profit and loss ratio	Change in %
01.	Mr. Devidas Asharam Vachhani	60%	Retired	--
02.	Mr. Vishal Umesh Pahlajani	40%	Retired	--
03.	Mrs. Pramila Ravindra Ojha	New Partner	10%	(+)10%
04.	Mr. Rohan Ravindra Ojha	New Partner	90%	(+)90%
Total			100%	(+)100%

The Committee noted that Department of Commerce vide Instruction No. 89 dated 17.05.2018 had issued guidelines regarding change in shareholding pattern, name change pertaining to SEZ units wherein change of name, change of shareholding pattern, etc. may be undertaken with the prior approval of Approval Committee in respect of units.

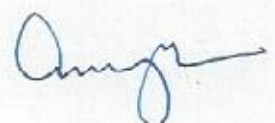
The Committee noted that the changes in shareholding pattern of the company is to the extent of 100%. Therefore, the Approval Committee after due deliberation decided to approve and take on record the proposal of change in shareholding pattern of the company subject to following conditions: -

1. Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered unit entity.
2. Fulfillment of all eligibility criteria applicable to unit, including security clearances etc. by the altered unit entity and its constituents.
3. Applicability of and compliance with all Revenue/Company Affairs/SEBI etc. rules which regulate issues like capital gains, equity change, transfer, taxability etc.
4. 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.
5. 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.
6. The applicant shall comply with relevant State Government laws, including those relating to lease of land, as applicable.
7. The unit shall furnish details of PAN and jurisdictional assessing officer of the unit to CBDT.

**AGENDA ITEM NO. 139.3.5**

**Intimation for Change of Directorship of M/s Raghvani Textiles Pvt. Ltd. , KASEZ**

M/s Raghvani Textiles Pvt. Ltd., KASEZ is an approved unit for manufacturing of reprocessed Garments, used clothing/secondary textile





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materials vide LoA No. KFTZ/IA/1749/99/5229 DATED 23.08.1999, as amended/extended from time to time and hence their LoA is valid up to 30.11.2019.

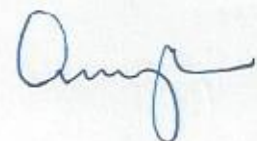
The Unit has now intimated that their Board of Directors in its meeting held on 30.09.2018 resolved, upon consent of all the Directors, to appoint Mr. Akhilesh Trambaklal Bhatt as a Director of the Company and there is no change made in the share holding pattern of the company.

The Committee noted that after change there will be three directors in the said unit:

Sl. No.	Name of the Directors
1	Mr. Karim Ramzan Ali Karmali
2	Mr. Mohamed Ramzan Ali Karmali
3	Mr. Akhilesh Trambaklal Bhatt

The Committee further noted that the changes does not involve in change of existing shareholding pattern of the company and after due deliberation decided to take on record of the above changes of Directors of the company subject to following conditions: -

1. Seamless continuity of the SEZ activities with unaltered responsibilities and obligations for the altered unit entity.
2. Fulfillment of all eligibility criteria applicable to unit, including security clearances etc. by the altered unit entity and its constituents.
3. Applicability of and compliance with all Revenue/Company Affairs/ SEBI etc. rules which regulate issues like capital gains, equity change, transfer, taxability etc.
4. 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.
5. 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.

6. The applicant shall comply with relevant State Government laws, including those relating to lease of land, as applicable.
7. The unit shall furnish details of PAN and jurisdictional assessing officer of the unit to CBDT.

**AGENDA ITEM NO. 139.3.6**

**Quantum of Penalty to be imposed in respect of 8 worn clothing units who have failed to achieve minimum physical export obligation as per policy guidelines dated 17.09.2013, as amended**

JDC, KASEZ briefed the Committee about the SCNs issued for non-compliance of physical export obligations both the period upto the end of their fourth year of operation as well as their 5<sup>th</sup> year of their operation from 01.12.2017 to 12.02.2018, 66.67% of physical export obligation of total annual turnover in value terms and 50% of physical export obligation of total annual turnover in volume terms for the period from 13.02.2018 to 31.10.2018 by the worn clothing units under the policy guidelines dated 17.09.2013 as amended and the quantum of penalty to be imposed for non-achieving minimum physical export obligations. It was also informed to the Committee that observing the principle of natural justice sufficient opportunity has been granted to them to defend themselves.

The Committee noted that SCNs were issued in the following category:

- (i) Non-compliance of 80% physical export obligation at the end of 4<sup>th</sup> year (01.12.2013 to 30.11.2017):  
12 units were issued SCNs on the basis of NSDL data. However, subsequently, such units submitted C. A. Certified data upto period of 30.11.2018 and it was noted that 3 units viz. M/s. Canam International, M/s. Om Siddh Vinayak and M/s. Tulip Exim had achieved 80% physical export obligations and thus remaining 9 units were found to have not complied with the above physical export obligations.
- (ii) Non-compliance of physical export obligation in the 5<sup>th</sup> year:



- (a) For the period 01.12.2017 to 12.02.2018 (100%)
- (b) For the period 13.02.2018 to 30.11.2018 (66.67% in value terms and 50% in volume terms)

12 units were issued SCNs for non-compliance of above twin periods within their 5<sup>th</sup> year of operation. However, subsequently all these units submitted C.A. certified data for the complete period i.e. 01.12.2017 to 12.02.2018 and 13.02.2018 to 30.11.2018 and it was found that 8 worn clothing units have failed to achieve minimum physical export obligation as per policy guidelines dated 17.09.2013, as amended and the remaining 4 units have achieved the said obligations.

UAC deliberated on the issue of quantum of penalty to be imposed on such erring units.

The Committee noted that Section 11(2) of the FT (D&R) Act, 1992, as amended provides for minimum penalty of Rs. 10000 and maximum upto five times of the value of goods or services or technology in respect of which any contravention is made or attempted to be made. The Committee further noted that a new Rule 80 has been inserted in the SEZ Rules, 2006 vide Notification dated 19.09.2018 issued by the DoC, which is reproduced hereunder: -

*"If an Special Economic Zone Unit, in case of bona fide default, fails to achieve the minimum specified Net Foreign Exchange or specified value addition, then such shortfall may be regularized after the Unit deposits an amount equal to one per cent. of shortfall in Free of Board value".*

However, the Committee in this regard noted that -

- Existing worn clothing units enjoy the privileged position in SEZ Scheme wherein no new unit is allowed to be set up. This puts greater responsibility on them to comply with all conditions which the competent authority imposes from time to time.
- All such worn clothing units had earlier accepted the terms and conditions of the renewed LoA issued in 2013/2014 and also accepted the changed export obligation w.e.f. 13.02.2018. Therefore, they were under legal obligation to comply with



conditions of export obligation in terms of DoC Policy guidelines dated 17.09.2013 as amended during their respective period.

- It was noted that 9 worn clothing units were defaulters in the 4<sup>th</sup> year and 8 worn clothing units in the 5<sup>th</sup> year.
- In the case of the above worn clothing units who failed to achieve minimum physical export obligation the Approval Committee observed that it is not a case of bonafide default as similar other worn clothing units have achieved the said minimum physical export obligation conditions for the same period.
- The Committee observed that the penalty should be such an amount which would not only penalise such units to the extent of their default but should also act as a deterrent. Also, the penalty should be such that would not discourage the compliant units from achieving the value-based and physical export obligation.

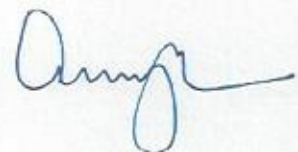
Therefore, the Committee after taking into account the above facts, was of the unanimous view that such erring unit's default is not a case of bonafide default and therefore they do not deserve to enjoy the benefit of 1% percent lenient penalty under new Rule 80 of the SEZ Rules, 2006.

The Approval Committee after further due deliberation decided to impose penalty at 5% of the total non-achieved export obligation taken in value terms in their respective period of obligation to all such worn clothing units who have failed to achieve minimum physical export obligations as applicable during the respective period from 01.12.2013 to 30.11.2018 as per policy guidelines dated 17.09.2013, as amended. UAC further clarified that for the purpose of imposing penalty for non-achieved obligation in volume terms requires to be converted into value by multiplying the non-achieved quantity into their per unit average export value.

**TABLE AGENDA- Item No.139.4.1**

**Clarification on burst opening of Import bales and 100% scrutiny of imports for worn clothing units.**

Six of the worn clothing units of KASEZ vide their combined letter dated 19.12.2018 have represented on the issue of Burst opening of Import bales and 100% scrutiny of imports after the amendment in SEZ Rules, 2006 which came into effect from 19.09.2018.





The Committee discussed the issue of amendment in SEZ Rules, 2006 effected vide Notification dated 19.09.2018 of Rule 18(4A) and 18(4B) and noted the present practice of 100% scrutiny at the time of import from gateway port itself is a wrong interpretation of the above amendment due to the fact that the Rules 18(4A) and 18(4B) speaks of 100% inspection/scrutiny only before clearance into Domestic Tariff Area, which must be done.

Further, the Approval Committee noted that no case of violation has been noticed since the practice of 100% scrutiny of worn clothing has been put in place w.e.f. 19.09.2018 consequent to the amendment of SEZ Rules, 2006 on 19.09.2018. Also, the Committee noted that 100% scrutiny at the time of import from Gateway Port does not serve any purpose since at this stage the goods are entering a bonded area i.e. SEZ which is very much under the physical control of SEZ Customs and Security.

However, 100% examination is to be carried out if prior intelligence has been received or seal is found to be mismatched/broken or there is a reasonable belief that the goods are misdeclared.

The Approval Committee after due deliberation decided to do away with 100% inspection of imported worn clothing consignments except under circumstances as stated above. However, at the time of clearance to DTA 100% inspection shall be done following the procedure being presently followed for clearance of used clothing into DTA.

The meeting ended with vote of thanks of the chair.



**(Dr. Amiya Chandra)**  
Development Commissioner