

Minutes of 125th meeting of the Approval Committee for Dahej Special Economic Zone held on Monday, 17th February, 2025 at 11:00 AM through hybrid mode (Webex Video Conferencing/physical) under the Chairpersonship of Shri Lokesh H.D, ITS, Development Commissioner, Dahej SEZ.

A. List of participants is annexed as per Annexure-A.

(The quorum is complete as per section 13(5) of the SEZ Act, 2005 read with Notification dated 26.07.2007 of MOCI issued from F. No. 1/1/2006-SEZ).

B. Ratification of the Minutes of last meeting of the Approval Committee.

As no comments/observations on the minutes of 124th meeting of approval committee of the Dahej SEZ held on 07.02.2025 have been received from any member, minutes of the meeting as circulated earlier were unanimously ratified.

C. The following cases were discussed as per the Agenda:

Item No. 125.2

Deferred cases for Dahej –SEZ: - One

Item No. 125.02.01

M/s ONGC C2 C3, Dahej SEZ

Request for granting permission for laying of 11 KV 3X240 SQMM XLPE Power Cable line from Getco 66KV Dahej-A S/S to M/s ONGC C2-C3 plant

Shri Jayamohan R Nair, Plant Manager from M/s ONGC C2 C3 appeared before the committee through WEBEX and stated that M/s Oil and Natural Gas Corporation Ltd C2-C3, vide their letter no. NIL dated 26.06.2024 has requested for granting permission for laying of 11 KV 3X240 SQMM XLPE Power Cable line from Getco 66KV Dahej-A S/S to M/s ONGC C2-C3 plant.

2. The SO, Dahej SEZ vide their email dated 28.08.2024 has informed that ONGC C2C3 has availed duty benefits for solar power plant installation. During the meeting it was discussed that the unit has not informed the D.C/UAC before the procurement of solar power plant assembly items.

3. The unit vide letter dated 03/09/2024 requested for permission for procurement of solar power plant assembly items and also requested to condone the lapses occurred on their part.

4. In the 119th UAC meeting held on 05/09/2024, the representative of the unit has stated that they are in the process of installation of solar power plant assembly items and they have not yet installed the same at this point of time.

5. –The unit vide email dated 06.09.2024 has stated that prior approval for setting up of solar power plant at the unit premises was not taken, the solar power plant is around 75% completed and the duty benefit availed is around 1.21 crore.

6. The SO, Dahej SEZ vide letter dated 10.09.2024 has informed that the unit has availed duty benefits amounting to Rs. 1.21 Crores and the solar power plant is nearly 75% installed. SO, Dahej SEZ office has not granted any permission for installation of solar power plant.

7. The Specified Officer, Dahej SEZ vide email dated 11.02.2025 has stated that the total IGST exemption availed on the invoices submitted by the firm works out to the tune of Rs. 1,10,75,666.04 for the goods and services used for the said Solar project.

8. The Department of Commerce vide Office Memorandum dated No: K-43014(16)/8/2020-SEZ dated 07.03.2024 has partially modified that OM No. K-43014(16)/8/2020-SEZ 07.06.2021 and conveyed that the Duty benefits under Section 26 of SEZ Act, 2005 is allowed to the units for installation as well as O & M of renewable energy equipment exclusively for captive consumption of the unit with a specific condition that the power shall not be wheeled out to DTA. Further, the OM No. K-43014(16)/8/2020-SEZ dated specifies that such captive generating power plants shall comply with all rules, regulations and technical standards framed under the Electricity Act, 2003 as amended from time to time. Captive generative power plants with capacity 500 KW and above has to be re-registered with Central Electricity Authority

9. The committee after detailed discussion unanimously approved the request of the firm for setting up of the non-conventional captive power plant in terms and conditions of above instructions of DoC.

Item No. 125.3

Other cases for unit in Dahej –SEZ: - Two

Item No. 125.03.01

M/s ONGC Petro additions Limited, Dahej SEZ

Request of M/s ONGC Petro additions Limited for exit from the SEZ

Shri Gurinder Singh, M.D from M/s ONGC Petro additions Limited appeared before the committee and explained the case of the firm and the grounds on which they are requesting for early finalization of exit order.

2. The unit has commenced commercial production w.e.f. 31.08.2015.

3. M/s. OPaL vide their letter dated 13.09.2018 had requested in-principal approval for exit of the unit (OPaL) from Dahej SEZ on following grounds:

- a) Increased demand in the domestic market leading to net import situation.
- b) Import substitution will save country' foreign exchange outlays.
- c) Availability of polymers from domestic sources will help domestic industry.
- d) Negative NFE on account of fulfilling domestic demand.
- e) Improvement in operating margins of OPaL

4. The unit was granted in-principle approval for exit from Dahej SEZ under Rule 74 of SEZ Rules, 2006 in 98th Unit Approval Committee Meeting held on 05.11.2020.

5. The Rule provision provides that the UAC is competent to authorize the exit of the unit from the SEZ Scheme. Rule 74 of SEZ Rules, 2006 provides conditions for exit of a Unit from SEZ, which is reproduced below: -

74. Exit of Units. —

- (1) The Unit may opt out of Special Economic Zone with the approval of the Development Commissioner and such exit shall be subject to payment of applicable duties on the imported or indigenous capital goods, raw materials, components, consumables, spares and finished goods in stock: Provided that if the unit has not achieved positive Net Foreign Exchange, the exit shall be subject to penalty that may be imposed under the Foreign Trade (Development and Regulation), Act, 1992.*
- (2) The following conditions shall apply on the exit of the Unit, namely:—*

 - (i) Penalty imposed by the competent authority would be paid and in case an appeal against an order-imposing penalty is pending, exit shall be considered if the unit has obtained a stay order from competent authority and has furnished a Bank Guarantee for the penalty adjudicated by the appropriate authority unless the appellate authority makes a specific order exempting the Unit from this requirement;*
 - (ii) In case the Unit has failed to fulfil the terms and conditions of the Letter of Approval and penal proceedings are to be taken up or are in process, a legal undertaking for payment of penalties, that may be imposed, shall be executed with the Development Commissioner;*
 - (iii) The Unit shall continue to be treated a Unit till the date of final exit.*
- (3) In the event of a gems and jewellery unit ceasing its operation, gold and other precious metals, alloys, gem and other materials available for manufacture of jewellery shall be handed over to an agency nominated by the Central Government at a price to be determined by that agency.*
- (4) Development Commissioner may permit a Unit, as one time option, to exit from Special Economic Zone on payment of duty on capital goods under the prevailing Export Promotion Capital Goods Scheme under the Foreign Trade Policy subject to the Unit satisfying the eligibility criteria under that Scheme.*
- (5) Depreciation norms for capital goods shall be as given in sub-rule (1) of rule 49.*
- (6) The Unit opting out from Special Economic Zone shall execute a legal undertaking in Form L*

6. The status of compliance in the present case is placed below:
- a. Compliance with 74(1) --Exit shall be subject to payment of applicable duties on the imported or indigenous capital goods, raw materials, components, consumables, spares and finished goods in stock:
 - i. In this regard the firm has stated that they have made the payment of duties as per provisional assessment made by customs. The firm has informed that they will back their certifications/declarations by way of Bank Guarantee and Bonds to protect the interests of the Government.
 - ii. The SO briefed the members about the duty paid by the unit and has also sent a written communication on the same vide his office letter no. DSEZ/Cus/36/OPAL Exit/2019-20/Pt.IV dated 18.02.2025 wherein it has been specified that the firm had filed a total of 350 bill of entries (in respect of Capital Goods-146 till 30.09.2024; Inventory-190 till 30.11.2024; Immovable Property-8 till 31.03.2024 Raw Material/WIP -01 till 30.09.2024; Finished Goods -02 till 30.09.2024; Polymer-WIP-01 till 30.09.2024 and Scrap-01 till 15.12.2024). The above bill of entries were assessed as on 13.02.2025 and the assessment value was to the tune of Rs.7937.40 Crore with duty paid/payable on assessed Bill of entries being Rs.2279.92 Crore. Out of the Duty Paid/payable amount of Rs.1291.65 Crore on the assessed 146 BoEs pertaining to Capital goods, Duty of Rs.1016.89 crore was adjusted through EPCG authorizations and Duty of Rs.274.76 Crore was paid through Cash. The SO has informed that Amount of PD Bond with Surety should be of Rs.460 crore (20% of the Duty involved) supported by Bank Guarantee for Rs.115 Crore with auto renewal clause where as the firm had offered Bank Guarantee without auto renewal clause and a normal bond without surety.
 - iii. The bill of entries above has covered items only till the dates shown therein. Hence the calculation of provisional duty (PD) Bond with Surety (Bank Guarantee) for Bill of entries filed for further period as estimated and submitted by the unit vide their letter dated 11.02.2025 has arrived at. The firm has filed 17 bill of entries for a total value of Rs.452.53 Crore with total average duty being mentioned as Rs.131.96 Crore. The above figures are extrapolated figures, calculated by the unit based on their own assessment and therefore not supported by audited financial records of the unit. Since the duty is not assessed and paid by the unit, the value of PD Bond (with surety) should be 100% of the estimated duty worked out as above. Therefore, the value of the PD Bond should be of Rs.132 crores, supported by Bank Guarantee for Rs.35 Crore with auto renewal clause.
 - iv. – The total duty liability in respect of 343 open documents has been worked as Rs.95 crores (approximately) by his office. Further duty liability, in respect of pending issues concerning provisional assessment of 144 BoEs of Capital Goods has been estimated as Rs.100 crores by his office. Thus total duty liability amounting to Rs.195 crores should be discharge by the unit.

74(1) If the unit has not achieved positive Net Foreign Exchange, the exit shall be subject to penalty that may be imposed under the Foreign Trade (Development and Regulation), Act, 1992.

In this regard, the firm has not fulfilled the NFE criteria and hence the 123rd UAC vide meeting dated 06.01.2025, recommended the Development Commissioner, Dahej SEZ to adjudicate upon the matter. Accordingly, SCN dated 07.01.2025 was issued by the Development Commissioner to the firm. The firm has provided its response on 09.01.2025 and the same is pending for adjudication. The same will be adjudicated on the basis of data pertaining to imports/exports made as on the date of exit since the cumulative NFE of the firm is to be calculated as on the exit date of the firm. The firm has vide its letter dated 16.10.2020 and letter dated 26.10.2020 submitted Form L (Legal Undertaking) to this office for exit from the SEZ.

- b. Compliance with 74(2) (i)--No Penalty is pending for payment.
- c. Compliance with 74 (2) (ii)—No cases of failure to fulfill the terms and conditions of the Letter of Approval and penal proceedings have been initiated (except the non fulfillment of NFE. The firm has executed an undertaking that penalties imposed by appropriate authority under the Foreign Trade (Development & Regulations) Act, 1992 for non-fulfillment of the conditions of approvals would be paid.
- d. Compliance with 74 (2) (iii)--The Unit shall continue to be treated a Unit till the date of final exit.
- e. Compliance with 74(3)- Firm is not a gems and jewellery unit and hence this provision is not applicable in the case of the firm.
- f. Compliance with 74(4)-Development Commissioner has vide letter dated 01.10.2020 permitted the Unit, to exit from Special Economic Zone on payment of duty on certain capital goods under the prevailing Export Promotion Capital Goods Scheme under the Foreign Trade Policy. Subsequent to this firm has obtained 24 No of EPCG authorizations from Regional office of DGFT, Vadodara for clearance of capital goods.
- g. Compliance with 74(5)-The Specified Officer informed the committee that they had adopted the prescribed norms.
- h. Compliance with 74(6)- The Unit has executed a legal undertaking in Form L

7. Other facts relevant to the case are placed below: -

- a) The quantum of land allotted to OPaL by DSL is 529-45-86 Hectares.
- b) —Along with the application for SEZ exit by the unit, the Developer has also submitted application for partial de-notification of the land on which the unit is located. This is being processed and will be sent to the BoA for action as appropriate.

c) DSL had earlier informed the DC's office that they have demanded payment of fees, charges, refund of concessions etc. to OPAL amounting to Rs. 1034 Crore.

d) DSL vide letter dated 27.10.2020 had stated that OPAL has laid down the 15 MT wide storm water channel in Dahej SEZ area without permission from DSL and office of the DC, Dahej SEZ.

e) DSL vide letter dated 01.10.2020 has stated that they had allotted 22 Hectares of land to OPAL for smooth exit from the SEZ. DSL vide letter dated 11.12.2020 has stated that additional land allotted to OPAL is 21.50 Hectares, out of which 11.76 Hectares of land falls into CRZ area.

f) Gujarat Maritime Board vide email dated 23.12.2020 has stated that structure of M/s OPAL falls in GMB port limits, and they have stated that their NOC along with CRZ clearance would be required prior to commencement of activities.

g) This office vide letter dated 30.12.2020 has approved the request of the firm for additional allotment of 2,20,000 sq. mts of land subject to NOC/Clearance from GMB.

h) The Enforcement Directorate, Ahmedabad vide their letter dated 06.07.2017 had requested the DC's office to provide information regarding Complaint received from Shri Ashok Patel about misuse of provisions of Foreign Exchange Management Act, 1999 and Income Tax Act, 1961, by way of over invoicing (transfer pricing) of goods and services being imported by the consortium of M/s Samsung Engineering Company Ltd Korea & M/s Linde AG, Germany working under EPC Contract for execution of Dual Feed Cracker & its associate units at M/s ONGC Petro Additions Ltd (OPAL) in Dahej SEZ, Dahej, Gujarat. The DC's office has provided the information vide letter dated 25.10.2017 and final assessment order of BOEs issued by the office of the Specified Officer, Dahej SEZ was forwarded to the ED. The Specified Officer, Dahej SEZ vide letter dated 22.11.2017 has also forwarded copy of 01 BOE pertaining to M/s Linde AG and copy of 02 BOE pertaining to M/s Samsung Engineering Co. Ltd. No further development till 31.12.2024. This DC's office vide letter dated 31.12.2024 has sought inputs from the Enforcement Directorate, Ahmedabad to be considered while finalizing the exit order. The DC's office has not received any response to letter dated 31.12.2024 from the ED as on date.

i) Pending Audit matters: -

The Specified Officer, Dahej SEZ vide letter dated 04.02.2025 has stated that 08 audit paras are raised via CRA/LAR -28/2021-22 related to M/s OPAL. Out of these, 07 audit paras are recommended for closure by the Specified Officer, Dahej SEZ and 01 audit para is not applicable. Further, the SO has stated that his office has deputed one P.O to CRA office to obtain the progress in the matter. The Specified Officer, Dahej SEZ vide letter dated 06.02.2025 has stated that 01 para is settled, 01 para is partially closed and 06 paras are unsettled.

j) Pending Court Cases: -

- i. WPA 17560 of 2024 filed by M/s Softrose Petrochemicals Private Limited, Kolkata, West Bengal is a petitioner and the Development Commissioner, Dahej SEZ is named as Respondent No. 4 and M/s OPAL is named as Respondent No. 5. Assistant Commissioner of Revenue, Post bazar and Burtola Charge has demanded Input Tax Credit under IGST head from M/s Softrose Petrochemicals Private Limited, Kolkata, West Bengal.
 - ii. WPA 29911 of 2024 wherein M/s Hind Distributors Private Limited, Kolkata, West Bengal is a petitioner and the Development Commissioner, Dahej SEZ is named as Respondent No. 7 and M/s OPAL is named as Respondent No. 6. Superintendent of CGST & CX, Kolkata has filed the case against M/s Hind Distributors Private Limited, Kolkata, West Bengal.
 - iii. R/SCA No. 4148 of 2022 (converted from SCA/5857/2022 dated 23.02.2022) M/s ONGC Petro Additions Limited is a petitioner and Union of India (through Secretary, Ministry of Commerce and Industry) is named as Respondent No. 1, the Development Commissioner, Dahej SEZ is named as Respondent No. 9. The State tax authorities has demanded 1049.47 Crores as refund for exemptions availed as a unit.
 - iv. R/SCA No. 17673 of 2022 (converted from SCA/26396/2022 dated 05.09.2022) M/s ONGC Petro Additions Limited is a petitioner and Union of India (through Secretary, Ministry of Commerce and Industry) is named as Respondent No. 1, the Development Commissioner, Dahej SEZ is named as Respondent No. 7. The issue challenged in this matter is reversal of Stamp duty benefit availed by the firm.
 - v. SCA No. 7121 of 2019 M/s ONGC Petro Additions Limited is a petitioner and Union of India (through Secretary, Ministry of Commerce and Industry) is named as Respondent No. 1, the Development Commissioner, Dahej SEZ is named as Respondent No. 2. The issues pertains to availment of fiscal benefits for laying of feed/raw materials (naptha) pipeline from Hazira ONGC (DTA) to OPAL (SEZ).
- k. With reference to issues at Para 7(c) to Para 7(e), the CEO, DSL has informed that M/s OPAL has submitted an undertaking to their office that the unit will deposit all fees, charges, refund of concessions etc if found payable under the Central and /or State SEZ Laws relating to exit of the unit. In this regard he has informed that the issue was discussed in their Board and there is no objection for exit of the unit and accordingly the Developer has applied for partial de-notification. Further, he informed that the firm shall be required to obtain separate clearances form all the regulatory bodies post exit if they are required by law to operate with consent from such regulatory bodies. He also advised the firm to set up boundary walls to ensure the separation of the SEZ area from the DTA area in which it operates. Further, DSL has vide its written comments dated 18.02.2025 specified the following:

- i. With regard to Para 7(c) above, it has been informed that as per the decision taken in 68th meeting of Board of Directors of the company-Dahej SEZ Ltd. held on 25-08-2023, it was resolved that "M/s. OPaL be and is hereby directed to pay 50% of Rs. 103.32 crore i.e. Rs. 51.66 crore towards demand charges as interim settlement subject to final decision of the Finance Department, Government of Gujarat with further direction to M/s. OPaL to give a legally binding agreement & undertaking to abide by the final decision of the Government of Gujarat in the matter. DSL informed that OPaL has to construct SEZ boundary wall to comply the norms of SEZ. In this regard, M/s. OPaL has submitted letter dated 30-07-2020. DSL has no objection to de-notify M/s. OPaL.
- ii. With regard to Para 7(d) above, DSL has informed that M/s. OPaL has to complete the RoU (Right of Use) formalities as per the policy of DSL.
- iii. With regard to Para 7(e) above, it has been informed that DSL has allocated land on RoU basis to lay the services / pipelines / utilities etc. Hence, OPaL has to permit concern authority to carry out activity as per the approval accorded by DSL Authority. No any charges for payment to be levy by M/s. OPaL for the same. Further, DSL informed that OPaL has to obtain permission from DSL authority to carry out any activity in the additional land allocated to M/s. OPaL.
- l. In respect of the Audit issues, it was discussed in detail and concluded that these are regulatory matters which the firm shall be required to comply as per decision taken by Audit authorities as the SO's office has already written for closure of these paras. The SO, Dahej also stated Custom Authority may issue SCN to the firm in this regard.
- m. In respect of litigation matters, it was discussed and opined that the firm is a respondent in 2 matters and in the other three matters the firm is a petitioner and decision of the Hon'ble Courts would be binding on all concerned parties
- n. With regard to Para 7(h) the firm has submitted an undertaking that there are no investigations pending as on date. It was also the view that the firm shall be liable to actions under any investigations even if they move out of SEZ
- o. The Unit requested to consider the Bank Guarantee provided for one year since their bankers had refused to provide auto renewal BG and the exit of OPAL was in the national interest. Further the MD also informed that he is ready to provide undertaking that the firm will renew the BG within 15 days prior to date of expiry and this may be considered as deemed auto renewal. The Joint DGFT, informed that in his organization the Bank Guarantee is accepted with a clause that the Guarantor shall not cancel the Bank Guarantee without prior consent of the government.
- p. The firm stated that they have filed 17 bill of entries in respect of the goods pertaining to the transition period till the estimated date (28.02.2025). The firm also stated that they have already set up fencing along the boundaries between the SEZ and the proposed area to be de-notified, but they will also take up construction of a wall.

q. The UAC deliberated in detail the proposal made by the firm in light of the above facts and comments provided by the participating members. It was noted that following compliances are pending from the firm in view of the duty liability/element involved. Therefore, it was decided that the following be communicated to the firm for compliance after which the issuance of NDC will be considered by the SO's Office.

- i. In respect of Para 6(a)(ii), the firm shall submit PD Bond with Surety for Rs.460 crore (20% of the Duty involved) supported by Bank Guarantee for Rs.115 Crore, with auto renewal clause.
- ii. In respect of Para 6(a) (iii), the firm shall submit PD Bond (with surety) for Rs.132 crores, supported by Bank Guarantee for Rs.35 Crore ,with auto renewal clause.
- iii. In respect of Para 6(a) (iv), the firm shall discharge duty liability amounting to Rs.195 crores

Item No. 125.03.02

M/s Dahej SEZ Ltd

Request of M/s Dahej SEZ Ltd for partial de-notification of Dahej SEZ

M/s Dahej SEZ Ltd vide their letter DSL/OPaL/Exit Proposal/2018/1264/293 dated 13/12/2024 has submitted request to this office for partial de-notification of Dahej SEZ. The existing area of the SEZ is 1682-40-31 Hectares and the Developer intends to de-notify an area of 529-45-86 Hectares which was allotted to M/s OPAL.

The UAC has agreed to send the proposal to BoA as deems appropriate subject to compliance of the SEZ Act, 2005 and SEZ Rules, 2006 and all other relevant Rules and Regulations.

A. Satauria
19/02/25
(Amardeep Satauria)

**Assistant Development Commissioner
For Development Commissioner
Dahej Special Economic Zone**

Annexure-A

List of Participants of 125th Approval Committee Meeting of Dahej SEZ held on 17.02.2025: -

01	Shri Lokesh H.D., ITS Development Commissioner	Chairperson
02	Shri Anupam Kumar, Joint DGFT	DGFT, Vadodara
03	Shri Reddy	CGST-DIV-7, Bharuch
04	Shri Manoj Kumar	GPCB- RO- Bharuch
05	Shri Lokesh Meena	Deputy Commissioner of I.Tax Vadodara
06	Shri Vikas Patel	Regional Manager, GIDC, Bharuch
07	Shri Hemant Bhonde	ITO HQ-4 for PCIT-1, Vadodara
08	Shri Vijay Singh Dhusia, SO, Dahej SEZ.	Special Invitee
09	Shri Amardeep Satauria, ADC, Dahej –SEZ	Coordinator
10	Shri J.B.Patel, CEO, DSL	Representative, Dahej SEZ Limited

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