A Critical and Comparative Analysis of the Legal Framework of Special Economic Zones (SEZs) of Pakistan with the Legal Framework of the Special Economic Zones in Malaysia and Thailand - Proposing a Sustainable Legislative Framework for Effective Solutions*

การวิเคราะห์ในเชิงวิจารณ์และเปรียบเทียบกรอบกฎหมายของเขตเศรษฐกิจพิเศษ (SEZs) ของปากีสถานกับกรอบกฎหมายของเขตเศรษฐกิจพิเศษในมาเลเซียและไทย - การนำเสนอกรอบกฎหมายที่ยั่งยืนเพื่อการแก้ปัญหาที่มีประสิทธิภาพ

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Abstract

The study aims to analyze the laws related to Special Economic Zones (SEZs) in Pakistan in order to identify and address gaps, as well as to suggest improvement to the system. It proposes amendments to the legal framework and

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policy reforms to achieve both dynamic and static gains from SEZs. The study offers recommendations inspired by the incentives provided by the successful SEZ programs in Malaysia and Thailand Around the world, the SEZs have been game changers in terms of economic boosts. However, despite its sufficient natural resources and significant geographical position, Pakistan still encounters challenges in establishing a lucrative SEZs design. It still requires reforms in the legal framework of SEZs in order to establish successful SEZs in Pakistan. In addition, one of the major issues with the laws of SEZs laws in Pakistan is their inconsistency with other existing laws. Pakistan enacted the SEZ Act 2012 and SEZs (Amendment 2016) Act to foster an environment conducive to investment. Nonetheless, the Act contains various legal gaps. By comparing the SEZ models of Malaysia and Thailand, which have prosperous SEZs, this study identifies crucial amendments required in Pakistan's legal framework to ensure efficient outcomes. The findings of this research paper contribute to a better understanding of the legal framework of SEZs in Pakistan and provide practical recommendations for legal and policy reforms by drawing comparisons with the SEZs of Thailand and Malaysia, which Pakistan can adopt to enhance its SEZ legal framework.

Keywords : Special Economic Zones, Small Medium Enterprises, Joint Ventures, Export Lead Industrialization, Developing Economies, Industrial Clusters

บทคัดย่อ

งานวิจัยนี้มีวัตถุประสงค์เพื่อวิเคราะห์กฎหมายที่เกี่ยวข้องกับเขตเศรษฐกิจพิเศษ (SEZs) ในปากีสถาน เพื่อขจัดช่องว่างและเสนอแนวทางการปรับปรุงระบบกฎหมาย โดยงานวิจัยนี้ได้เสนอการปรับปรุงกรอบกฎหมายและปฏิรูปนโยบายเพื่อบรรลุประสิทธิผลทั้งในเชิงพลวัตและในเชิงคงที่ รวมถึงชี้ให้เห็นถึงข้อเสนอแนะ ซึ่งสืบเนื่องมาจากเหตุจูงใจของมาเลเซียและไทยภายใต้ข้ออ้างในการดำเนินการของ SEZ ที่กำลังรุ่งเรือง โดยนานาประเทศทั่วโลกนั้น SEZ ถือเป็นสิ่งเปลี่ยนแปลงสำคัญในแง่ของการส่งเสริมเศรษฐกิจ อย่างไรก็ตาม แม้ปากีสถานจะมีทรัพยากรธรรมชาติเพียงพอและตั้งอยู่ในตำแหน่งที่มีความสำคัญทางภูมิศาสตร์อย่างมาก ปากีสถานก็ยังต้องเผชิญกับความ

ท้าทายในการออกแบบเขตเศรษฐกิจพิเศษ (SEZs) ที่จะสามารถสร้างกำไรได้มากพอ และยังคงต้องปฏิรูปกรอบกฎหมายเพื่อสร้างเขตเศรษฐกิจพิเศษให้ประสบผลสำเร็จ นอกจากนี้ หนึ่งในประเด็นสำคัญเกี่ยวกับข้อกฎหมาย SEZs ในปากีสถาน คือ ความไม่สอดคล้องกับกฎหมายฉบับอื่น ๆ ที่มีอยู่ ซึ่งปากีสถานได้ตรา SEZ Act 2012 และ SEZs Act (ฉบับแก้ไขเพิ่มเติมปี 2016) เพื่อพัฒนาและส่งเสริมการลงทุน อย่างไรก็ตาม พระราชบัญญัตินี้ยังมีช่องว่างทางกฎหมายหลายประการ โดยช่องว่างทางกฎหมายดังกล่าวและปัญหาการขาดกรอบนโยบายสามารถปรับปรุงผ่านการศึกษาเชิงเปรียบเทียบกับ SEZ ของเขตเศรษฐกิจพิเศษที่มีประสิทธิภาพในประเทศมาเลเซียและประเทศไทย ทั้งนี้ จากการเปรียบเทียบการออกแบบ SEZ และกรอบกฎหมายของปากีสถานกับรูปแบบ SEZ ของมาเลเซียและไทย สามารถระบุถึงแนวทางแก้ไขที่จำเป็นสำหรับกรอบกฎหมายของปากีสถานเพื่อบรรลุผลลัพธ์ที่มีประสิทธิภาพ โดยข้อค้นพบจากงานวิจัยชิ้นนี้จะช่วยทำให้เข้าใจกรอบกฎหมายของ SEZs ในปากีสถาน รวมถึงแนวทางในเชิงปฏิบัติสำหรับการปฏิรูปกฎหมายและนโยบายมากยิ่งขึ้น ด้วยการเปรียบเทียบกับ SEZs ของไทยและมาเลเซียในสิ่งที่ปากีสถานสามารถนำมาประยุกต์ใช้เพื่อปรับปรุงกรอบกฎหมาย SEZ ได้

คำสำคัญ : เขตเศรษฐกิจพิเศษ, วิสาหกิจขนาดกลางและขนาดย่อม, ความร่วมมือกัน, การส่งออก เป็นผู้นำทางอุตสาหกรรม, เศรษฐกิจกำลังพัฒนา, กลุ่มอุตสาหกรรม

1. Introduction

The growth of SEZs particularly in developing countries, is one of the major features of contemporary globalization. SEZs have emerged as a mechanism to promote exports and facilitate foreign exchange earnings, additional investments, technology transfers, and employment generation, thereby stimulating economic growth.

Pakistan is located at the crossroads between the Middle East, South Asia and Central Asia. Pakistan's strategic geographic location confers a number of economic advantages. The country has the potential to connect oil and gas-rich Middle East and Central Asia to China, the engine of global economic growth. Moreover, Pakistan is rich in natural resources. In terms of fossil fuels, aside from oil and gas, which fulfill a significant proportion of Pakistan's domestic demand, Pakistan is home to

one of the largest coal deposits in the world. Furthermore, Pakistan also has considerable deposits of copper, gold, marble, limestone, salt and various other minerals. In terms of agriculture, Pakistan is home to the world's largest irrigation system, and is the fifth-largest producer of cotton,[1] fifth-largest producer of sugar cane and milk, and tenth-largest producer of rice. However, Pakistan despite having sufficient natural resources and being positioned at great geographical significance still encounters challenges to accomplish a lucrative SEZs design and attract foreign direct investment in the country.[2] It still requires reforms in the legal framework of SEZs in order to establish prosperous SEZs in Pakistan.

To create a favorable investment climate, Pakistan enacted its first SEZ law in 2012 Special Economic Zones Act 2012. After three years of SEZ Act 2012, Pakistan and China, in 2015, established the China-Pakistan Economic Corridor (CPEC) with SEZs as its foundation, encouraging other Asian sub-regions to actively participate in regional economic growth. The CPEC, a flagship project of China's 'Belt and Road Initiative' (BRI), aims to geographically connect and link 152 countries, predominantly relying on Chinese investments to develop infrastructure. The corridor will connect Kashgar in China to Gwadar in Pakistan, encompassing investments in energy and infrastructure, including the development of nine SEZs.

However, Pakistan after enacting its first SEZ law in 2012 SEZ Act 2012 realized that the Act needs amendments in order to attract more foreign investment and have a prosperous SEZ design. The Board of Investment in 2016 proposed amendments to the SEZ Act 2012 and introduced the SEZs (Amendment) Act 2016. However, there are certain deficiencies within the SEZs laws that have the potential to result in significant economic setbacks. It is crucial for the government to address these deficiencies and implement necessary reforms to ensure the success and effectiveness of the SEZs in Pakistan's economic development endeavors.

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[1] Urooj Aijaz, Hassan Daud Butt, Sofia Bano, Anum Hayat, Muhammad Bilal Raees and Marium Mazhar, "Dynamics Of SEZs A Comparative Analysis Of Incentive Packages For Special Economic Zones Of Pakistan, Bangladesh & Vietnam", in **Journal of Positive School Psychology**, 6, 11 (2022), p.1247.

[2] Ibid., p. 1248.

It is evident that the existence of legal gaps and deficiencies poses the biggest barrier to achieving the desired outcomes of the SEZ design. These gaps hinder the effectiveness and efficiency of SEZs in attracting investments, promoting economic growth, and creating a favorable business environment. By amending the laws governing SEZs, Pakistan can effectively achieve its objectives and unlock the potential of these zones.

2. Research Methodology

The research will primarily be based on the examination of relevant legislation and SEZ various incentives provided by Malaysia and Thailand to gain FDI. This paper will be based on exploratory and explanatory approaches. The descriptive approach highlights the policy and legal framework of Malaysia and Thailand, the primary resource will be the legislation. The second resource will be books, articles, research papers, and online material. The critical analysis will highlight the best SEZs practices in Malaysia and Thailand. The paper will highlight the inconsistency in Pakistan legislation and demonstrate the existing legal and policy issues in Pakistan and offer recommendations to strengthen the SEZs in Pakistan.

3. Scope of the Research

This study will provide insights into the legal gaps within Pakistan's SEZ legislation by comparing it with the successful SEZ models of Malaysia and Thailand. By analysing legal framework, fiscal and regulatory incentives provided by Malaysia and Thailand, the study intends to offer recommendations for bridging the legal lacunae and developing a more effective SEZ legal framework in Pakistan. The findings of this research can contribute to legal reforms for promoting the success of SEZs in Pakistan's economy.

4. Contributions of the Research

The paper will provide a better understanding of the gaps and their drawbacks in the existing legislation of Pakistan. In addition, the paper will also propose legal reforms and recommendations in Pakistan SEZs in the light of strategies set by Malaysia and Thailand under the pretext of their flourishing SEZ design.

5. Literature Review

The Special Economic Zones in Pakistan can play an essential role in macroeconomic growth. Nevertheless, the Pakistan government has to amend its existing laws as well as existing policies, in order to achieve prosperous and effective outcome. Moreover, as said by Muhammad Mansoor Ali and Dr. Farida Faisal the government must realize the role of the private sector as well as public sector in order to enhance competition and receive progressive results. The most excellent approach to examine the operational reform and fiscal performance of the developing country is by comparing it with other developing country which has made progressive reform that lead towards the development and such approach shall also lead to a roadmap for augmenting economic relations.

Additionally, the lucrative Special Economic Zones (SEZs) can be accomplished with advantageous access to resources, sites/locations, excellent planning and framework. Sari Wahyuni, Esther Sri Astuti, and Karina Miaprajani Utari demonstrated this perspective in their paper whilst comparing SEZs position in Indonesia with its neighboring Asian countries: China, Thailand and Malaysia.

Le Roux, Nadea, and Anculien Schoeman are of the opinion different countries possess different approaches towards their own governance, ownership power and funding differ slightly in yet they own the successful SEZ: For instance, Indonesia has the Presidency as the supreme authority catering with private sector which is dealing with the funding of SEZ whereas, the SEZ in Malaysia are dealt by the governmental bodies. Yet, some countries despite being on the best locations, fail to make economic growth in this regard due to a lack of legal framework. Hence,

legal structure, practicality in the business, infrastructure and efficient policy must be effectively designed in order to generate lucrative SEZ design.

In Aggarwal's Opinion, few countries from zone operations made the dynamic and static gains, however, many fails to achieve the productive outcome, in such regard the experience of India (developing country) is the most suitable. In order to have progressive SEZs India has curtailed infrastructural deficiencies and procedural complexities which led toward promotion of SEZs and made progressive outcomes.

6. What are Special Economic Zones?

The growth of Special Economic Zones worldwide particularly in developing countries, is one of the major features of contemporary globalization.[3] However, the use of Special Economic Zones (SEZs) as a generic term is very recent, clearly coinciding with the publication of UNCTAD's World Investment Report 2019 (WIR 2019), which defines them as:[4]

The Special Economic Zones are

"The spatially delimited areas within an economy that function with administrative, regulatory, and often fiscal regimes those are different (typically more liberal) from those of the domestic economy."[5]

The basic concept of SEZs includes several specific characteristics: (a) it is a geographically delimited area, usually physically secured: (b) it has a single management or administration: (c) it offers benefits for investors physically within the zone: and (d) it has a separate customs area (duty free benefits) and streamlined procedures.[6] In addition, a SEZ normally operates under more liberal economic

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[3] UNCTAD, **World Investment Report 2019: Special Economic Zones: Chapter IV Special Economic Zones**, (New York: United Nations Conference on Trade and Development, 2019), p.133.

[4] Ibid.

[5] Ibid., p. 134.

[6] Thomas Farole, **Special Economic Zones in Africa: Comparing Performance and Learning from Global Experiences**, (Washington DC: World Bank, 2011), p.44.

laws than those typically prevailing in the country.[7] In general, the SEZs confer two main types of benefits, which in part explain their popularity: "static" economic benefits such as employment generation, export growth, government revenues, and foreign exchange earnings: and the more "dynamic" economic benefits such as skills upgrading, technology transfer and innovation, economic diversification, productivity enhancement of local firms.[8]

Before the World Investment Report 2019 was published, it was more common to use the term "free zones" and "export processing zones" for Special Economic Zones.[9] The reason for this "terminological anarchy" is threefold. First, a lack of knowledge about the terminology used by different countries. Second, the desire of many countries to stand out from the rest by proposing different terms that more accurately reflect local realities. Third, the aspiration to present these SEZs in a more modern way (for instance, to take advantage of the vogue for "technology parks"), and at the same time to veil the bad reputation of free zones during the 1970s and 1980s.[10] Indeed, the implementation of free zone programmes has often been accompanied by numerous abuses, particularly in terms of respect for labour rights (including the prohibition of unionization in free zones, laxer rules on working conditions, and absence of sanction against unfair dismissals).[11]

7. Legal Framework of Special Economic Zones in Pakistan

In order to boost the economy and to gain more FDI, Pakistan enacted its first Special Economic Zones law also known as Special Economic Zones Act in 2012. The major purpose of this SEZs Act is to gain more local and foreign investors

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[7] UNCTAD, **World Investment Report 2019: Special Economic Zones: Chapter IV Special Economic Zones**, p.133-134.

[8] Douglas Zhihua Zeng, "Special Economic Zones: Lessons from the Global Experience", in **PEDL Synthesis Paper Series**, 1 (2016), p.9.

[9] UNCTAD, **World Investment Report 2019: Special Economic Zones: Chapter IV Special Economic Zones**, p.134.

[10] François Bost, "Special Economic Zones: Methodological Issues and Definition", in **Transnational Corporations Journal**, 26, 2 (2019), p.142.

[11] Ibid.

for establishing infrastructure, creating employment opportunities, creating export orientation and import substitution. After enacting Special Economic Zones Act 2012, Pakistan realizes that this Act does not align with the real economic conditions of the country. In 2016, a major amendment in SEZ law was proposed in order to gain more foreign investment. These amendments were mainly based on regulatory and fiscal incentives especially relating to the exemption of income tax as well as the exemption on customs duty. Due to these amendments by the end of 2016, seven major SEZs got notified across Pakistan. The primary objective of this amendment in Special Economic Zones Act 2012 is to entice domestic and foreign investors. Besides, it also underlines SEZs development in public-private partnership mode to satisfy transparency, security, and more for the stakeholders which was lacking previously in the economic history of Pakistan. It encourages both private parties and federal or provincial governments to play their role in contributing to the economy of Pakistan at a huge level.[12]

According to Special Economic Zones Act, SEZ is defined as:

"A geographically defined and delimited area which has been notified and approved by Board of Approval (BOA)."[13]

Section 4 of this Act authorizes provincial and central governments to create SEZs by their own in coordination with private entities through the framework of public-private partnerships or allow the private sector to develop their exclusive SEZ where the Act supports these SEZs through incentive packages by providing fiscal and including other measures.[14] Board of Approval is supervised by Prime Minister of Pakistan. When it comes to literature, different terms are used inter-changeably to address similar economic zones and their usage. The SEZs Act 2012 of Pakistan defines these terms and helps in understanding their purposes as well. Some of the zones are mentioned under the Act including:[15]

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[12] Ibid.

[13] Special Economic Zones Act 2012

[14] Ibid.

[15] bid.

A. Export Processing Zone (EPZ): These are zones which come under the ambit of Export Processing Zone Authority Ordinance, 1980 (IV of 1980) made with purpose to boost export base.

B. Hybrid Export Processing Zone: These hybrid zones are made with the intention of gaining more export and to decrease dependance on imports, these kinds of these zones are considered to be diverse from custom territory of Pakistan and possess their own benefits.[16]

C. Extra-Territorial Zone (ETZ): the extra territorial zones consist of the customs territory outside the Pakistan. Resultantly, these zones have potential to gain investors.

D. Free Trade Zone (FTZ): The Free Trade Zone also needs to be considered outside the custom territory of Pakistan: however, in this zone specifically BOA shall approve special facilities for trade, and re-export and transshipment operations. Consequently, the trade shall be promoted with the assistance of legislation being applied as for the time being in Pakistan.

E. Regional Development Zone: these zones are specifically created with intention to gain economic activities for the purposes of regional development of industries.

F. Multilateral Economic Zone: under these zones of nationals, residents or corporate entities of one or more particular countries own the business. These zones are created with the intention of inviting different investors from different countries to boost the economy of the country.

G. Reconstruction Opportunity Zone: these specific zones provide certain exemptions to particular jurisdictions outside the territory of Pakistan in order to gain more and more foreign direct investment. The exemption provided under these categories of zones are most based on exemptions on tariff duties.

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[16] Ibid.

H. Sector Development Zone: as per the notification of BOA these zones are limited to one or more sectors with the purpose of sectorial development of the zones.[17]

7.1 Fiscal Incentives for SEZs

Under SEZ Act 2012, Investors were legally responsible for payment of heavy customs duties when these manufactured products goods were to be sold in the domestic markets[18] which was one of the major reasons why investors were reluctant to invest in the domestic market of Pakistan. Therefore, in order to deal with the flaw in the previous SEZs Act 2012, the SEZ (Amendment) Act 2016 was adopted and all those provisions imposing heavy custom duty under section 33 and section 15 were omitted. The major fiscal incentives provided under the 2016 Act include exemption from income tax for ten years for zone developers, and a one-time exemption from all customs duties and taxes, the relevant provisions are reproduced below:[19]

(i) Section 37 of the SEZ Act as amended by the SEZ (Amendment) Act 2016 provides exemption from income tax for ten years for Zone Developers, Co-Developers and Zone Enterprises, under clause (126E) of Part I of the 2nd Schedule to the Income Tax Ordinance, 2001 which is reproduced as below:

(ii) One-time exemption from all custom-duties and taxes on import of capital goods to Zone Developers, Co-Developers and Zone Enterprises, vide PCT 9917(2) under Chapter 99, sub-chapter V of the First Schedule to the Customs Act 1969.

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[17] Ahsan Abbas and Saira Ali, **Nine Proposed Priority SEZs under CPEC and SEZ Act: An Approach to Industrial Development**, Working Paper No.016 (Centre of Excellence, CPEC: Islamabad, 2017)

[18] State Bank of Pakistan, "Chapter 7 Special Economic Zones in Pakistan: Isles of Excellence or Labs for Policy Reforms?," p.167 [online] Available from : https://www.sbp.org.pk/reports/annual/arFY21/Chapter-07.pdf [9 July 2023]

[19] Urooj Aijaz, Hassan Daud Butt, Sofia Bano, Anum Hayat, Muhammad Bilal Raees and Marium Mazhar, "Dynamics Of SEZs A Comparative Analysis Of Incentive Packages For Special Economic Zones Of Pakistan, Bangladesh & Vietnam", in **Journal of Positive School Psychology**, p.1248.

7.2 Legal and Policy Issues with SEZs in Pakistan

Despite having a comprehensive legal framework for Special Economic Zones (SEZs), including the SEZ Act of 2012 and the Special Economic Zones (Amendment) Act, of 2016, Pakistan has faced difficulties in establishing successful SEZs. Several major issues contribute to these challenges.

7.2.1 Challenges of Inconsistent Legal Frameworks

A. Exemption from Income Tax for Ten Years for Zone Developers

The major fiscal incentives provided under the SEZ Act include exemption from income tax for ten years for Zone Developers. However, this exemption was limited only to tax on income. On the other hand, under the Income Tax Ordinance 2001,[20] there were other laws levying taxes on final or minimum income like final tax under Section 154 on exports at the rate of one percent and minimum tax under Section 113 at 1.5 percent on total local turnover in case of loss or exemption from normal tax.[21]

The tax burden of minimum tax at the rate of 1.5 percent on total turnover was more than normal corporate tax liability on income hence the exemption given to SEZs has become a farce and was no more an incentive. Upon realizing its fault, the Board of Investment made efforts to amend the situation, and a proposal was passed in the Finance Bill 2018. Unfortunately, the FBR did not agree to this proposal. Even after the Special Economic Zones amendment in 2016 (SEZs), companies were still burdened with heavy taxes. These companies, operating within the SEZs, had to bear substantial depreciation costs during their initial years of establishment. When turnover taxes were imposed in addition to these costs, it significantly diminished the value of their sales proceeds. As a result, the combination of depreciation costs and taxes had a detrimental effect on the profitability of these enterprises, potentially impeding their progress right from the beginning of their

[20] Ibid.

[21] Ibid., p. 1247-1269.

operations. This issue was eventually resolved with the Finance Act 2021, but it took Pakistan several years to address this legal matter. When investors encountered obstacles and experienced prolonged delays in resolving tax burdens and legal matters, their confidence in the SEZ framework was undermined, leading to negative repercussions for investment flow.

B. One-time Exemption from all Customs Duties and Taxes on import of capital goods to Zone Developers, Co-developers and Zone Enterprises, vide PCT 9917(2) under Chapter 99, sub-chapter V of the First Schedule to the Customs Act 1969.[22]

The SEZ Act 2012 allows one-time custom duty exemption on imports of plants and equipment, but Pakistan mostly imports these plants and equipment from China these types of machinery are already exempted due to the China-Pakistan Free Trade Agreement (CPFTA). Therefore, these exemptions are worthless, unless Pakistan removes its 17% of sales tax and withholding tax to minimize the cost of capital for the development of any manufacturing unit.

C. Income Tax Ordinance Clause 126E,[23] Entity Setup in Special Economic Zones

As income of SEZ entity (Zone Enterprise or Operator) is exempt from income tax for a period of 10 years, there should not be any withholding of Income tax at source at any stage for Zone Enterprises and under any provisions of ITO.[24] However, entities set up in SEZ are subject to income tax withholding under various Sections including 148 (Advance Tax on Imports), 153 (Advance Tax on Imports), 236K (Advance Tax on Purchase or Transfer of Immovable Property).[25]

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[22] See the Discussion in Part 3.3.2 of Chapter 3

[23] Clause 126E of Income Tax Ordinance

[24] Ibid.

[25] Pakistan Business Council (PBC), **Proposals for the Federal Budget 2023-24**, (Federal Board of Revenue (FBR), 2023), p.18.

The Pakistan Business Council (PBC) highlighted this issue and proposed that since income of a Zone Enterprise is exempt from income tax under clause 126E, it is proposed that the rate of income withholding under all provisions of the Income Tax Ordinance 2001 be reduced down to 0% in line with the zero rating as allowed for certain items under clause 5AC of Part II to the 2nd Schedule to the Income Tax Ordinance, 2001.[26] However, this proposal is not considered by the government.

D. Tax of 25% on Dividends from Exempt Entities Introduced via Finance Act 2019 (Division III of Part I of First Schedule)

Through Finance Act 2019, rates of dividend taxation have been increased from 15% to 25% on dividends paid by entities whose income is exempt under the Income Tax Ordinance. The higher rate of tax on dividend in such cases effectively withdraws the benefit of exemption or concession intended to be provided, if government intends to provide concession to SEZ entity than while providing corporate tax exemption at one end, higher tax incidence on its dividend reduces the benefit at other end. Exemptions are associated with some economic objective and higher dividend rate will discourage such economic objectives.[27]

7.2.2 Absence of Specific Conditions for Social and Economic Obligations in SEZs

In many countries, including those with Special Economic Zones (SEZs), providing incentives to attract investment is a common practice. However, there is a growing recognition that these incentives should be accompanied by conditions to ensure that the benefits are not solely limited to the investors but are also shared by the local economy and society at large. The absence of specific conditions accompanying the incentives provided under the SEZ Act in Pakistan have detrimental consequences for the overall efficacy and impact of these incentives. The lack of conditions undermines the potential for a balanced and mutually beneficial outcome, as the benefits may predominantly accrue to investors, neglecting

[26] Ibid.

[27] Ibid., p. 24.

the broader economic and social development objectives. This oversight diminishes opportunities for job creation, skill development, and technology transfer and knowledge transfer, hindering the host country's progress in these areas. Moreover, the absence of environmental conditions fails to address potential ecological risks associated with SEZs, thereby disregarding sustainable development goals. Additionally, the limited emphasis on linkages with the local economy restricts the spillover effects that SEZs can have on domestic industries, impeding inclusive growth and economic diversification.

A. Inadequate Reinvestment Conditions in SEZ Incentives

Many countries provide incentives with the reinvestment conditions. The incentives provided under SEZ amended Act needs to be amended with re-investment conditions. For example, the one-time exemption from customs duties and taxes on import of plant and machinery hinders expansion by the zone businesses. Correspondingly, exemption from all taxes on income for a certain number of years urges companies to take out dividends instead than reinvesting the profits. Therefore, the tax exemptions should be offered but subject to re-investment conditions.[28]

B. Lack of Effective Employment and Training Requirements in Pakistan's SEZs: Implications for Foreign Direct Investment

Pakistan's Special Economic Zones (SEZs) have been hindered by the absence of effective employment and training requirements for foreign firms, resulting in missed opportunities for attracting Foreign Direct Investment (FDI). Unlike Malaysia, which has successfully implemented such performance requirements, Pakistan's inability to develop of a skilled local workforce and knowledge transfer has adversely affected its FDI prospects.[29]

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[28] State Bank of Pakistan, "Chapter 7 Special Economic Zones in Pakistan: Isles of Excellence or Labs for Policy Reforms?," p.166 [online] Available from : https://www.sbp.org.pk/reports/annual/arFY21/Chapter-07.pdf [9 July 2023]

[29] David Collins, **Performance Requirements and Investment Incentives Under International Economic Law**, (Edward Elgar Publishing, 2015), p.9-12.

The absence of employment and training requirements in Pakistan's SEZs has resulted in a limited development of the local workforce, hindering the transfer of knowledge and technology to the host country. This has prevented Pakistan from fully harnessing the potential benefits of FDI. Without performance requirements, there has been a lack of skill development and limited job opportunities for indigenous workers, leading to slower economic growth and reduced competitiveness in attracting foreign investments.[30]

7.2.3 Inadequate Regulatory Facilitation

Special Economic Zones (SEZs) play a vital role in attracting investment, promoting economic growth, and facilitating industrial development in many countries, including Pakistan. However, the effectiveness of SEZs depends significantly on the regulatory facilitation provided to businesses operating within these zones. In Pakistan, there is a pressing concern regarding the inadequate regulatory facilitation in SEZs. Lengthy approval processes, inconsistent regulations, lack of support for compliance, and insufficient infrastructure development pose challenges for businesses and hinder the full potential of SEZs.

A. One Stop Shop

Among the key policies and interventions that make a Special Economic Zone 'special' from the rest of the industrial areas is a business friendly environment insulated from weak governance and overall difficulties of doing business that often mark developing countries. To that end, One Stop Shop (OSS), also known as one window operation, is a key intervention for zone enterprises. The OSS reduces delays and uncertainty around securing registrations, permits, licenses, and approvals as well as provision of public goods from multiple governmental agencies.

As per Section 29 of SEZ Act 2012, there are two layers of the OSS. The Board of Investment is stipulated to act as an OSS for liaison and facilitation between all federal ministries, authorities and agencies at one end and provincial

[30] Ibid., p. 7.

SEZ Authorities, developers and zone enterprises at the other. As for coordination of developers and zone enterprises with relevant departments, authorities and agencies at provincial and local government level, the provincial SEZ Authorities are to act as a liaison and facilitating agency.

However, in both cases the OSS does not exist in true sense in any of the SEZs in Pakistan. As far as plots inside the zone are concerned, it is the developer's responsibility to ensure the supply of gas, electricity, and other utilities to zone enterprises at the zero point of the plot as per section 17 of Special Economic Zones Act 2012, whereas the relevant provincial SEZ Authority is to ensure availability of public utilities to zero point of SEZ and serve as liaisons and facilitating agency as per section 27 of Special Economic Zones Act 2012.[31] At the same time, the SEZ Committee is to serve as the point of contact between the zone enterprise and utility providers as per section 23 of Special Economic Zones Act 2012:[32] facilitate between enterprises and government regulators and tax authorities: and assist zone enterprises in obtaining approvals and registrations.[33]

This overlapping mandate and institutional fragmentation over responsibilities has caused delays in the provision of public goods needed by the SEZs.[34]

B. Inadequate Digital Infrastructure for Regulatory Facilities

The absence of essential digital infrastructure systems, such as a Raw Material Tracking System (RMTS), E-Investment Platform, E-Tax System, and E-Monitoring System, in Pakistan's regulatory facilities for Special Economic Zones (SEZs) poses significant challenges for businesses and potential investors. Without an online RMTS, export companies face difficulties in receiving duty exemptions for raw materials, leading to inefficiencies and higher costs. The absence of an e-Investment platform results in inconsistencies and delays in processing investment proposals,

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[31] Section 17 of Special Economic Zones Act 2012

[32] Section 27 of Special Economic Zones Act 2012

[33] Section 23 of Special Economic Zones Act 2012

[34] Ibid.

creating uncertainty. Manual tax procedures without an e-Tax system introduce complexities and delays, while the lack of an e-Monitoring system hampers accountability and oversight. Implementing these digital infrastructure systems would streamline processes, reduce administrative burden, and enhance transparency, attracting more investment to SEZs and improving the overall investment climate.

8. Legal Framework and Policy Reforms for SEZs in Malaysia

Like most developing countries, Malaysia has used a system of incentives to attract investment. However, the structure has been continuously revised to meet evolving national development objectives. By linking the incentives and the provision of specialized infrastructure facilities to skills development and technology upgrading,[35] Malaysia was able to take advantage of global changes to improve its competitive position. The evolution of the Malaysian system of incentives reflects a shift from general investment promotion to a focus on high-tech sectors and industrial clusters.[36]

The **Pioneer Industries Ordinance (PIO)** was introduced in 1958 to provide incentives and tariff protection for the development of manufacturing industries. These firms enjoyed tariff protection and tax relief for two to five years, depending on the level of investment. By the late 1960s, the need to shelter import-substituting industries was overtaken by the need to export.

Toward this end, Malaysia passed the **Investment Incentive Act (IIA) in 1968** to encourage employment creation, dispersal of industries, and investment in capital intensive projects. The incentives provided under the IIA (Pioneer Status, Labor Utilization Relief, and Location Incentives) offered tax relief for 2–10 years and tax credits ranging from 25 percent to 40 percent of capital expenditure. These

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[35] Aradhna Aggarwal, **Special Economic Zones in the Indonesia–Malaysia–Thailand Growth Triangle: Opportunities for Collaboration**, (Asian Development Bank, 2022), p.35.

[36] Ibid.

incentives were focused on attracting more labor-intensive and export-oriented industries compared with the import-substituting industries attracted by the PIO. To enhance the role of the manufacturing sector in the economy, the government introduced several new policies and programs. The most notable was the **Free Trade Zone Act of 1971**, whose main objective was to attract export-oriented Multinational Corporations (MNCs) to invest in Malaysia. Industries operating inside the FTZs would enjoy better (and subsidized) infrastructure, expedited customs, and duty-free imports of raw materials, components, and machinery. This approach to promoting export manufacturing was very timely and was successful in attracting the first major wave of export-oriented electronics manufacturing, concentrated initially in components. Under the Free Trade Zones (named FTZs) Act, the companies had to export 80% of their production to avail themselves of the benefits. The first zone was built near Bayan Lepas airport of Penang in 1971 to revive entrepot trade, attract foreign investment in labor-intensive industries, and promote manufacturing exports. These zones benefited from large waves of foreign investors, particularly from the US, who relocated electric and electronics assembly and processing plants in Penang to avail the advantage of its large, educated pool of English-speaking cheap labor: attractive incentives: and political stability. As a result, the electronics industry grew fast during the 1970s and 1980s and became the main economic growth engine.[37]

In 1973, to supplement the FTZ program and promote the dispersal of industries to the less developed regions of the country, Malaysia introduced the **Licensed Manufacturing Warehouse Program**, which extended similar treatment to individual factories set up outside the FTZs.[38]

In 1985, the industrialization process became more cohesive with the implementation of an Industrial Master Plan (IMP), which identified three policy instruments

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[37] Ibid.

[38] Yeow Teck Chai and Ooi Chooi Im, "The Development of Free Industrial Zones–The Malaysian Experience", in **Cambridge Journal of Economics**, 25, 1 (2009), p.119.

for increasing technology capability: research manpower: institutional arrangements, such as industrial parks: and incentives for R&D (research and development). Twelve priority sector development plans comprised a comprehensive strategy to lift Malaysia's industrial base. To further boost the IMP, the **Promotion of Investment Act (PIA) of 1986**[39] was passed to replace the IIA. Under the PIA, the labor utilization relief incentive was abolished and the Pioneer[40] Status incentives were modified. Promoted industries and projects would enjoy tax relief for up to five years, regardless of the size of the capital investment. **Amendments to the Income Tax Act of 1967** provided tax incentives for training, R&D, and reinvestments. Other instruments—including the exemption of import duty on raw materials, tariff protection for selected industries, and financial and credit assistance—were used to promote industrial development. These incentives, along with other moves to create a more liberal investment environment, are recognized as the impetus behind the recovery of the Malaysian economy in the late 1980s and the rapid uptick in manufacturing investment.[41]

The **Free Zones Act 1990** was gazetted on 10th May 1990. The activities in free zones are governed by the Free Zones Regulations 1991. There are two types of the free zone, that is

i) Free Industrial Zone for companies carrying on manufacturing activities, and

ii) Free Commercial Zone for companies carrying on commercial activities : Commercial activities conducted in these zones include trading (except retail trading), breaking bulk, grading, repacking, re-labelling, transshipment, and transit.

All major ports and international airports in Malaysia are integrated with free zones, which have been instrumental in attracting foreign companies to establish

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[39] Aradhna Aggarwal, **Special Economic Zones in the Indonesia–Malaysia–Thailand Growth Triangle: Opportunities for Collaboration**, p.136.

[40] Ibid.

[41] Ibid.

regional distribution centers and turning Malaysia into a major distribution hub by hosting companies such as France's oil and gas giant Technip SA, Deutsche Post DHL, Vale SA (the world's biggest iron ore producer), and Schlumberger Ltd.[42]

8.1 Legal and Policy Sustainability Factors of Malaysian Special Economic Zones

Although Malaysia has an abundance of natural resources this is not only the primary reason for appealing to foreign investors. For the purposes of gaining more investment the Government of Malaysia has provided sustainable incentives which lead towards more attractive to foreign investors:

8.1.1 Sound Legal and Institutional Frameworks with Strong and Long-term, Well-Coordinated Government Commitment

A predictable and transparent legal and regulatory framework is needed to ensure the clarity of roles and responsibilities of various parties, and to provide protection and certainty to the developers and investors. Such a framework also helps to ensure that the zones attract the right investments, and are established with high business, social and environmental standards. A solid legal framework will also buffer zones from unpredictable risks, such as political setbacks or interference and land speculation, among other factors.[43] In Malaysia, the establishment and operation of free zones are supported by clear, sound legal, and institutional frameworks, demonstrating the government's strong and long-term commitment to these zones.

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[42] Justin Lai Woon Fatt, "Free Zone In Malaysia," [online] Available from : https://industrymalaysia.com/wp-content/uploads/2022/03/20211009-Free-Zone-in-Malaysia.pdf [9 July 2023]

[43] Sufian Jusoh and Muhammad Faliq Abd Razak, "Special Economic Zones in ASEAN: The Cases of Lao PDR, Malaysia, and Myanmar," in **Handbook of Research on Special Economic Zones as Regional Development Enablers**, eds. Paulo Guilherme Figueiredo, Francisco José Leandro, and Yichao Li (IGI Global, 2022), p.92.

This Act 1990 empowers the Minister of Finance to declare an area as a free zone, whether it is a free commercial zone or a free industrial zone under **Section 3 (1)** of the Free Zones Act (438/1990). Under the Free Zones Act 1990, the Minister of Finance has the authority to appoint a Free Zone Authority, which can be a statutory body constituted under federal or state law, or even a company. The Free Zone Authority is responsible for administering, maintaining, and operating the free zone. Its role includes providing necessary facilities for the proper functioning of the zone, permitting the construction of private buildings, controlling entry and residence within the zone, and ensuring the exclusion of certain goods that may pose risks to public interest, health, or safety. The Free Zone Authority is also accountable for submitting annual reports and accounts to the Minister of Finance, which contributes to transparency and accountability in the operation of free zones. These reports provide comprehensive information about the activities, operations, receipts, and expenditure related to the free zone under **Section 3 (2)** of the Free Zones Act. Additionally, the Free Zones Act 1990 outlines specific functions and responsibilities of the Authority, further enhancing the institutional framework supporting free zones in Malaysia. For example, the Authority is empowered to provide customs facilities within the free zone, allowing for streamlined customs procedures and minimizing customs control. The Act also grants the Authority the power to permit the erection of private buildings within the zone, ensuring the availability of suitable infrastructure for businesses operating in the free zone.[44]

Furthermore, under the Act establishes regulations for the movement of goods into and out of the free zone, clarifying that goods brought into the free zone from the Principal Customs Area are considered imports and subject to customs duties, excise duties, and sales tax under **Section 5** of the Free Zones Regulations (1991). On the other hand, goods manufactured in the free zone and brought into the Principal Customs Area are deemed exports and must be declared accordingly. These provisions and regulations within the Free Zones Act 1990, along

[44] Section 3 (2) of the Free Zones Act 1990

with the Free Zones Regulations 1991, demonstrate a robust legal framework that enables the smooth operation of free zones in Malaysia.[45] The government's commitment to fostering a favorable environment for foreign companies is evident in the integration of major ports and international airports with free zones, attracting global companies to establish regional distribution centers and turning Malaysia into a major distribution hub. This commitment, coupled with a well-coordinated approach and the involvement of relevant government departments and bodies, ensures the effectiveness and success of the free zone model in Malaysia. Under **Section 13 (4)** of the Free Zones Regulations, it is clearly stated for the funding of Special Economic Zones Free Zones Authority must submit a budget to the Minister of Finance for approval.[46] The development and infrastructure within SEZs are funded by the various state government corporations.

Malaysia has a well-established legal framework for SEZs with consistent laws and policies. The existing laws were in place when the SEZ programs were launched, providing clarity and certainty to developers and investors. The legal provisions are presented with clear wording, ensuring transparency and predictability.[47]

8.1.2 Conditions for Social and Economic Obligations in SEZs

In Malaysia, Special Economic Zones (SEZs) are subject to specific conditions and requirements in terms of social and economic obligations. These obligations are imposed to ensure that SEZs operate in a manner that benefits the country's overall development. By adhering to these obligations, SEZs in Malaysia aim to strike a balance between economic growth and social welfare, creating a conducive environment for sustainable and inclusive development.

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[45] Ibid.

[46] Section 13 (4) of the Free Zones Act 1990

[47] Sufian Jusoh and Muhammad Faliq Abd Razak, "Special Economic Zones in ASEAN: The Cases of Lao PDR, Malaysia, and Myanmar," in **Handbook of Research on Special Economic Zones as Regional Development Enablers**, p.92-108.

A. Ownership-Based Controls on Foreign Investment and Indigenous Ownership

Ownership-based controls on foreign investment play a significant role in shaping the investment landscape of host countries. These controls, which encourage indigenous ownership and may require joint ventures, aim to foster the emergence of a local "entrepreneurial class" while ensuring that foreign investors contribute to the economic advancement of historically disadvantaged groups. In Malaysia, for example, there is a prescribed structure of shareholdings, where preference is given to indigenous Bumiputera people of Malaysia.[48] The purpose of these controls is not only to drive economic growth but also to address social inequalities. By providing incentives for indigenous ownership, Malaysia seeks to prevent a scenario where the benefits of Foreign Direct Investment (FDI) are enjoyed solely by elite groups within the country, which could lead to increased inequality and social tensions.[49] Through the prescribed structure of shareholdings, Malaysia promotes the participation of Bumiputera individuals and businesses in various sectors of the economy, including those attracting FDI. This policy ensures that a portion of the economic benefits generated by FDI is channeled towards the advancement of the Bumiputera community, contributing to a more inclusive and equitable society.[50]

B. Incentive Condition Imposed on Free Industrial Zone

Free Industrial Zone (FIZ) to qualify for operation in a FIZ, a company has to export at least 80% of its output and its raw materials/components are mainly imported. If a company in FIZ has obtained approval from the Ministry of International Trade and Industry (MITI) to reduce its export condition to 60%, it can also apply to the Customs for the permission to export 60% of its output instead of 80%.[51]

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[48] Ibid.

[49] David Collins, **Performance Requirements and Investment Incentives Under International Economic Law**, p.26-27.

[50] Ibid.

[51] Yeow Teck Chai and Ooi Chooi Im, "The Development of Free Industrial Zones–The Malaysian Experience", in **Cambridge Journal of Economics**, p.119.

C. Conditions Based Incentives

• Incentives offered in Malaysia to investors and entities operating within the SEZs include: Pioneer status partial exemption of 70% on the payment of income tax for five years. Companies may also qualify for pioneer plus status and receive a 100% exemption on the payment of income tax for five or 10 years.

• Investment tax allowance to deduct an allowance of 60% of its investment acquired against 70% of the company's income for each year of assessment. Companies may also qualify for an investment tax allowance of up to 100% of its investment acquired to be deducted against 100% of the company's income.

• Reinvestment allowance of 60% of capital expenditure may be deducted from 70% of the company's income.

• Free of customs duty, excise duty, sales and service tax (Section 4 of the Free Zones Act 1990).[52]

8.1.3 Adequate Regulatory Facilitation

Malaysia offers adequate regulatory facilitation to businesses, providing favorable conditions for companies to operate and thrive. Here are some key aspects of regulatory facilitation in Malaysia:

A. Transforming Investment Facilitation

Among the major initiatives that have been implemented include:

• **Project Acceleration and Coordination Unit (PACU):** MIDA in 2020 introduced the Project Acceleration and Coordination Unit (PACU) to expedite and facilitate the implementation of approved projects.

• **E-TRANS: MIDA, Through Its e-TRANS system**, has launched and enhanced several online modules — namely faster approval for applications

[52] Nadea le Roux and Anculien Schoeman, "A Comparative Analysis Of The Design Of Special Economic Zones: The Case Of South Africa, Malaysia And Indonesia", in **Journal of Economic and Financial Sciences**, 9, 3 (2016), p.759.

for e-manufacturing licenses, e-incentives, and import duty and/or sales tax exemptions — to expedite the execution of projects.[53]

B. One Stop Shop

Malaysia does not have a distinct concept of a one-stop shop for industrial areas. MIDA provides comprehensive information on investment opportunities in the country and facilitates investors by working in conjunction with state investment boards that act as the one-stop agencies at the state level.[54] The zone management authorities provide additional assistance to investors.

C. Infrastructure

Malaysia's SEZs benefit from well-developed infrastructure and efficient administrative agencies that cater to the needs of investors. Industrial areas are normally developed as traditional industrial zones with on-site industrial and supporting infrastructure. There are also instances of township development within economic zones, such as Kulim Hi-Tech Park (KHTP), which is equipped with urban infrastructure. The upcoming SBEZ will also have urban infrastructure such as factories: a shopping complex: housing: hotels: recreation parks: and a new Immigration, Customs, Quarantine and Security (ICQS) facility. However, there are no statutory requirements for infrastructure development in the zones.[55]

9. Legal Framework of Special Economic Zones in Thailand

Thailand's Special Economic Zones (SEZs) have undergone significant legislative development over the years, driven by the government's commitment to attracting investment, fostering economic growth, and promoting industrial development. Thailand's industrial estates and SEZs are under the responsibility

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[53] Malaysian Investment Development Authority (MIDA), "MIDA eyes quality investments," [online] Available from : https://www.mida.gov.my/mida-news/mida-eyes-quality-investments/ [11 July 2023]

[54] Aradhna Aggarwal, **Special Economic Zones in the Indonesia–Malaysia–Thailand Growth Triangle: Opportunities for Collaboration**, p.138.

[55] Ibid.

of Thailand's Board of Investment (BOI) and the Industrial Estate Authority of Thailand (IEAT). Thailand's industrial estates and SEZs are under the responsibility of Thailand's Board of Investment (BOI) and the Industrial Estate Authority of Thailand (IEAT). Here is a detailed and elaborated overview of the historical development of SEZ laws in Thailand:

The Board of Investment (BOI) was established by Investment Promotion Act B.E. 2520 (1977), which is responsible for promoting and facilitating investment in the country. The BOI offers various incentives and privileges to companies investing in designated industries or regions, including SEZs.

Industrial Estates

The ***IEAT Act***, enacted in 1979, focuses on the development of industrial estates in Thailand. It was established to attract both foreign and domestic investment, promote industrialization, and enhance economic growth. The act establishes general industrial zones and free zones. General industrial zones are designated for industry-related activities, while free zones offer exemptions from import and export duties, excise, and value-added tax. Since 1979, the IEAT has been instrumental in developing Thailand's industrial estates. There are two types of industrial estates: (i) those with general and free zones, and (ii) those with general zones only. A general industrial zone is defined as "a tract of land designated for the carrying out of industry, service or any undertaking which is beneficial to, or connected with, industry or service," while free zones are "tracts of land designated for the carrying out of industry, commerce or any undertaking in connection with industry or commerce for economic benefit, security of State, public welfare, environmental management or other necessary reasons as determined by the Board" **(IEAT Act 1979, Section 4)**.[56] Free zones are entitled to exemptions from import and export duties, excise, and value-added tax. The industrial estates with free zones also offer separate

[56] Panapak Panudechagrich and Kanon Trichan, "The guidelines for management on factors that affect The security management model of Special Economic Zone, Sadao district, Songkhla province", in **Veridian E-Journal, Silpakorn University (Humanities, Social Sciences and arts)**, 11, 4 (2018), p.907.

custom areas.[57] However, irrespective of their constitution, all industrial estates enjoy the special legal regime to target large foreign and domestic investment and provide a range of industrial infrastructure and, in some cases, social infrastructure. Industrial estates are developed by the IEAT solely or in partnership with one or more private developers who may provide maintenance services and/or build public utilities and infrastructure for business operations. All these sites must be situated on a minimum of 81 hectares, with 60%–70% of the total area set aside for factory usage. **Section 4** of the Act provides definitions for general industrial zones and free zones, clarifying their purposes and benefits.[58] **Section 40** of the Act grants the IEAT the authority to establish, manage, and regulate industrial estates. **Section 44** of the Act outlines the powers and responsibilities of the IEAT in promoting investment and developing industrial estates. The major incentives provided by IEAT are as follows:

- Tax and non-tax privileges to industrial operators:
- Right to own land:
- Visa and work permit facilitation for foreign skilled workers (and their spouses and dependents):
- Right to send money abroad:
- Right to receive additional privileges from the BOI.

Special Economic Zones (Special Border Economic Zones)

To provide a comprehensive legal framework for SEZs, Thailand introduced the SEZs Regulations of the Office of the Prime Minister on Special Economic Zones Development, B.E. 2556 (2013) and Regulations of the Office of the Prime Minister on Administration on Special Economic Zones Development B.E. 2558 (2015). These

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[57] Aradhna Aggarwal, **Special Economic Zones in the Indonesia–Malaysia–Thailand Growth Triangle: Opportunities for Collaboration**, p.37.

[58] Sufian Jusoh and Muhammad Faliq Abd Razak, "Special Economic Zones in ASEAN: The Cases of Lao PDR, Malaysia, and Myanmar," in **Handbook of Research on Special Economic Zones as Regional Development Enablers**, p.92-95.

regulations are replaced by regulation 2564 (2021).[59] Due to the unavailability of the Special Economic Zone Act and its regulations in English, this paper will primarily focus on the Eastern Economic Corridor (EEC) Act. However, comprehensive information regarding Special Economic Zones (SEZs) will be sourced from official websites and official reports. This approach ensures that the paper adheres to academic standards by relying on credible and authoritative sources for gathering information on SEZs within the EEC framework.

Eastern Special Development Zone: Recognizing the importance of a strategic economic zone, Thailand introduced the ***Eastern Economic Corridor (EEC) Act*** in 2018. The EEC Act established the Eastern Economic Corridor (EEC) as a flagship SEZ project. The EEC, covering three provinces—Chonburi, Rayong, and Chachoengsao—aims to transform the region into a leading economic zone focused on advanced technology, innovation, and high-value industries. The EEC Act provides extensive incentives, such as tax breaks, streamlined regulations, and investment support, to attract both domestic and foreign investment. It also establishes the Office of the Eastern Economic Corridor (EECO) to oversee the development and management of the EEC SEZ.[60]

9.1 Legal and Policy Sustainability Factors of Thailand Special Economic Zones

The Special Economic Zones (SEZs) in Thailand have sustainable features that promote economic growth. Incentives and privileges have been specially granted to businesses that are supported by the Government, making it easier for investors to conduct their business transactions at the One Stop Service Centre (OSS), offering tax incentives, allowing the employment of foreign labour and allocating areas for rent.[61]

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[59] Aradhna Aggarwal, **Special Economic Zones in the Indonesia–Malaysia–Thailand Growth Triangle: Opportunities for Collaboration**, p.37.

[60] Ibid.

[61] Ibid.

9.1.1 Consistent Laws and Effective Governance: Centralization of Authority in Thailand's Eastern Economic Corridor (EEC)

Thailand's Eastern Economic Corridor (EEC) is a special economic promotion zone aimed at facilitating investment and promoting economic development in the country. The EEC law, specifically Section 43, grants extensive authority to the Secretary-General, appointed by the Policy Commission, to streamline the investment process within the EEC. This analysis explores the implications of centralizing authority under one body and examines the establishment of the Office of the Eastern Special Development Zone Policy Commission. Section 43 of the EEC Act empowers the Secretary-General to grant approvals, licenses, permits, and consents, as well as handle registrations and notifications. This provision eliminates the need for investors to approach various authorities for different permits related to activities within the EEC.[62] The intention is to expedite investment processes and enhance regulatory efficiency.

9.1.2 Adequate Regulatory Facilitation

Thailand has implemented comprehensive incentive programs and initiatives to attract foreign investment in its Special Economic Zones (SEZs).

A. E-Monitoring

Online clearances have already been launched through *eMT online, for machinery import duty* exemptions which extends to customs to secure clearances. The BOI portion of the e-Expert system for work permits and visas is also already online. This will be further improved through an '*e-Expert single-entry system'* which will incorporate two other agencies, the Immigration and Labor Departments. The integration process, providing improved convenience to experts by greatly streamlining the application process. The *Raw Material Tracking System (RMTS)* is online for export companies to receive duty exemptions for raw materials to make export items. *e-Investment*, which covers the submission of applications, with all

[62] Section 43 of the Eastern Economic Corridor (EEC) Act

applications required to go through the e-Investment system. *e-Tax,* for which forms must be sent to BOI prior to submission to the Revenue Department to enjoy tax holidays, includes both the company and auditor portions. The final platform that is already up and running is *e-Monitoring*, where projects must provide reporting on an annual basis in regards to itemizations such as land or construction purchases.[63]

B. One Stop Shop

Thailand has established bodies such as under EEC law, specifically Section 43, grants extensive authority to the Secretary-General, appointed by the Policy Commission, to streamline the investment process within the EEC. In addition, the Industrial Estate Authority of Thailand (IEAT), the IEAT operates an Operation Center that monitors industrial estates and factories, ensuring efficient management of environmental and safety issues. Thailand provides one-stop shop facilities in all types of SEZs through their respective regulatory bodies. The IEAT offers a single window for visas and work permits as well. Other facilities include the following:

- **IEAT Operation Center.** The headquarters monitors industrial estates and the factories inside them to efficiently manage environmental and safety issues and integrate all information. It also provides a centralized command in case of emergency and disaster.

- **e-Paperless and e-Permission.** Tax privilege application service is provided through the e-Paperless system streamlining the customs clearance procedures for imported and exported goods. An on-site training program is organized for business operators to use this service.

C. Infrastructure

Industrial estates in Thailand provide the infrastructure necessary for all industrial operations as wide-ranging as electricity, water supply, flood protection,

[63] Thailand Board of Investment, “Foreign Investors Upbeat on Investing In Thailand,” [online] Available from : https://www.boi.go.th/upload/content/TIR_OCT16_44972.pdf [9 July 2023]

wastewater treatment plant (size approved by the IEAT), solid waste disposal, communication facilities, and security systems. They also have commercial banks and post offices to facilitate business operations further. Most estates have customs offices, schools, hospitals, shopping centers, and other social infrastructure. To provide the necessary infrastructure, all industrial estates must set aside 30%–40% of the area for infrastructure development. Industrial estates larger than 161 hectares can allocate up to 25% of land area for infrastructure.

10. Comparative Analysis of Main Features of SEZs in Pakistan, Malaysia, and Thailand

The SEZs are not just about tax benefits: they also address some binding institutional constraints in the wider economy. Further, the economic zones are evolving not only in terms of their structural features such as size, design, location, and economic composition but also in legal and institutional frameworks.[64] Along with the provisions of fiscal incentives, the range of facilities, services, and amenities available within zones has also been extended in new ambitious zone programs, particularly in Malaysia and Thailand. The preferential regulatory contents have been enriched and enlarged as well. Apparently, the SEZs, which have always been the centerpiece of industrial policy of the Malaysia and Thailand, have grown in importance with an aggressive drive launched by these countries to build a new variety of zones in recent years and achieve various goals by leveraging their full potential.

10.1 Consistent Laws and Policies

Malaysia and Thailand serve as models for Special Economic Zones (SEZs) with well-established legal frameworks, clear and consistent laws, and streamlined processes. These countries have avoided the legal challenges faced by Pakistan, such as inconsistencies and delays in resolving issues. Malaysia's proactive approach

[64] Aradhna Aggarwal, **Special Economic Zones in the Indonesia–Malaysia–Thailand Growth Triangle: Opportunities for Collaboration**, p.89.

ensures clarity and predictability for developers and investors, while Thailand's centralization of authority expedites investment processes. Pakistan can learn from these examples to address legal inconsistencies and improve its SEZ framework, creating a more favorable environment for investments.

10.2 Absence of Mandatory Conditions in Pakistan's SEZs: Implications and Comparative Insights

In Malaysia and Thailand, SEZs impose conditions on investors to achieve desired outcomes such as job creation, technology transfer, local content development, and export promotion. Malaysia mandates job creation targets and technology transfer to enhance the local workforce and foster innovation. Export obligations stimulate trade, while compliance with environmental standards promotes sustainability. In Thailand, the focus is on technology transfer, local content requirements, skill development, and training to enhance capabilities, stimulate domestic industries, and build a skilled workforce. These conditions ensure SEZs contribute to economic growth and social development in both countries.

10.3 Regulatory Facilitation

Malaysia's regulatory facilitation measures, including the Project Acceleration and Coordination Unit (PACU) and the e-TRANS system, contribute to a positive business environment and attract investment. The country's efficient transport networks, liberalized foreign exchange controls, streamlined import/export procedures, and cost-effective measures further enhance its attractiveness. Thailand's digitalization efforts, one-stop shop facilities, robust infrastructure development, and comprehensive support services create a favorable investment climate. In contrast, Pakistan faces challenges due to its fragmented approach, inadequate digital and physical infrastructure, and lack of clear regulations. To improve, Pakistan needs to streamline processes, establish clear regulations, invest in digital infrastructure, and develop comprehensive physical infrastructure in its SEZs.

Conclusion and Recommendation

In conclusion, this paper emphasizes the importance of comprehensive legal frameworks, harmonization with international trade agreements, attractive investment incentives, and effective facilitation for the success of SEZs. The experiences of Malaysia and Thailand serve as valuable lessons for countries like Pakistan, highlighting the need for proactive measures to address challenges and create a favorable investment climate. By implementing appropriate policies and incentives, Pakistan can unlock the full potential of its SEZs and attract the desired levels of FDI, contributing to sustained economic growth and development.

Recommendations

Based on the analysis and conclusions drawn from the study, the following recommendations are proposed to enhance the legal framework and effectiveness of Special Economic Zones (SEZs) in Pakistan.

Legal Cohesion for Foreign Investment: Harmonizing Conflicting Laws to Drive Economic Growth :

i. The issue of inconsistent legal provision under SEZ law of Pakistan needs to be addressed in order to attract more investment. One recommendation is to harmonize the conflicting provisions. By studying the practices of countries like Malaysia and Thailand, it is evident that in cases of conflicting provisions exist, the governments take prompt action to harmonize the laws in order to resolve such conflicts. By striving to harmonize conflicting legal provisions, the governments ensure consistency and coherence within the legal framework governing Special Economic Zones (SEZs) in Malaysia and Thailand. This will promote clarity and certainty for investors and stakeholders, contributing to a more conducive environment for SEZ development and operation. In addition, streamlining the taxation framework is crucial to make it more attractive for foreign investors. Taking inspiration from successful approaches in Malaysia and Thailand, the government can simplify

tax procedures, reduce tax rates, and provide additional incentives specifically designed for foreign investors. A transparent and favorable tax regime will significantly contribute to attracting foreign investment.

ii. Since income of a zone enterprise is exempt from income tax under clause 126E, it is proposed that the rate of income withholding under all provisions of the Income Tax Ordinance 2001 be reduced down to 0% in line with the zero-rating as allowed for certain items under clause 5AC of Part II to the 2nd Schedule to the Income Tax Ordinance, 2001.

iii. Tax of 25% on dividends from exempt entities introduced via Finance Act 2019 (Division III of Part I of First Schedule): Clause (a) of Division III of Part I of First Schedule as applicable before Finance Act 2019, should be reinstated, to apply the rate of 15% on dividend received from exempt entities. Similarly, amendment be made for the withholding tax rates specified in clause (a) of Division I of Part III of the First Schedule, by reinstating the position prior to Finance Act 2019.

iV. Removal of redundant custom duty exemptions and reduction of sales tax and withholding tax for SEZs imports: SEZ Act 2012 allows one-time custom duty exemption on imports of plants and equipment but as we mostly import these plants and equipment from China these machineries are already exempted due to CPFTA so, these exemptions are meaning less until the removal of 17% of sales tax and withholding tax to minimize the cost of capital while the development of any manufacturing unit.

Imposing Conditions on SEZ Incentives for Socio-Economic Development in Pakistan

To enhance the effectiveness of Special Economic Zones (SEZs) in Pakistan, it is recommended to impose certain conditions on incentives provided to investors, drawing inspiration from successful models in Malaysia and Thailand. These conditions should focus on job creation, technology transfer, export obligations, and

environmental sustainability. By mandating SEZ investors to meet specific job creation targets and invest in skill development programs, Pakistan can promote employment opportunities and enhance the capabilities of the local workforce.

Emphasizing technology transfer and innovation within SEZs would further contribute to economic growth. By encouraging SEZ investors to share their technological expertise and knowledge with local industries through collaborations and research and development activities, Pakistan can foster innovation and drive economic progress. Additionally, imposing export obligations on SEZ investors would stimulate trade, expand export markets, and boost international trade activities, while implementing local content requirements would promote the growth of domestic industries and create business opportunities for local enterprises.

In line with global environmental efforts, Pakistan should prioritize compliance with environmental standards within SEZs. By expecting investors to adhere to environmental regulations and adopt sustainable practices, the ecological impact of SEZ operations can be minimized. To incentivize compliance with these conditions, Pakistan should consider offering reinvestment incentives, such as additional tax exemptions or deductions, encouraging ongoing investment and commitment to the country's socio-economic goals. These measures will ensure that SEZs in Pakistan serve as catalysts for economic growth, technology transfer, job creation, and environmental sustainability.

Enhancing Regulatory Facilities in Pakistan's SEZs: Learning from Thailand and Malaysia

1. Establish a Comprehensive One-Stop Shop (OSS) Approach : Pakistan should establish a centralized and streamlined OSS facility within its SEZs. This approach would consolidate the responsibilities of different agencies and departments, providing a single point of contact for investors. By implementing an OSS, Pakistan can streamline processes, reduce bureaucratic hurdles, and ensure consistent and efficient service provision to businesses.

2. Develop Clear Legislation for Equity Crowdfunding : Pakistan should recognize the potential of equity crowdfunding as a funding mechanism for businesses within SEZs. By implementing specific legislation and regulations, similar to Malaysia, Pakistan can encourage investor participation and unlock new avenues for foreign and domestic investment. Clear frameworks for equity crowdfunding would promote entrepreneurial activities and foster a vibrant investment ecosystem.

3. Invest in Digital Infrastructure : Pakistan should prioritize the development of essential online systems, such as a Raw Material Tracking System, e-Investment platform, e-Tax system, and e-Monitoring system. These digital platforms would streamline processes, reduce paperwork, and enhance transparency and efficiency. By investing in digital infrastructure, Pakistan can provide seamless and user-friendly services to businesses, attracting investors seeking efficient and transparent operations.

4. Focus on Physical Infrastructure Development : Pakistan should prioritize the development of comprehensive physical infrastructure within SEZs. This includes ensuring reliable access to electricity, water supply, transportation networks, and social infrastructure. Well-developed physical infrastructure creates an attractive environment for businesses, enhances operational efficiency, and supports their growth prospects.

5. Enhance Collaboration with Educational Institutions: Following the example of Malaysia and Thailand, Pakistan should foster collaboration between SEZ investors and educational institutions. Encouraging partnerships for skill development, research and development, and knowledge transfer would enhance the capabilities of the local workforce, promote innovation, and support the growth of domestic industries.

6. Provide Reinvestment Incentives : To incentivize compliance with the recommended conditions, Pakistan should consider offering reinvestment incentives to SEZ investors. These incentives could include tax exemptions, deductions, or other financial benefits for investors who fulfill their obligations. Reincentivizing reinvestment would encourage long-term commitment and maximize the positive impact of SEZs on Pakistan's economy.

By implementing these recommendations, Pakistan can enhance its regulatory facilities, attract foreign direct investment, promote economic growth, and create a more favorable environment for businesses within its SEZs. Learning from the successful models of Thailand and Malaysia, Pakistan can build a competitive edge and harness the potential of its SEZs for socio-economic development.