

GOVERNMENT OF KERALA

(Abstract)

Industries Department – Policy regarding setting up of SEZ in the State – Approved – Orders – Issued

INDUSTRIES (J) DEPARTMENT

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ORDER

Government of India have introduced the concept of Special Economic Zone (SEZ) for the purpose of trade operations with exemption from customs duties and more liberalized regime in respect of other levies, foreign investment and other transactions. Government of India have also recommended formulation of a State SEZ policy.

Government have considered the matter in detail and are pleased to approve the SEZ policy for the State which is appended to this order.

By Order of the Governor
Sd/-
P.H. KURIAN
Secretary (Ind)

Government of Kerala

Policy regarding setting up of Special Economic Zones in the State

Preamble

Government of India have introduced the concept of Special Economic Zones (SEZ's) in the year 2000. The Exim Policy of the Government of India has been amended to define SEZ's as foreign territory for the purpose of trade operations, duties and tariff. The Customs Act, 1962 has also been amended to place the SEZ's outside the Customs territory of India. The effort has been to create delineated duty-free enclaves with world-class infrastructure and fast track clearances to attract investments, including FDI, for servicing the global market. The new genre of SEZ's being planned are to comprise 1000 hectares or more, as they are designed to be self-contained facilities integrated industrial townships with all facilities; however the industrial area will have to be at least 25% of the total area. Government of India have even permitted FDI up to 100% for development of integrated townships, including housing, commercial premises, hotels, resorts, city and regional level urban infrastructure facilities such as roads and bridges and mass rapid transit systems and fast-track clearances will ensured to SEZ's so that the facilities come up fast, and are priced competitively with comparable facilities in the rest of world in order that the foreign investors do find locating their operations in Indian SEZ's attractive. The SEZ units are also granted concessions on income tax and exemption from customs and excise duties and a more liberal regime in respect of other levies, foreign investment and other transactions. Domestic regulations, restrictions and infrastructure inadequacies are sought to be eliminated in the SEZ's.

The SEZ's have particular appeal for Kerala. From a national perspective Kerala is located in the South West corner of the country, but geo-strategically, Cochin is just 12 nautical miles off the international maritime highway from Europe to the Pacific Rim. This is the busiest maritime highway in the world. The major International Air Routes A330, G462, R457 and W15, also over-fly Cochin. Cochin is also closer than any other Indian city to the economic power houses of Asia in the Middle East and East and South East Asia

Keralites already have a toe-hold in these areas, and Kerala could use this to produce goods and services for these markets. Giving an export-orientation to the Kerala economy and gearing up infrastructure and systems to produce for the world market and to service the world market thus holds the promise of rich dividends for Kerala in terms of wealth creation and employment generation. The SEZ's enhance the capacity of Kerala to do this.

The Cochin Export Processing Zone has already been converted into an SEZ. Government have already taken the lead to develop a Greater Cochin SEZ by adding on more phases of the SEZ at Cochin Port, Cochin Airport, and by forming customs-bonded industrial areas along the Airport-Seaport Highway connecting the two, to form an Industrial Corridor, to the existing SEZ at Cochin. The strategy would be to form an Freeport and a multi-modal logistics hub at Cochin to enhance its geo-strategic locational advantage.

The Government have already announced setting up of 3 other Industrial Development Zones at Thiruvananthapuram, Kanjikode (Palakkad) and Kozhikode. These IDZ's may also be converted to SEZ's subject to the framw work of SEZ's determined by the Government of India from time to time.

The matter of formulating a policy regarding the development of SEZ's has been engaging the attention of the State Government in the context of Government of India's guidelines for the establishment of SEZ's.

It has now been decided that the following policy will apply to proposed SEZ's at Kochi, Thiruvananthapuram, Kanjikode (Palakkad), Kozhikode and at any other SEZ in Kerala subject to the framework of SEZ's determined by Government of India from time time.

1. Implementing Agency

The Government shall endeavor to develop SEZ's on its own, or in the public, private or joint sector. KINFRA will be the nodal State Agency for implementation of SEZ's either independently or in association with the private sector partners. Extensive areas will be brought under these SEZ's, for which land acquisition will be initiated by KINFRA.

The Government shall consider permitting KSIDC/KINFRA in individual cases to convert the cost of land/built up modules as equity in the units in the SEZ's. These public private partnerships will be structured as Special Purpose Vehicles (SPVs) for the development of SEZ's as "SEZ Developer". These SEZ Developers will fund, develop, market and maintain the SEZ's. The infrastructure in an SEZ may be developed wholly by one SEZ Developer, or by a number of SEZ Developers.

The Government shall endeavour to extend to such SEZ Developers as notified by the Government of India all facilities to enable them to develop the SEZ's as world-class facilities in the shortest possible time.

2. Designated Authority

An exclusive Development Commissioner for each SEZ will look after all matters pertaining to the SEZ's in the state. The Development Commissioner shall fulfill a three-fold role:

1. Regulation : To provide clearances under various statutes and regulations of Government of India and State Government.
2. Facilitation : To facilitate clearances not granted within the SEZ and to advise Government on issues requiring policy amendments or clarifications.
3. Promotion : To undertake marketing of the SEZ's along with the SEZ Developer. The Government shall endeavour to delegate to the Development Commissioner or to a body headed by the Development Commissioner such powers as are necessary for expediting clearances for Developers and units in the SEZ.

3. Environment

Environmental clearances for the projects, from State and Central Governments will have to be obtained as per relevant statutes. NOCs, consents and other clearances required from the Kerala State Pollution Control Board for units and activities within the SEZ's would be granted by the empowered officer of the Board working under the administrative supervision and control of the Development Commissioner of the SEZ's. In the event Government of India delegates its power to give environmental clearances to the designated Development Commissioner or any other authority within the SEZ, the clearances may be sought accordingly.

4. Clearances

SEZ's will be notified as an Industrial area under the Kerala Industrial Single Window Clearance Board and Industrial Township Area development Act, 1999 and exempted from obtaining permits from Municipalities/Grama Panchayats/Town Planning Department/Development Authorizes for construction of buildings for starting an industrial undertaking.

Wherever the area of SEZ is large enough the State Government will declare the SEZ's as Industrial Township under the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act, 1999 to enable the SEZ's to function as self-governing autonomous municipal bodies.

A Single Window Clearance Board will be notified for each SEZ under the Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act, 1999 for providing fast-track clearances under that Act.

The Government shall continuously endeavour to provide a simplified business-working environment within the SEZ. All clearances outside the ambit of that Act will have pre-laid guidelines and time lines for processing approvals. A self-certification regime will be introduced for all industries in the SEZ. To extend possible, regulation and governance on the SEZ shall rest with the Development Commissioner. Physical inspections would be undertaken in accordance with a schedule prepared in consultation with Development Commissioner.

5. Water Supply

Government by themselves or through the SEZ shall ensure the provision of adequate water supply within the SEZ.

6. Power

The SEZ Developer will ensure supply of uninterrupted, good quality power to the SEZ's at competitive rates. To this end the SEZ Developer shall have freedom to arrange dedicated provision of power for the SEZ, including generation, transmission and distribution, and in fixing tariffs for the SEZ subject to the approval of the statutory authority in this regard. The SEZ Developer may establish a Captive Power Plant (CPP) to meet the requirements of all consumers within the SEZ. The SEZ Developer may procure power from NTPC or any other IPP which could be wheeled through the State grid at a charge to be mutually agreed upon. The SEZ Developer would be entitled to get the exclusive license for the retail distribution of power within the SEZ. The SEZ Developer will also be permitted to establish grid connectivity for distribution of power within the Zone, subject to his entering into a separate agreement with Kerala State Electricity Board (KSEB) on mutually acceptable terms. Power from the State Grid shall be supplied as per requirement for which no 'stand-by charge' will be realized: it will be charged on 'pay and use' basis. Surplus electricity generated in the SEZ shall be purchased by the KSEB on mutually acceptable terms.

Power generated within the SEZ's shall be exempted from payment of electricity duty for a period of 10 years from the date of commissioning.

7. State Taxes, Duties, Local Taxes and Levies

Developers of SEZ's and industrial units and other establishments within the SEZ's will be exempted from all State and local taxes and levies, including Sales Tax, Purchase Tax, Entry Tax etc. in respect of all transactions made between units/establishments within the SEZ's, and in respect of the supply of goods and services from the Domestic Tariff Area to units/establishments in the SEZ. If due to tax system constraints, it is not advisable to grant direct exemption to the transactions, the State taxes paid would be reimbursed.

Amendments shall be made in State level rules and legislations governing levy of Sales Tax, Turnover Tax, Purchase Tax, Entry Tax, VAT, State Level Cesses, Betterment Levies, etc. reflecting the position that the SEZ is foreign territory outside the Customs territory of India, and hence outside the State, for purposes of trade, tariffs, duties and taxes, so that sales from the DTA into the SEZ shall count as exports and sales from the SEZ's to the DTA shall count as imports. SEZ Developers and units in SEZ's shall be exempted from payment of Stamp Duty and Registration fees for transactions involving land or built-up area in the SEZ's.

8. Labour Regulations

The powers of the Labour Commissioner, Government of Kerala, shall be delegated to the designated Development commissioner or other authority in respect of the area within the SEZ. Steps will be taken for grant of permissions/licences required from the Chief Inspector of Factories and Boilers within the SEZ's themselves by stationing exclusive personal for the purpose. Except in emergent circumstances the prior permission of the Development Commissioner or other designated authority of SEZ would be required for the conduct of inspection industrial units and other establishments within the SEZ by state government agencies. Government also proposes to permit self-certification to the extent possible for SEZ Units and establishments in respect of various labour laws.

All Industrial units and other establishments in the SEZ will be declare as the "public utility service" under the provisions of Industrial Dispute Act.

The Government shall endeavor to bring in a special level dispensation to provide a more liberalized environment within the SEZ's. The SEZ will be exempted from the operation of the Contract Labour (Regulation and Abolition) Act, 1970 to provide units flexibility to take advantage of variations in demand in global markets, and to give confidence to managements to increase employment in such circumstances. Government also propose to take up with Government of India the need to legislate amendments to the Factories Act, 1948 to permit women to work in night shifts subject to suitable safeguards. The SEZ's will be brought within the purview of the Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002 (10 of 2002) so as to permit managements to induct state-of-the art practices in material handling. Subject to the Legislature approval and Government of India's assent, amendments are proposed in the Industrial Disputes Act, inter-alia, limiting the applicability of Chapter VB to industries employing 300 or more workmen.

Government proposes to institute a consolidated annual return format under various labour laws.

9. SSI & IT Registration

The power to grant provisional and permanent SSI registration and Letter of Intent and registration of Information Technology units, will be delegated to the Development Commissioner or other designated authority in respect of units in SEZ's.

10. Escort Services

Directorate of Industries and Commerce, Kerala State, Kerala State Industrial Development Corporation, Kerala Industrial Infrastructure Development Corporation, Resident Commissioner, Kerala House, New Delhi shall provide effective escort services to enterprenerus/promoters who are desirous or making investments in SEZ.

11. Law and Order

The State Government shall make appropriate and exclusive arrangements within SEZ's for the maintenance of law and order.

12. Committee for review and development of SEZ.

The state Government shall constitute a committee of Secretaries and other concerned officials, including the Development Commissioner and representatives of the SEZ Developers, under the Chairmanship of the Chief Secretary, to resolve various issues pertaining to the promotion, development and functioning of SEZ's in the State.