

स्पीड पोस्ट द्वारा  
BY SPEED POST

VALLARPADOM ICTT SEZ INSTRUCTION 1/2011

583-A-E

Office of the Development Commissioner  
Vallarpadom Special Economic Zone  
Administrative Office, Cochin Special Economic Zone  
Kakkanad, Kochi

4<sup>th</sup> February 2011

Sub: Operationalizing of activities for carrying out authorised operations  
by unit in Vallarpadom SEZ - reg

Vallarpadom Special Economic Zone, notified under section 4 of the Special Economic Zones Act, 2005 spread over the identified area for which the developer, Cochin Port Trust, had obtained approval of the Board of Approvals under section 3, is classified as a "Special Economic Zone (SEZ) set up in a port". A Special Economic Zone can be demarcated into processing and non-processing areas at the discretion of the Developer and is notified accordingly by the Development Commissioner. Developers request such demarcation when they propose to render services or lease out space to others for rendering services which are not exclusive to units issued with Letters of Approval approved under section 15(9) of the Act. Vallarpadom Special Economic Zone has not so been demarcated under section 6 of the Act. Under the Special Economic Zones Act, every Zone is deemed to be a port/airport/Inland Container Depot and hence a separate notification under the relevant provisions of the Customs Act, 1962 is not envisaged or required for receipt or disposal of import or export cargo. Such an enabling provision is a necessary consequence of excluding, in accordance with section 53 of the Act, every Special Economic Zone from the jurisdiction of the Customs Act, 1962 for all authorized operations.

2. As per section 12(3) of the Act, the Development Commissioner is the overall "in-charge" of the Zone and exercises administrative supervision and control over all employees (including officers deputed to the Special Economic Zone). Further, in accordance with section 47 of the Act, every person required to be present in the Zone shall be provided with an identity card by the Development Commissioner. The authority to issue identity cards, in the prescribed form and in accordance with the procedure laid down in Rule 70 of the Special Economic Zone Rules, 2006, has been delegated, in relation to Vallarpadom Special Economic Zone, to the Commandant, Central Industrial Security Force posted to Cochin Port Trust except where the Development Commissioner, by special order in writing, withholds such delegated power. The procedure for issue of cards has been prescribed in Instruction No.1/2006 dated 1<sup>st</sup> March 2006 issued by Development Commissioner, Cochin Special Economic Zone in the capacity of Zonal Development Commissioner for Kerala and Karnataka, Security consideration, as determined by the delegated authority in writing, shall not be overruled except by procedure laid down in law and the delegated authority shall not allow entry of any person proscribed by the Development Commissioner.

3. Such officials of government - both Central and State - whose presence is required for "trade-facilitation" shall be allowed entry against identity cards issued under Rule 70 or the casual daily passes issued at the request of the Developer of the

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Zone or any unit functioning therein. The entry of any other official shall be with the specific approval of the Development Commissioner on each occasion. Separate instructions shall be issued to facilitate entry of government officials whose regular presence is required and until the issuance of such instructions, casual passes shall be issued to them on request of unit/Developer or with the permission of Development Commissioner. Officials required to be present on regular basis shall be provided seating space of appropriate specification in the SEZ facility building designated for the purpose. These are not intended to serve as offices of the said organization. Since the area within the Special Economic Zone has been declared as a "boarding station" under section 10 of the Customs Act, 1962, with such stations not necessary to be restricted to customs ports notified under section 7 of the Customs Act, 1962, boarding officers posted by the Commissioner of Customs, Kochi for carrying out the functions assigned under the Customs Act, 1962 shall proceed directly from the gates to the designated vessel after complying with Rule 70 of the Special Economic Zone Rules, 2006. Boarding officers, as well as other statutory functionaries connected with vessel handling formalities, are required to register their exit with the security staff when leaving the Zone since their access to the Zone is for the limited purpose of thoroughfare to the vessel which is stationed outside the Zone.

4. Developers are permitted to carry out authorized operations in a Special Economic Zone for which they are entitled to exemptions from various indirect taxes as provided in the Special Economic Zones Act, 2005. These authorized operations are approved by the Board of Approvals and goods and services required for these authorized operations are permitted by the Approval Committee of the Special Economic Zone. Entrepreneurs can set up units only in the processing area and their authorized operations are the manufacture of goods, to be exported or cleared on payment of duty into the Domestic Tariff Area (DTA), or rendering of services as defined in section 2 of the Act. Since Vallarpadom Special Economic Zone is a port-based one, it can accommodate units that are in any sector of manufacture or rendering of services as approved by the Approval Committee. The Approval Committee of Vallarpadom Special Economic Zone has permitted M/s India Gateway Terminals (Pvt) Ltd (IGTPL) to set up a unit for rendering of services related to port operations.

5. Service units are such as render services that fulfill the following criteria:
- a) conform to the modes prescribed in the General Agreement on Trade in Services
  - b) are in the list enumerated in Rule 76 of the Special Economic Zone Rules, 2006 and
  - c) earn foreign exchange.

It is clarified that the said unit may also render an approved service that does not conform to the above prescription but such service would not be treated as a service for the purpose of the Special Economic Zones Act, 2005 and Special Economic Zones Rules, 2006. Any goods or service required for the establishment, maintenance and operation of the entity is eligible for the exemptions provided for in the Special Economic Zones Act. In exchange for such privileges, the unit is, in accordance with the objectives of the Special Economic Zones Act, required to create new export



markets and any increase in export markets, so created and quantified as foreign exchange earnings, shall be sufficient for accountal towards discharge of obligations.

6. The service which is the authorized operation of IGTPPL is intrinsically related to the handling of goods in containers; hence, the movement of goods through the Zone cannot be delinked from the approved authorized operation. The approved service, *inter alia*, involves unloading of incoming cargo from foreign flag vessels, storage of incoming and outgoing cargo and loading of outgoing cargo on foreign flag vessels. Further, such activities in the course of handling Indian flag vessels carrying cargo which has been booked by freight forwarding agencies based outside the country is also a constituent of the authorized operations. For the purpose of carrying out the authorized operations which is inextricably linked with handling of containers, the Specified Officer has, in accordance with Rule 11(11) of the Special Economic Zone Rules, 2006, designated the berths of the Zone as areas for loading and unloading of cargo. In addition to transshipment activities, import containers intended for clearance by Customs at Kochi, export containers cleared by Customs at Kochi, containers moving from and to Inland Container Depots as well as all coastal cargo carried in containers shall also be handled at Vallarpadom Special Economic Zone since the infrastructure facilities are not intended to be restricted. This is also in accordance with the Special Economic Zone being a port entitled to handle import cargo of any Domestic Tariff Area (DTA) entity; goods can be cleared for home consumption upon assessment in the jurisdictional Customs formation and presentation for release by the authorized officer of the Zone. Should such clearance be carried out in the Special Economic Zone, as permissible under Rule 11(11) of the Special Economic Zone Rules, 2006, necessary complement of officers shall be made available by the Commissioner of Customs in the SEZ facility so designated within the Zone. This is an option to be exercised by the unit if commercially feasible. It is clarified that all vessels are berthed outside the notified area of the Zone and hence not subject to the jurisdictional exclusions of the Special Economic Zones Act, 2005. The sterile area of the zone shall be the stacking area of containers and access to the sterile area shall be available to designated staff of the unit and to such others as the Development Commissioner may, on a request made in writing, may allow.

7. In the rendering of services as described in the paragraph above, recognition needs to be accorded to the peculiar characteristic of the cargo vessel being under the control of proper officers of Customs in exercise of jurisdiction under the Customs Act, 1962 as well as the containers while on board. Unlike cargo intended for landing in or loading from a customs station as defined in the Customs Act, 1962 the cargo on vessels berthed at Vallarpadom are intended for landing in and cargo stored at Vallarpadom are intended for loading from a Special Economic Zone which is outside the scope of control under the Customs Act, 1962 in carrying out authorized operations by the approved unit. The handling of goods in the course of authorized operations are to be carried out only under the Special Economic Zones Act, 2005 and Special Economic Zone Rules, 2006 which prescribe minimum documentation based on the physical control over the Zone by the officers appointed under the Special Economic Zone Act, 2005. The provisions of the Customs Act, 1962 require that cargo intended to be landed from a vessel under customs control at a customs station be preceded by certain permissions and documentation. Since the landing place of such cargo at Vallarpadom is outside the jurisdiction of the Customs Act, 1962, these provisions and requirements become inoperable giving rise to inconsistency between



the Customs Act, 1962 and Special Economic Zones Act, 2005 in the implementation of authorized operations by the approved unit. Further, the proper officer of Customs being one empowered by the Board or Commissioner of Customs cannot exercise a jurisdiction that is not available to the empowering authorities. Such a jurisdiction exists only in relation to unauthorized operations. The overriding effect of the provisions of the Special Economic Zones Act, 2005 in matters of inconsistency with any other law as per section 51 of the Act, renders sections 32, 33 and 54 of the Customs Act, 1962 inapplicable in relation to containers landed in Vallarpadom Special Economic Zone and section 34 and 36 inapplicable to landing and loading of containers since they relate to sanction of permission or documentation for containers in the course of carrying out authorized operations in a Special Economic Zone which are outside the Customs jurisdiction. It is, however, clarified that in so far as containers intended to be cleared at Kochi or any of the Inland Container Depots serviced from Kochi, the provisions of section 32 shall apply and in relation to such goods the provisions of section 45 of the Customs Act shall be applied to the unit operating within the Zone. For this purpose, a record shall be maintained for submission to the Commissioner of Customs and the unit shall be liable for any duty arising from section 45(3) while the said cargo is within the Zone as a deemed custodian.

8. The seals of all containers landed in the Special Economic Zone shall be verified by the unit and the report of all containers with seal numbers shall be filed as SEZ-1 with the Specified Officer of Vallarpadom Special Economic Zone. Unless specifically reported by the unit, it shall be presumed that the seals on all arriving containers are intact. In case any seal or container is found, on arrival, to be tampered with, such containers shall immediately be handed over to the Commissioner of Customs, Kochi by the unit, through the Specified Officer, for appropriate action. A record of such containers shall be indicated in SEZ-1. Details of all containers landed in Vallarpadom SEZ by sea for onward transmission to any customs or other transshipment port in the country and for transmission to any port outside the country shall be filed in Form SEZ-1A, through the unit, by the person-in-charge of the vessel or his agent. This form shall be the manifest of transshipment goods carried on board and a copy of SEZ-1A shall be furnished to Commissioner of Customs by the Specified Officer. All arriving containers shall be segregated for stacking in the sterile area of the Zone as (i) those for clearance at Kochi or transport to Inland Container Depot, (ii) those intended for transport to other ports in India, (iii) those intended to be transported to ports outside India and (iv) coastal containers.

9. The movement of all containers intended for clearance through Cochin Customs or Inland Container Depots serviced through Kochi shall be governed by such procedures as prescribed by Commissioner of Customs with verification of seals of such containers being carried out outside the sterile area by the officer designated by Commissioner of Customs for this purpose. Similarly, all containers intended for outward movement from the Zone against shipping bills filed in Cochin Custom House or arriving directly from Inland Container Depots shall be governed by such procedures as prescribed by the Commissioner of Customs for examination, seal verification and endorsement outside the sterile area under section 51 of the Customs Act, 1962. The unit shall make available space for such verification, examination and facilities for document generation within the Zone. The scale of examination for containers referred to in this paragraph to be carried out within the Zone shall be

determined by the Commissioner of Customs in consultation with the Development Commissioner and the unit and, in such determination, the capacity of the unit to provide the facilities shall be the primary criteria.

10. For the movement of landed containers as referred to in paragraph 9 by road, Form SEZ-2 shall be endorsed by the Authorized Officer of the Zone after being satisfied that the seal is intact. For movement of landed containers referred to in paragraph 9 by rail, Form SEZ -5 shall be endorsed by the Authorized Officer of the Zone after satisfying that the seal is intact. Containers referred to in paragraph 9 shall not be removed from the Zone except with the endorsements of the Authorized Officer.
11. Export containers with "Let Export" endorsement issued by officer of Cochin Customs shall, after seal verification on entry into the Special Economic Zone by the officer of Customs designated by the Commissioner of Customs, be moved to the sterile area. Form SEZ-4 shall be endorsed by the Authorized Officer upon satisfaction that the seals are intact before being loaded on a vessel. The unit shall be responsible for returning all documents received from the exporter, or his agent, including shipping bill, after due endorsements under section 51 of the Customs Act, 1962 to exporter or his agent. The same procedure shall be followed for containers received from Inland Container Depots by road. Export containers arriving by rail shall also be subject to the same procedure except that Authorized Officer shall endorse SEZ-7 after ensuring that the seal is intact.
12. Empty containers shall be moved out of the Zone after endorsement in Form SEZ-2 by the Authorized Officer. Such containers shall be subject to such checks at the exit gate as considered necessary by the Commandant, Central Industrial Security Force.
13. Other landed containers listed in SEZ-1A, as intended to be transported to other ports in India or abroad, shall be allowed to be loaded on vessels for movement to destinations against endorsement on Form SEZ-1B filed for each vessel and arranged in order of ports of call on the voyage. This form shall be a manifest of all transshipment cargo intended for clearance at customs stations other than Kochi or destined to ports outside the country. The Authorized Officer shall make endorsements on this form after being satisfied that seals on the container are intact before loading. A copy of Form SEZ - 1B shall be furnished to the Commissioner of Customs by the Specified Officer. Form SEZ-1A shall be reconciled by the authorized officer with corresponding Forms SEZ-1B within thirty days of filing of Form SEZ-1A and a copy of the reconciliation statement shall be submitted through the Specified Officer to the Commissioner of Customs, Kochi.
14. Details of export containers received from other customs stations by sea shall be filed in Form SEZ -1C and such containers shall be stacked with other export containers referred to in paragraph 9 in the sterile area after endorsement of the said Form by the Authorized Officer that the seals on the containers are intact. The outward movement of these containers to ports outside India shall be allowed after endorsement by Authorized Officer in Form SEZ -1 D filed for each vessel after being satisfied that seals are intact. Details in Form SEZ-1C shall be reconciled with Form SEZ-1D by the Authorized Officer within thirty days of filing of Form SEZ-1C and a

copy of such reconciliation shall be furnished to Commissioner of Customs, Kochi as well as the Commissioner of Customs having jurisdiction over the port where the containers were loaded for export.

15. Coastal goods received by sea and brought in for dispatch by sea shall be stacked separately and allowed to be loaded on a vessel only against an endorsement made in Form SEZ-4 by the Authorized Officer of the Zone. Coastal goods for removal from the Zone shall bear endorsement of Authorized Officer in Form SEZ-4. Detailed instructions for such handling shall be issued separately.

16. Baggage containers shall be removed from the Zone in accordance with the procedure prescribed by Commissioner of Customs. Ship stores and crew baggage shall be handled in accordance with the procedure prescribed by Commissioner of Customs except where the unit itself undertakes to supply ship stores in which case the procedure laid down in Special Economic Zone Rules, 2006 shall apply.

17. This procedure shall come into effect immediately. Arrangements may be made by the Developer and Unit to ensure wide publicity of these procedures to users and other agencies. Any difficulty in implementation of the above shall be brought to the notice of the undersigned.

1. M/s India Gateway Terminals (P) Ltd  
Vallarpadom Special Economic Zone  
Vallarpadom, Kochi
2. The Chairman, Cochin Port Trust  
Willingdon Island, Kochi
3. The Commissioner of Customs  
Customs House, Willingdon Island  
Kochi
4. The Commandant, Central Industrial Security Force  
Cochin Port Trust, Willingdon Island  
Kochi
5. The President  
Cochin Steamer Agents Association  
Willingdon Island  
Kochi
6. The President  
Cochin Custom House Agents Association  
Willingdon Island  
Kochi

  
(C. J. Mathew)  
Development Commissioner



*etc*



Form SEZ -2

VALLARPADAM SPECIAL ECONOMIC ZONE  
INDIA GATEWAY TERMINAL PVT. LTD.  
EQUIPMENT INTERCHANGE REPORT

DELIVER IMPORT CONTAINER

Tran No.

Date

Time

Container No.

ISO

Truck

Size

Status

Driver

BAT No.

Yrd Loc.

Serial No.

Vessel

Voyage

POL

Gross Weight

IMO

Line

Notes

Inspected by

Valid with Official IGTPPL approval

Authorised Officer  
Vallarpadam SEZ



Form SEZ -4

Name of the Liner :

CONTAINER DELIVERY TO OR RECEIPT FROM VALLARPADAM SEZ.

Vehicle	Driver	Haulier		
Agent	Line	Via		
Vessel			Import/Export/Domestic	
CONTAINER NO			ISO CODE	WEIGHT
DELIVERY ORDER NO	CMO		CHA	POD/POL
B/E NO/ S.B. NO.	SEAL NO.		CARGO TYPE	

AUTHORISED OFFICER  
VALLARPADAM SPECIAL ECONOMIC ZONE.









