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# USAID/PAKISTAN: TRADE ROZ LEGAL AND REGULATORY FRAMEWORK

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# ACRONYMS

<b>BOI</b>	Board of Investment
<b>CBR</b>	Central Board of Revenue
<b>DDR</b>	Duty Drawback Regime
<b>EPZ</b>	Export Processing Zone
<b>FDI</b>	Foreign Direct Investment
<b>FPCCI</b>	Federation of Pakistan Chambers of Commerce & Industry
<b>GOP</b>	Government of Pakistan
<b>GST</b>	General Sales Tax
<b>IEMCs</b>	Industrial Estates Management Committees
<b>KESC</b>	Karachi Electric Supply Corporation
<b>NEPRA</b>	National Energy and Power Regulatory Authority
<b>OGRA</b>	Oil & Gas Regulatory Authority
<b>OICCI</b>	Pakistan Overseas Chamber of Commerce & Industry
<b>PACCS</b>	Pakistan Customs Computerization System
<b>PEMRA</b>	Pakistan Electronic Media Regulatory Authority
<b>PTA</b>	Pakistan Telecommunication Authority
<b>ROZ</b>	Reconstruction Opportunity Zone
<b>SBP</b>	State Bank of Pakistan
<b>SDA</b>	Sarhad Development Authority
<b>SECP</b>	Securities & Exchange Commission of Pakistan
<b>SEZ</b>	Specialized Economic Zone
<b>SIDB</b>	NWFP Small Industries Development Board
<b>SMEDA</b>	Small Medium Enterprise Development Authority
<b>SMEs</b>	Small & Medium Enterprises
<b>WAPDA</b>	Water and Power Development Authority

# CONTENTS

<b>SECTION I:</b>	<b>3</b>
<b>I. REGULATORY AND INSTITUTIONAL</b>	<b>3</b>
I.1 Existing Regulatory Environment	3
I.1.1 Successful International Zone Business Climate Examples	3
I.1.2 Matrix Of Existing Investment Incentives, Applicable To National And ROZ-Eligible Areas, Including EPZ, Industrial Estate And Proposed SEZ Regimes	5
I.1.3 Appropriateness and choice of incentives for ROZs, Federated Chamber of Commerce proposed lower national income tax rate and accelerated depreciation	5
I.1.4 Review investment climate policy and practice based on, meetings with industry groups, background reports, etc.	5
I.1.5 Mitigating Solutions Possible For ROZs	14
2 Specific ROZ Regulatory Issues	21
3 Establish ROZ Regulator	21
<b>SECTION 2:</b>	<b>22</b>
<b>2. DEVELOPMENT AND OPERATION</b>	<b>22</b>
2.1 Development	22
2.2 ROZ Operation	22

# SECTION I:

## I. REGULATORY AND INSTITUTIONAL

### I.1 EXISTING REGULATORY ENVIRONMENT

#### I.1.1 Successful International Zone Business Climate Examples

It is mentioned in the ROZ Roadmap, it is proposed that Pakistan follow international best practice and lessons learned regarding SEZ regimes in the design of its own ROZ program. An SEZ offers investors and users a comprehensive and simple environment to do business. It does so by allowing investors to undertake all (unrestricted) economic activities and access the same benefits, and minimizing red tape. It permits them to deal with one government agency empowered to take care of all their problems in a direct and customer-focused manner. In short, it makes it simple to do business. Critically, SEZs have also abandoned the “enclave” approach of traditional free zones by focusing explicitly on economic development through integrated, multi-disciplinary planning. SEZs are fundamentally different from traditional free zones. They are designed as liberalized platforms for diversified economic growth and balanced development that not only could but also should spill over into the national economy. Special Economic Zones generally share a liberal and flexible investment environment, free of policy distortions affecting enterprise efficiency, such as taxes, tariffs, excessive regulation, and red tape. In this capacity, successful SEZs can spearhead broad policy reforms in the national economy through a significant “demonstration effect.”

There is no single set of policies that characterize SEZs globally. Each country has chosen to introduce incentives and measures that are often considerably different from each other.

For the ROZ program to enable the Government to promote freer economic activities in the broad range of sector-specific zones envisioned, it is important that the broad regulatory scope of the required SEZ regime be recognized from the onset. The scope of such a regime is likely to encompass a broad variety of issues, currently under the purview of a variety of national and local government bodies, including the following matters:

- Business Registration and Licensing
- Investment Policy and Guarantees
- Taxation and Investment incentives
- Trade Facilitation, Customs, and Origin Certification
- Investment Promotion and Facilitation
- Labor and Immigration
- ICT Regulation
- Privatization
- Public Health and Hygiene
- Transportation
- Utilities Provision and Regulation
- Land Use, Property Development, and associated Environmental Protection
- Security and Policing
- Municipal Services

In each of these areas, the Government should assess whether existing laws and regulations accord with international “best practices” or whether new policies ought to be introduced within the ROZs. Because a good SEZ program touches on so many cross-sectoral issues, broad consultation with all parts of government and the private sector should also be undertaken.

An equally important aspect is to design the institutional framework to oversee the ROZ regime. From the institutional perspective, international best practice suggests that the ROZ regime be administered by an autonomous, powerful government authority. This Government body would oversee the administration of special, dedicated laws, regulations and practices inside the ROZs, exercise ROZ developer, operator and end-user regulatory oversight, and ensure that the delivery of Government services with this regulatory environment is streamlined and efficient. The “ROZ Authority” would regulate economic activities within ROZs, control land use and development, and act as the principal interface with private ROZ developers and operators. Internationally, these types of agencies are typically vested with following powers:

Exclusive powers, derogated from the national or provincial regime:

- Internal planning, land use, and environmental matters
- Business Registration and Licensing
- Procurement
- Origin Certification
- Promotion and Marketing

Shared powers:<sup>1</sup>

- Labor
- Health
- Security & Law Enforcement
- Utilities regulation
- Trade Facilitation
- Tax and Customs Administration

At the same time, coordinating agreements must be established with a wide range of other Government bodies, depending on the degree to which powers and functions are centralized in the ROZ Authority, shared with other governmental departments, or undertaken completely outside the SEZ framework.

To ensure its effectiveness, the ROZ Authority should thus be characterised by:

- Broad powers and authority
- Reporting access to the highest government levels
- Autonomy—both on a decision-making and budgetary level<sup>2</sup>
- Flexibility—by exempting it from civil service rules in terms of salaries, and of procurement
- Autonomous income streams –including revenue sharing with local governments
- Private sector representation on its Board

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<sup>1</sup> National oversight bodies would retain power over other areas, including Banking and other financial services; Administration of Justice; Civil Aviation; and Railway regulation.

<sup>2</sup> One income stream for SEZ Authorities around the world is regulatory charges tied to a services schedule based on market-determined fees.

Over the past decade, the Government of Pakistan (GoP) has demonstrated its commitment to economic reform. Economy-wide improvements, including deep reforms in the trade environment, underpinned an impressive turnaround in economic performance from 2002-2007. Supported by USAID and other international donor assistance aimed at increasing competitiveness, these reforms improved the business and trade climate, laying the groundwork to establish Reconstruction Opportunity Zones (ROZs).

### **1.1.2 Matrix Of Existing Investment Incentives, Applicable To National And ROZ-Eligible Areas, Including EPZ, Industrial Estate And Proposed SEZ Regimes**

The Government of NWFP has established a certain number of investment incentives for investors into its industrial estates under the NWFP Industrial Policy, 2005, including:

- Exemption from Property tax in the industrial estates for a period of 5 years (with all provincial property tax arrears in the industrial estates up to 30th June, 2005 also waived)
- Exemption from the Education Cess recovered by the Worker’s Children Education Board
- Application of a tiered Employees Social Security (“ESSI”) Cess system for SMEs:

<b>No. of Staff</b>	<b>Payment Level</b>
1 to 10	Rs 10,000 per annum
11 to 21	Rs 20,000 per annum
21 to 50	Rs 50,000 per annum

- Exemption from labor inspections for a period of three years for industrial units compliant with applicable labor laws and filing specified annual Directorate of Labour forms and production data
- Vesting of responsibility for setting provincial investment policy and resolution of industrialists’ problems in an “Investment Facilitation Council and Committee” headed by the Chief Minister, and including members from both the public and private sectors
- Establishment of Joint SDA-SIDB Industrial Estates Management Committees (IEMCs) under private sector chairmanship, to resolve the problems faced by resident industrialists
- Opening of dedicated bank accounts, operated jointly by the Industrialists Association and Estate Managers, for deposit of maintenance dues and water charges, and available for expenditures related to the repair and maintenance of water and power infrastructure

### **1.1.3 Appropriateness and choice of incentives for ROZs, Federated Chamber of Commerce proposed lower national income tax rate and accelerated depreciation**

### **1.1.4 Review investment climate policy and practice based on, meetings with industry groups, background reports, etc.**

Pakistan’s policy improvements over the past decade are real but incomplete. In spite of continued international reports to the effect that Pakistan’s business environment is not enabling<sup>3</sup>, the reality may be somewhat more nuanced, with many policy improvements since 2000 but many remaining business-unfriendly legacies.

The administrative “hassle factor” remains relatively high in Pakistan, with manufacturers and Small and Medium sized Enterprises (SMEs) being the hardest hit as they bear the maximum impact of the

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<sup>3</sup> See, for example: Heritage Foundation, *2005 Index of Economic Freedom*, <http://www.heritage.org>. The Heritage Foundation has again rated Pakistan as “Mostly Unfree,” with a score of 3.73; the worst score it has granted Pakistan since 1995

administrative barriers to investment (foreign-owned and larger firms are less hindered in terms of time spent on regulatory and administrative procedures). According to FIAS, administrative barriers cost a firm on average 10-15% of annual business income and in the range of 50-80% of start-up costs. These results are largely consistent with numbers cited by the Pakistan Overseas Chamber of Commerce and Industry (OICCI)<sup>4</sup>, the Federation of Pakistan Chambers of Commerce and Industry (FPCCI), ABC, ADB, KCCI<sup>5</sup>, and individual investors<sup>6</sup>.

The civil service is at heart of administrative barriers. Indeed, Dr. Ishrat Hussain, former Governor of the SBP, in remarks at a 2005 Bol-FIAS Workshop on Administrative Barriers to Investment in Pakistan, stated that: “We have structural barriers in inter-governmental relations... There’s a lot of overlap between the different levels of Government... a lot of overlap;” that Pakistan’s “hierarchical theory of Government” retards the decision-making process, and business process reengineering is required to address this issue; that there are competency barriers within the civil service, an issue which ties into civil service compensation levels; and that there are civil service attitudinal problems. The former Governor went on to conclude that “unless we... resolve these problems, I do not think administrative barriers will be eliminated.”

It has been estimated that at least 2% of corporate operating costs are devoted to “speed money” and (by other sources) that corruption is resulting in at least a 2% loss of Pakistani GDP, annually<sup>7</sup>. Public service delivery is thus a first critical area where improvements are required. Although there have been a number of civil service reform efforts in recent years, Government of Pakistan officials are not yet in a “service mode,” continue to seek rents from investors, and are not held accountable for their actions. 58% of respondents in an unpublished 2007 FIAS study considered corruption to be a problem and 37% categorised it as a very serious one. Pakistan’s Transparency International Corruption Perception Index worsened from 92nd in the world in 2003 to 142nd out of 163 countries in 2006.

The problem of commercial legal policy is not simply one of implementation but continues to extend well beyond that, and that the widespread view in Pakistani Government Circles that simple implementation of policy is in order may be incorrect. A major challenge for Pakistan is to keep up with reforms that are rapidly accelerating in many developing countries.

Deepening of reforms presents the potential for significant economic gains. The FIAS report identified seven areas of the business regulatory environment that warrant particular attention – specifically, by rank order of barrier to private investment:

- Land acquisition and site development regulatory interface
- Financial regulation and administrative interface

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<sup>4</sup> The OICCI has 172 members. Membership is about 26% US and 50% European. It represents 9% of Gross National Product (GNP), 15% of manufacturing GNP, and 20% of fiscal revenue. It represents both old and new companies, small trading companies and large multinationals

<sup>5</sup> KCCI has 14,000 members who contribute 67% of the country’s tax revenue.

<sup>6</sup> According to the OICCI, FPCCI, and individual investors interviewed, 2-5% of back-office staff is dedicated to regulatory compliance (with larger companies enjoying economies of scale in this regard), in addition to outside facilitation (which is also retained). According to the ADB, 15-17% of SME management time is spent dealing with administrative interface with Government and informal payments. One large company reported that they spent 20% of management time on administrative barriers, while a second reported that they spent somewhere in the neighbourhood of 27% of total management time dealing with inspection compliance alone. According to the ABC, its member companies devote anywhere between 1% and 20% of overall management resources, and an unspecified amount of part-time and external resources, to regulatory compliance. According to the KCCI, at least 25-40% of upper management time is devoted to administrative procedures. Finally, according to SMEDA, *Creating a Conducive Policy Environment for Micro, Small and Medium-Sized Enterprises in Pakistan*, SEED Working Paper No. 29 (2002): Small entrepreneurs in Pakistan spend, on average, more than 12% of their entrepreneurial time coping with government regulations over and above time spent on what they consider “legitimate government demands.”

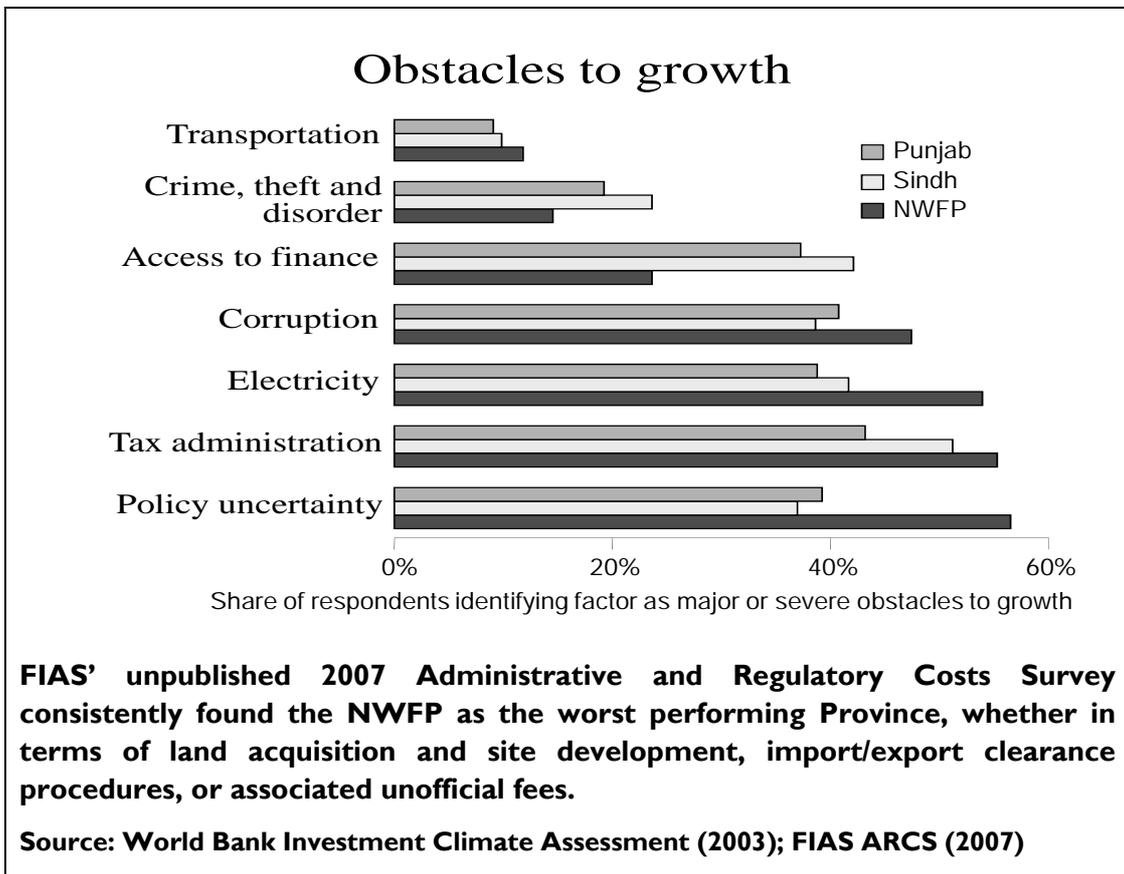
<sup>7</sup> Salman Shah, Advisor to the Prime Minister of Finance, cited in “Good governance can improve GDP growth: Salman,” *Business Recorder* (28 November 2004)

- Tax administration interface
- Business registration and approval interface
- Labour regulation interface
- Trade facilitation regulatory interface
- Enforcement of commercial rights interface

Pakistan’s investment climate also varies by the province, with challenges in the NWFP viewed as being more serious than elsewhere:

### Pakistan’s Provincial Variations in Investment Climate

**Pakistan’s government is a federal system that delegates substantial power to the provincial governments, which generates differences in the quality of public services and in the degree of bureaucracy across the country; local governance has a powerful influence on a location’s investment climate. A World Bank survey among firms in the Provinces of Punjab, Sindh and NWFP on the perceived greatest obstacles to economic growth clearly illustrates how perception of this situation varies according to each province.**



The private sector maintains that there are still considerable service delivery issues at the Provincial level (especially for SMEs). According to a financial institution interviewed, small town civil servants providing government services are even worse, as they reportedly still “behave like kings [and] have a long way to go.”

- Utilities, Labor, Security, Customs, Business Licensing, Other limiting factors

**Land acquisition and site development** – The ease of acquiring, developing, and leasing sites for business operations is an important element of an enabling investment environment –for both site developers and end-users. For a private land market to function optimally, governments must provide an enabling legal and economic regulatory framework for land. The site development regulatory framework must be business enabling. Environmental Clearances are also an integral part of site development. Without a streamlined set of principles guiding environmental impact assessment and environmental mitigation plans, site development projects can become bogged down in interminable delays and uncertainty, often even leading to the reversal of investment decisions. The same is true of efficient and reliable connections to utility grids –an essential dimension of site development, which must be well-regulated.

Just as critically, an effective physical and spatial planning capacity is one of the core tools available to SEZ authorities to guide investment decisions, allocate resources, and ensure the long-range compatibility of SEZ development with the national economy. Effective planning controls serve to regulate economic activity in a modern SEZ rather than trying to regulate economic activity through a complex up-front screening and project evaluation process. Ongoing monitoring and enforcement of compliance with zoning plans, building codes, health and safety regulations, and environmental norms should regulate entry (and, in some cases, force exit) of businesses, rather than an abstract “project evaluation.” Effective and ongoing post-audit compliance is the flip side of streamlined business registration and approval.

Today’s SEZ regimes include provisions protecting national, developer, and SEZ occupants’ interests in these regards. SEZs support investment through integrated planning of the SEZ’s utility and transportation needs, zoning and land use framework, and design guidelines. Integrated, private sector driven infrastructure, and access to land is also simplified in SEZs.

Over 40% of land in Pakistan is Government-held, master-planning and property taxation schemes do not optimise incentives for economically rational land use, and public land allotment is based on a discretionary and politicised process<sup>8</sup>. Land use and zoning verification are complicated by the absence of recent gazetted Municipal and Infrastructure Development Master-plans, uniform planning legislation, or up-to-date municipal By-laws. This situation is further exasperated by the absence of a consolidated real estate listing system and title insurance and poor title registration and verification systems. Title verification is complicated by numerous, disparate, and disorganised record-keeping authorities, as well as by a traditional and manual land registry system (the “Patwari” system). Thus, while the complexities of leasehold rights acquisition from Government make land acquisition from the private sector the preferred option, it remains expensive and cumbersome by world standards, as illustrated by the World Bank’s “Doing Business” rankings.

Once land is acquired, site development regulation is complicated by a regulatory framework which is, despite recent progress, not sufficiently business-enabling. Local site development permitting and utilities regulation remains complex in Pakistan. Furthermore, without a streamlined set of principles guiding environmental impact assessment and environmental mitigation plans, site development projects can become bogged down in interminable delays and uncertainty, often even leading to the reversal of investment decisions.

The process for environmental approval is also poorly structured, with duplicative Federal and Provincial mandates and some 36 required documentary submissions. Environmental inspections are simply “paper inspections,” as the requirements are new, and inspectors are not well versed in compliance requirements and, therefore, essentially an exercise in rent-seeking.

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<sup>8</sup> Source: The Pakistan Association of Builders and Developers (ABAD).

Finally, in spite of recent privatisations (including the major step of privatising the Karachi Electric Supply Company –KESC- and of partially privatising the Water and Power Development Authority - WAPDA), the Federal Government still maintains substantial control of most utilities infrastructure and services, for the moment constraining the private sector’s ability to ensure competitive grid connection and service standards. The procedures for electricity connection are cumbersome. Obtaining gas connections is still difficult, particularly for companies located off-network; bearing the cost and their connections. Furthermore, the telecommunications connection process is inefficient, and associated connection rates, in comparison to the region, expensive.

**Taxation and Tax Administration** – Taxation is an inevitable business reality, which, if improperly administered, can become a deterrent to investment. Economists are increasingly unanimous in the belief that a lower and level tax burden for investors, with a stable tax regime with lower rates may, in the long-run, expand the tax base and promote sustained economic growth. Streamlined tax administration is another key ingredient for the attraction of FDI. There are three stages of tax administration: registration; reporting; and compliance audits. Each requires appropriate and careful design so as to minimise potential frictions. Modern SEZ regimes generally include all of these features.

As a direct result of poor enforceability, Pakistan’s nominal tax burden on businesses remains one of the highest in Asia. Contributing to this problem is the complexity of tax organisation and registration, including the number of different taxes for a taxpayer must be registered. The lack of tax policy stability in the country makes tax planning within the corporate sector difficult and further exacerbates generalised under-reporting.

The CBR’s current personnel incentives system only compounds these problems, as it has resulted in rent-seeking, over-taxation of “the good taxpayer,” unnecessary administrative appeals, and overall public-private antagonism. These problems can be addressed through the continued pursuit of reforms aimed at transparency and even-handedness in assessment, streamlined assessment and filing procedures, and e-filing.

Thus, in spite of recent improvements, the Business-Government interfaces at tax registration, inspections, audits, collection, and refund are all still comparatively difficult. One consequence of the cumbersome tax registration process in Pakistan, according to various studies, is that registration is low and informality relatively common. Taxpayers make up a mere 0.8% of total population, one of the lowest rates in the world. Further, despite the fact that 85% of sectors formerly filing for refunds were zero-rated for GST under the Finance Bill 2005, GST refunds can take up to six months, reportedly due to Government cash-flow constraints and poor information management. Overdue tax refunds tie up capital which might otherwise be allocated to business objectives and contribute to enterprise growth.

**Business Licensing** – Business registration processes, unless investor-friendly, represent among the most visible market entry barriers. When an entrepreneur draws up a business plan and tries to get underway, the first hurdles that need to be overcome are the bureaucratic and legal procedures to incorporate and register the new firm. Economies differ significantly in the way in which they regulate the entry of new businesses. In some economies the process is straightforward and affordable. In others, the procedures are so burdensome that entrepreneurs have to either bribe officials to speed up the process or run their business in the informal sector. Cumbersome entry procedures are associated with more corruption, particularly in developing countries. Each procedure is a point of contact—an opportunity to extract a bribe. Equally important, empirical analysis also shows that burdensome entry regulations do not increase the quality of products, make

work safer, or reduce pollution. On the contrary, they hold back private investment, push more people into the informal economy, increase consumer prices, and fuel corruption.

For these reasons, SEZ regimes almost invariably derogate from national business registration frameworks under a special, streamlined facility. The registration process itself should be simple and free of unnecessary compliance requirements – the purpose is simply to formally establish a presence. Moreover, one of the key functions of an SEZ authority is the licensing and approval of enterprises establishing in the Zone. This process facilitates the investment process itself, and ensures that the SEZ authority retains adequate knowledge of and control over enterprises that receive SEZ benefits. By establishing a localized registry of SEZ enterprises, and by approving their activities to operate in the SEZ, the authority is in a position to:

- Regulate market entry based on its own liberal and transparent criteria
- Monitor SEZ activity and plan service provision accordingly
- Monitor compliance with customs, tax, environmental, and other obligations
- Sanction regime violators through revocation of approvals

Pakistan currently has a number of illiberal investment policies with respect to maximum equity and minimum capital investment<sup>9</sup>. Furthermore, in the case of certain sectors, the line ministries and agencies must first give their approval, prior to the company’s incorporation:

### Sectoral and Other Investment Approvals

Type of Company or Services	Ministry Approval
Banking, Investment Finance	MoF and State Bank of Pakistan (SBP)
Non Banking Finance, Securities, Insurance, Leasing, Venture Capital, Asset Management	Securities and Exchange Commission of Pakistan (SECP)
Arms, Ammunition, Printing Currency and Mint, High Explosives, Radio Active Substances	Ministry of Industries / CCol
Information and Communications Technology, Telecommunications	Pakistan Telecommunications Authority (PTA); Pakistan Electronic Media Regulatory Authority (PEMRA)

<sup>9</sup> The following restrictions are applicable under the *Investment Policy (1997, as amended up to 2001)*: In the Housing and Construction Sector, property can only be sold if held in the name of a locally incorporated company. Service sector companies are also subject to a BoI special investment approval, and a CBR “Entitlement Certificate.” In non-manufacturing sectors, foreign equity investment in a company/project must be a minimum of US\$ 0.15 Million. In the Infrastructure and Social sectors it must be at least US\$ 0.3 million. Permitted foreign equity holdings in the banking sector stand at 50%. Foreign investors are only permitted to hold up to a 51% equity stake in general insurance concerns, and are required to investment a minimum of US\$2 million in foreign capital. Restrictions also exist in the underwriting and insuring of public sector firms, who can only use the National Insurance Company. Private firms can only get reinsurance from the Pakistan Reinsurance Company. As a result, the government-owned State Life Insurance also controls 80% of the life insurance market and five large companies hold a near oligopoly over 78% of the general insurance market. The Federal Government requires security-related prior authorisation from the Cabinet Committee on Investments (CCol) in several sectors. Moreover, the Provinces also retain such restrictions. The Punjab, for instance, maintains its own, additional security-related investment approvals for investments geographically located near to the border, flood flows, and trunk roads. It retains great discretion in investment approval, as it may set up “Schedule B and Schedule C Negative Areas” (which are investment “no go” zones) and reserves the right to refuse “any industrial undertaking which is in contravention of the public interest.”

Type of Company or Services	Ministry Approval
Energy and Power, Oil & Gas	Oil & Gas Regulatory Authority (OGRA); National Energy and Power Regulatory Authority (NEPRA)
Explosives, Arms and Ammunition, Security Printing, Currency and Mint, Radioactive Substances	Ministry of Industries and Production and Ccol, through the Bol
Security service provider	Interior Division
Corporate brokerage house	Stock Exchange
Money exchange company	SBP
Non-profit association	SECP
Trade organisation	Ministry of Commerce

Sources: SECP and Bol, <http://www.pakboi.gov.pk>

“Public interest” approvals are required in certain other sectors, including: Fertilisers; Textiles; Tourism; and Pharmaceuticals. FIAS’s unpublished 2007 report found further licensing requirements for: Wholesale; Retail; General Trading; Fuel Retail; and Pharmacy. According to the study, the average time spent in obtaining the various license overall is 47 days. Frequent license renewals are required. Moreover, according to the ADB and the ABC, the government abuses its licensing discretion, and engages in unfair and anti-competitive practices, in sectors where public and private firms compete<sup>10</sup>.

**NWFP Small Industries Development Board (SIDB) and NWFP Investment Facilitation Centre** both provide advisory and facilitation services to entrepreneurs, as do the **PIDC’s Business Support Centre, Bol, Cabinet Committee on Investment, Provincial Committees on Investment, and SMEDA...** With all of these facilitation bodies superimposed onto all of the normal government bodies with which the investor is called to deal, there is still no single window investment facilitation in Pakistan. Furthermore, in spite of numerous structures, there are gaps in investor facilitation service provision. It is unclear that any of the GoP investment facilitation organisations are truly effective. The Bol, for instance, is only used by 6% of the 56% of Pakistani firms aware of its existence<sup>11</sup>:

<sup>10</sup> CCG (2004): In the area of retail food sales, the Pakistani government used pricing in its large Utility Stores Corporation chain to influence the price of essential foodstuffs. In the steel sector, State subsidised Pakistan Steel, put smaller companies at a disadvantage. Finally, Public agro-industry concerns receive free land.

<sup>11</sup> World Bank *Investment Climate Survey* (May 2003)

Promotional Agencies			
Agency		Aware of agency	Use agency's program
SMEDA	Small and Medium Enterprise Development Authority	76.1%	10.1%
EPB	Export Promotion Board	84.0%	17.7%
BOI	Board of Investment	56.1%	6.3%
PCSIR	Pakistan Council for Scientific and Industrial Research	48.3%	8.3%
STEDEC	Scientific and Technological Development Corporation	27.2%	1.9%
PITAC	Pakistan Industrial and Technical Assistance Center	26.7%	2.1%
NPO	National Productivity Organization	16.7%	0.9%
TECTA	Technical Education and Vocational Training Authority	22.8%	0.7%
PVTC	Punjab Vocational Training Council	0.2%	0.0%

Source: World Bank, ICA (May 2003)

**Labor Regulation** – Expatriate investor entry, and entry of foreign companies’ management, is an important test of a country’s openness to investment. While international studies clearly show that very few multinationals retain more than a few number of expatriates in the management of local operations in the long-run (for reasons relating to their higher relative cost, their lesser knowledge of the local market, etc.), the ability to easily bring such personnel in during start-up, and indeed to retain the flexibility of bringing them in as-needed, speaks volumes about the openness of an investment destination.

As a key area of business regulation, flexible labour norms and enabling regulatory compliance requirements also represent important investment incentives. Every economy has a system of laws and institutions intended to protect the interests of workers and, to guarantee a minimum standard of living. This system encompasses four bodies of law: employment laws, industrial relations laws, occupational health and safety laws, and social security laws.

In today’s global factors of production environment, the ILO has stated that such laws should however be flexible enough to enable businesses to operate profitably. In the era of globalisation, investment decisions have become increasingly sensitive to such issues as salaries, employment regulations, and the overall productive capacity of labour. According to the ILO, mobility of capital has introduced three broad factors into professional relations: (i) reduction in the ability of governments to intervene in labour relations; (ii) increasing autonomy of corporations; and (iii) growing international competition for investment based in part on the cost of labour. A national objective of attracting foreign direct investment through SEZs can therefore bring about significant changes in legislation governing unions as well as in the overall climate of labour relations.

Flexible labour regulation is thus increasingly common feature of today’s world-class SEZ regimes. Employment flexibility (e.g., part-time, temporary, casual, on-call, fixed price, training, seasonal, contracting out) is its first measure. Flexible working hours are spreading. In terms of flexibility in firing, heavily prescriptive “prior administrative authorisation” for dismissals are being eliminated the world over, and the scope of unfair dismissal legislation broadened and eased. A credible system for resolving employment and labour disputes also greatly enhances the capacity of employers to

discipline, lay off, or even to fire, unproductive workers. This facility is an important factor in boosting the productivity and international competitiveness of firms<sup>12</sup>.

SEZs are at the forefront of this development because multi-use zones by definition require a diversity of labour skills. Investors find these locations attractive because SEZs often facilitate access to workers through labour market information systems, liberalized access to foreign workers, and linkages with national training institutes. Investors have also come to expect liberalized work, immigration, and residency privileges for themselves and their managerial staff. Based on this interplay of skills, costs and regimes, SEZs define themselves as very different investment locations – ranging from an international white-collar services centre such as Hong Kong to Jebel Ali, an artificial development dependent largely on imported Asian workers and European managers.

Flexible labour regulation is an important factor influencing foreign investment, and is increasingly common around the world. Employment flexibility (e.g., part-time, temporary, casual, on-call, fixed price, training, seasonal, contracting out) is its first measure. Flexible working hours are spreading in both the developed and developing world, where they were traditionally rigidly regulated by legislation. In terms of flexibility in firing, heavily prescriptive “prior administrative authorisation” for dismissals are being eliminated the world over, and the scope of unfair dismissal legislation broadened and eased.

Pakistan does not provide a business-enabling environment when compared with the worldwide and South Asian trends toward “legislated labour flexibility.” Moreover, from an administrative standpoint, a large number of labour registration, record keeping, and notification requirements exist and must be complied with in Pakistan. In the context of current reforms, Pakistan should thus consider labour legislation more in the nature of “frameworks” and “parameters,” leaving specific labour norms to be defined by the concerned parties themselves. While, under the Labour Policy (2002), the government has committed to rationalising and consolidating over 20 labour laws into just 5, this appears to represent only a partial solution, as Pakistani labour legislation is scattered in over 70 largely obsolete laws, replete with onerous implementation procedures conducive to abuse of discretionary administrative authority, which add considerable costs to business operations. 30% of the 2007 FIAS study’s respondents reported problems with Pakistani labour regulation, and 36% of those cited problems they characterised as “severe” in nature. As a result, surveys and interviews also reveal that most Pakistani SMEs circumvent labour regulations in one way or another. Expatriate management entry is an area of key concern of foreign investors. Pakistan offers a number of extremely competitive, investor-oriented facilities in its business visa policy. However, solicitors who deal in FDI matters note that Pakistani work visas are somewhat slow to be issued and subject to numerous legal requirements.

**Customs Interface** – Proper trade facilitation is one of the cornerstones of an enabling investment environment in today’s world, where inputs and outputs alike must be able to move seamlessly across borders to enhance commercial competitiveness.

Proper trade facilitation is one of the cornerstones of an enabling investment environment in today’s world, where inputs and outputs alike must be able to move seamlessly across borders to enhance commercial competitiveness. Poor logistics can lead to inefficient movement of goods and cause tremendous economic losses, and efficient production and delivery systems make efficient and simple customs procedures increasingly important to investors. Countries that are unable to provide predictable and efficient customs clearance processes attract less investment.

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<sup>12</sup> In the 1970s and 1980s, the first wave of enclave EPZs were able to attract footloose investment by capitalizing primarily on cheap labour. These EPZs often remained isolated from the host economy, and frequently eroded labour protection applicable to the rest of the economy. Over time, this business model has changed. Pure labor-driven zones are decreasing in importance, and skilled, adaptable labour pools in flexible investment environments are at a premium – availability of qualified technicians and graduation rates for knowledge workers are replacing hourly wage statistics as key factors in international investment decision-making.

Not surprisingly, given these realities, modern duty-free customs regime is one of the defining characteristics of virtually every successful SEZ operating today. The purpose of establishing a special duty-free jurisdiction within a country's sovereign borders but outside its customs territory is three-fold. First, this special zone facilitates trade by establishing a shared base where import, export, storage, and trans-shipment activities can be carried out using shared logistics and transportation infrastructure without encountering domestic duties or tariffs. Second, the zone enables productive activities – services, assembly, and manufacturing – to take advantage of this combination of traded inputs and outputs and transportation access. Third, both the original Freeports and modern SEZs encourage the integration of the zone's "off-shore" activities with the national economy.

Import clearance performance in Pakistan has improved greatly in recent years as a result of various reforms, perhaps most importantly the launch of the Pakistan Customs Computerisation System (PACCS). Nevertheless, a number of constraints continue to hamper effective trade facilitation.

Business grievances concerning both import and export procedures include excessive documentary submissions the sheer number of agencies involved in the import/export process and the difficulty in obtaining cargo carriage and bonded warehousing licenses, problems that ultimately contribute to inefficient and costly movement and delivery of cargo.

Import processing under Pakistan's normal track involves at least 7 steps, 15 signatures and 62 verifications of various sorts. The process is equally complicated. Further well-proven scanner technology is not yet used and 100% of declarations are reassessed upward. Further, the advantages of Pakistan's Concessional Tariff and Duty Drawback regimes are considerably mitigated by their complex and cumbersome procedures, and lengthy administrative delays.

Where export clearance is concerned, goods are also subject to mandatory physical inspections on 100% of export shipments, for exchange and Duty Drawback control purposes. Although many larger firms can now take advantage of the new PACCS system, a large segment of the exporter market still cannot utilise this facility due to its current eligibility requirements. Pakistan's average overall export time is of 33 days, which is more than a week longer than the average times of Sri Lanka and the Maldives, three weeks longer than the OECD average, and a full four weeks longer than Denmark.

While the Government has taken initial steps to reform the scheme, poor administration of export refunds under the Duty Drawback Regime (DDR) is considered an important administrative barrier. The chief problem with the scheme, however, is the lengthy approval procedure for obtaining Duty Drawback, which hurts SMEs in particular. The No Duty No Drawback and Manufacturing in Bond schemes have been judged even more harshly than the DDR, as the former requires at least 21 steps and the latter is largely inaccessible for MSMEs.

### **1.1.5 Mitigating Solutions Possible For ROZs**

To address identified constraints, Pakistan must begin by developing a clear strategy for reform.

**Site and Utilities Regulation** – Legal solutions that might be considered under the SEZ law include:

- Territorial exclusivity guarantees to designated ROZ developers;
- Transparent land allocation procedures, with enforced forfeiture provisions;
- Utility development and operation carve-outs for ROZ developers –International experience has shown that promoting green-field private projects in infrastructure, such as Independent Power Plants, to meet the need of rapid industrial growth contributes to improving the quality of utility services and reducing their costs. The infrastructure sector can even become an important source of ROZ investment, particularly early in the project life cycle;

- Requirements to sell State Land for ROZs to ROZ Developers (whether public or private) at market-referenced prices; and
- A new process for physical development control for ROZ development and all subsequent construction within them (including decentralized, autonomous ROZ Authority decision-making).

Furthermore, application of the following good practice strategies –many of which have been applied in different SEZ regimes around the world- can directly reduce the administrative barriers to site development permitting and control:

- Consolidating and reengineering permits and licenses, eliminating unnecessary or inappropriate approvals, requirements, procedures, documentary submissions, fees, and steps relating to site development procedures (e.g., required inspections, stamp duty processes);
- Eliminating any undue official discretion which opens the door to abusive inspection practices;
- Establishing a dedicated "desk" system, with a single individual responsible for receiving and handling any given site's development-related administrative procedures;
- Consolidating roles for review of plans, construction inspections, and issuance of building and occupancy permits under a single body, setting up and operate one-stop shops for zoning and building permitting & control;
- Setting out a strict schedule and time limits for inspections, bound by "deemed approval" deadlines;
- Developing standard application forms and guides;
- Delivering notices of inspections by phone, fax, and/or the Internet;
- Establishing, publishing, and disseminating clear information on legislation, regulations, procedures, requirements, and fee structures for site development and environmental protection, including flowcharts on the approval process;
- Risk-assessment in site development control –which can reduce development timeframes by allowing for the licensed private sector architects to vouch for technical requirements of sites and buildings, rather than requiring Government inspections<sup>13</sup>;
- Integrating all necessary permits in the key stages of land development (e.g., allotment permit, building permit, etc.) into single step that requires no more than two days<sup>14</sup>; and
- Instituting post-establishment inspections for site-related health clearances, through a simplified site approval procedure exempting facilities engaged in certain activities, considered to be of "medium to low risk" from pre-opening occupancy permits and increasingly relying on post-establishment inspections. To obtain an occupancy permit once the construction works are complete, the developer or contractor must then simply certify compliance with all of the regulations of the building code as well as with all the provisions of his title deed.

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<sup>13</sup> For such a system to work, the professional bodies in question (e.g., association of engineers, association of architects) must assume what are essentially legislatively "delegated" construction supervision and practice audit functions, which are generally provided by an internal institution within these bodies known as the "Curator."

<sup>14</sup> In Hong Kong, the investor submits building plans, waste-disposal plans and site development plans to the Construction Department. Plans and drawings that have not been rejected in writing within two days are considered approved. In Singapore, investors must gain Urban Development Authority approval prior to building or expanding a facility. Investors submitting site development and construction plans can expect a decision within two to four (2-4) days.

Simple building and style norms also reduce the degree of required control and inspections. Where these regulatory frameworks exist, but are overly burdensome, regulatory complexity should be reduced. Investment-generating results of such “Euclidean” planning models have been demonstrated in the UK’s “New Towns” scheme and the US’ Developer-Agreement-driven urban development projects, whereby planning and controls are minimised, and replaced by private “development rights” and contractually-based “performance standards” (dealing almost entirely with structural and environmental concerns), and where operative flexibility and adaptive implementation are thus incentivised.<sup>15</sup> Although secondary in importance to regulatory clarity, deregulation strategies, and corresponding reductions in land use restrictions, increase the overall incentive to invest<sup>16</sup>.

An e-government “one-stop shop” can offer numerous services from Municipal and Central Government and the private sector electronically. Where utilities are publicly-owned, e-Government can also help to improve utilities’ services, through online issuance/payment of electricity, phone, and water bills, and fines<sup>17</sup>.

All of the measures could be considered for incorporation in to the SEZ regime in order to achieve integrated and efficient land management.

**Tax Administration** – A lower and level Tax Burden for all investors, with a stable tax regime with lower rates for all may, in the long-run, expand the tax base and promote sustained economic growth.

Increases in taxes reduce output. The marginal rate of taxation is negatively correlated with economic growth because the marginal tax rate acts as a disincentive to produce and generate income<sup>18</sup>. Tax rates worldwide are dropping<sup>19</sup>. However, incentives schemes reduce the tax base and net, while also adding to the complexity of the tax administration system. On the other hand, creating a level playing field for investors, with a stable tax regime with lower rates, in the long-run, promotes a higher, sustained economic growth. A number of countries in Eastern Europe, Asia, and Africa have implemented flat rates<sup>20</sup>.

Further, tax registration reform is also advised. In the simplest tax registration systems, a single form is required, certification and notarisation requirements are minimal, registration is free, and approval takes less than one day. A simple registration system, not subject to any ex ante tax authority information review, can for instance be done in “real time.” Tax registration can also be combined with company registration. Finally, international experience offers Pakistan some instructive approaches to VAT refunds. For instance, Pakistan could require firms ultimately expecting to file for VAT refunds within any given cycle to deposit a percentage of their up-front obligations in a special account as bond. The requirement should however be tied to risk management, such that firms with a proven track record and who keep clean accounting records are exempted from the payment of such a bond.

The following best practices may also be considered for inclusion in the SEZ regime:

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<sup>15</sup> Douglas R. Porter & Lindell L. Marsh (Eds.), *Development Agreements: Practice, Policy and Prospects*, Urban Land Institute, Washington DC (1989)

<sup>16</sup> World Bank, Monitoring, Analysis and Policy Unit, Investment Climate Department, “Pakistan Regional Profile,” *Doing Business in 2005* (2005)

<sup>17</sup> As Indian experience shows, e-delivery of such government services as the provision of municipal permits and licenses can reduce the cost of starting and running a business by 10% or more, simply by providing improved, web-enabled access to information in connection with permit applications, and quick permit issuance. See the description of the e-Seva centres in the city of Hyderabad, at: <http://www.ap-it.com/eseva.html>.

<sup>18</sup> Padovano & Galli (2001), cited in Scott Jacobs, “The importance of institutions in determining the investment environment,” *FIAS South Asia FDI Roundtable, Maldives* (9–10 April 2003)

<sup>19</sup> KCCI, *Statement at the Bol-FIAS Workshop on Reducing Administrative Barriers to Investment* (24 August 2005)

<sup>20</sup> “The case for flat taxes,” *The Economist* (16-22 April 2005): Russia for instance has a flat corporate tax rate of 13%, Serbia of 14%, Ukraine of 13%, Slovakia of 19%, Georgia of 12%, and Romania of 16%.

- In the simplest tax registration systems, a single form is required, certification and notarisation requirements are minimal, registration is free, and approval takes less than one day. A simple registration system, not subject to any ex ante tax authority information review, can for instance be done in “real time.” Tax registration can also be combined with company registration.
- International experience also offers some instructive approaches to VAT refunds<sup>21</sup>. For instance, the ROZ regime could require firms ultimately expecting to file for VAT refunds within any given cycle to deposit a percentage of their up-front obligations in a special account as bond. The requirement should however be tied to risk management, such that firms with a proven track record and who keep clean accounting records are exempted from the payment of such a bond.
- Indeed, international practice in SEZ taxation tends toward the elimination of cumbersome indirect taxes<sup>22</sup>.

**Business Licensing** – Pakistan should be mindful that business registration processes represent among the most visible market entry barriers preventing commerce from freely developing, regardless of the country. Best Practice registration systems have fewer steps. Many countries are recognising that business approval and registration procedures represent a significant investment barrier; and are acting to eliminate or reform cumbersome start-up procedures. Among OECD countries, the number of company registration steps has been reduced to just 1 in Ontario, Canada. The number of agencies involved in business registration has likewise been reduced to just 1 agency in the UK and Canada. According to the World Bank’s Doing Business Database, the South Asian regional average number of steps for registering a business is of 9. While the South Asian regional average number of days for registering a business is of 46, Nepal boasts a shorter registration process than Pakistan. In the Ukraine, all activities licenses must be issued in under 10 days, in Tajikistan, in under 30. Furthermore, although Pakistani business registration costs are of 36% of GNI, again less than regional average of 46%, they are 3 times as costly as in Bhutan and Sri Lanka, the region’s top performers at 11%. International best practice suggests registering of enterprises at no cost, as is for instance done in Denmark<sup>23</sup>.

Many strategies to reduce cost of business registration exist. Apart from reducing underlying steps, other factors found to influence the speed and reduce the cost of business registration procedures included the following<sup>24</sup>: ICT / acceptance of electronic signatures; Modern management techniques; Self-certification; Single access points (“One Stop Shops”); Reduced complexity of documents; Reduced fees; Elimination of mandatory involvement of lawyers; and Elimination of minimum paid-up capital. Practical support to business start-up through direct advice has immediate impact on the creation rate and future success of businesses in general and of small and medium-sized businesses in particular... But there is a need to rationalise investor facilitation structures.

Pakistan can look to Chinese business registration reforms to see an example of successfully-married process reengineering and automation, resulting in significant reductions in processing time, notably due to its highly interactive interface. The "Digital Beijing" initiative in the Zhongguancun e-Park has for instance applied the latest computer and Internet technologies to improve the efficiency and responsiveness of government.

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<sup>21</sup> While elimination of VAT can result in price differentials between the SEZ and its host economy, and VAT also generally represents a significant revenue stream for revenue authorities, zero-rating (or rate reductions) of VAT on exports is a common feature of SEZs.

<sup>22</sup> Most SEZs eliminate taxes that yield low revenue streams and are costly to administer, such as stamp duties, municipal taxes, education taxes, and the plethora of other levies common in developing economies. Most revenue is generally collected through the corporate income tax, and revenue is often shared with the government agencies that lose their tax authority in the SEZ. Municipal levies are generally replaced with fee-for-service provision of services and infrastructure.

<sup>23</sup> See <http://rru.worldbank.org/DoingBusiness/ExploreTopics/StartingBusiness>

<sup>24</sup> Centre for Strategic and Evaluation Services (CSES), *Benchmarking the Administration of Business Start-Ups* (2002)

As regards investment approvals, their main purpose should be to establish the presence of an investment in the SEZ, and document its compatibility with the regime. This process should be fast, automatic, and transparent. The process should establish:

- Who the investor is; and
- What project the investor intends to establish.

Registration and approval should not require any financial or technical evaluation of the project, nor should it require the disclosure of any financial information. Information should be collected only to verify the identity of the investor, confirm that the proposed activity is not prohibited in the SEZ, and establish the investor as an entity subject to special SEZ obligations (such as duty-free inventory control and sanctions). All other screening processes (on planning or environmental grounds) should occur as part of the land zoning and facilities permitting process, not the registration and approval process. Approvals should be restricted only on grounds that:

- The proposed investment is illegal under “protection of the public” norms (narcotics, etc.)
- The proposed investment appears on a published negative list of prohibited or restricted SEZ activities

Finally, a “one-stop-shop,” staffed with officials from the various Government agencies involved with company start-up, is usually established in the SEZs, enabling the completion of all related tasks in one physical space.

**Customs Interface** – In addition to streamlined logistics and Customs procedures, a modern SEZ customs regime must also essentially provide the entire SEZ with a common duty-deferral mechanism for raw and intermediate materials, finished products, consumer goods, and capital equipment. This mechanism enables a wide variety of transactions under a single customs regime. Typical transactions are profiled in the table below:

**Typical SEZ Customs Transactions**

SEZ TRANSACTION	DUTY PAYMENT	SEZ ADVANTAGE
Importation of goods through SEZ into customs territory, either: <ul style="list-style-type: none"> <li>▪ Direct importation</li> <li>▪ Importation after warehousing in SEZ</li> </ul>	Upon entry into customs territory	Duty deferral from entry into SEZ to entry into customs territory
Importation into SEZ for: <ul style="list-style-type: none"> <li>▪ Use in SEZ</li> <li>▪ Re-export</li> </ul>	None	Full duty relief
Transshipment through SEZ	None	Full duty relief
Manufacturing in SEZ: <ul style="list-style-type: none"> <li>▪ For export</li> <li>▪ For sale in SEZ</li> <li>▪ For sale in the customs territory</li> </ul>	<ul style="list-style-type: none"> <li>▪ All duties deferred until actual entry of product into customs territory</li> <li>▪ Duties assessed on dutiable imports only, not on SEZ value-added</li> </ul>	<ul style="list-style-type: none"> <li>▪ Allows single manufacturing facility to serve domestic and international markets</li> <li>▪ Duty deferral from entry into SEZ to entry into customs territory</li> <li>▪ Protects domestic economy from distortions</li> </ul>

SEZ TRANSACTION	DUTY PAYMENT	SEZ ADVANTAGE
Export from customs territory into SEZ for: <ul style="list-style-type: none"> <li>▪ Use in SEZ</li> <li>▪ International export</li> </ul>	Not applicable; transaction treated as constructive export for statistical purposes	Protects domestic economy from distortions

Enabling a single duty-deferral mechanism for the entire SEZ provides benefits not just to traders and manufacturers, but also to all SEZ tenants who import capital equipment. In some SEZs, duty free benefits also apply to the consumption of household goods and importation of household goods in non-commercial quantities. As a result, this kind of SEZ customs regime supports multi-use developments by offering clear advantages to commercial, industrial, services, and residential users of the SEZs. The experience of successful SEZs points to a number of important factors that shape SEZ duty deferral mechanisms:

- **Reliance on automated systems and customs technology:** To manage this diversity of customs transactions, SEZs rely on streamlined inspection procedures; automated risk profiling; electronic container sealing and tracking; flexible record keeping and inventory controls; and EDI-based integrated automation.
- **Post-audit control and enforcement:** SEZs are too large to rely on physical fencing, guards, and authenticated paper documents to ensure the integrity of the customs territory. Instead, enforcement is based on post-audit of inventory records and declarations, often linked directly to an automated customs system to identify and audit high-risk traders and users.
- **Managing duty-free consumption:** SEZs that allow duty-free retail sales and consumption on-site face an additional challenge in managing a multitude of small transaction and avoiding leakages into the customs territory. Tools include precisely defined consumption privileges and “smart card”-based merchandise control systems.
- **Limiting customs control within the SEZ:** The main function of the national customs force is to ensure the integrity of the SEZ perimeter, and manage the interface with the national customs territory. Customs control within the SEZ should be limited to enforcement and verification activities.

**Labor Regulation** – Investor-friendly regulatory frameworks encourage work permit transparency. The possibility of obtaining clear status before entering the country advances this transparency and provides greater investor comfort. Being able to anticipate visas and work permits is a crucial factor in evaluating an investment opportunity. As a result, many SEZ regimes:

- Grant automatic residence rights to foreign nationals that are registered SEZ investors and their families
- Establish liberalized approvals for foreign nationals employed by SEZ enterprises and their families
- Allow expedited clearance of foreign visitors to the SEZ Area for business and tourism purposes
- Provide effective mechanisms to maintain all immigration controls relating to national security, law and order

Liberalising visa schemes to allow quick and free entry of international professionals would increase the transfer of knowledge and expertise into the country. An example of good practices, where automatic expatriate entry has been enabled with the view to encouraging FDI, is provided by Malaysia, whose single-minded focus on increasing FDI organises diverse government departments towards a common goal and vision, through automatically granting of work visas rather than through

discretionary approvals. Lithuania presents an interesting European model for facilitated expatriate entry by working across government agencies. There are numerous opportunities for ex post facto verification and inspection of expatriate labor activities provided by inspections systems, which can replace the application of ex ante entry controls. Addressing these issues should also form part of the ROZ regime.

The ROZ regime could address all of the current sources of inefficiency in Pakistan’s labor inspection, termination, and dispute resolution regimes. The most critical of these issues for Pakistan will however be the addressing termination rigidity. Best practice suggests that termination of employment contracts should be at the initiative of the employer. Controls on termination tend to discourage employers from hiring new employees because they impede a company’s ability to implement a staffing strategy reflecting the realities of market demand. Many countries have broadened the scope of their unfair dismissal legislation, and eased or abolished administrative controls in this regard, such as obligatory ex ante trade union consultation requirements prior to each instance of dismissal, or required prior government approval.<sup>25</sup> Given the concern for flexibility and new forms of productivity, the process of laying-off and of firing unproductive employees needs to be relatively straightforward in today’s world, especially if one wishes to encourage businesses to hire workers under long-term contracts with no fixed date of termination. Case studies of flexible approaches to termination that yielded positive results focus on the institution of moderate severance pay for redundancy<sup>26</sup>.

#### **1.1.6 Options And Recommendations For Legal Mechanisms To Implement Solutions**

Designing and operationalizing a specialized regime and body to administer and regulate activities in the ROZs will inevitably be a complex and lengthy affair. Experience in launching and reforming SEZ programs worldwide shows that many government bodies will be reluctant to cede power and authority to a new regime or entity. Ensuring adequate coordination with national and provincial governmental departments with overlapping responsibilities will likewise be very difficult.

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<sup>25</sup> Peru, for instance, has eliminated the heavily prescriptive “prior administrative authorisation” for dismissals.

<sup>26</sup> This is the case, for instance, in Madagascar, Namibia, Finland, and Uruguay.

## **2 SPECIFIC ROZ REGULATORY ISSUES**

- **Once ROZ Law Is Passed**
  - Develop ROZ designation criteria and designation process
  - Working with FBR and US BP to implement local content visa or electronic certification process
  - Review international labor monitoring arrangements
  - Working with Min of Labor and DOL implement labor law compliance process
- **Prepare Necessary Legislative Changes And Mous Through Preferably Sros Rather Than Amendments To La**

## **3 ESTABLISH ROZ REGULATOR**

- Ensure Selected Organization(S) Have Sufficient Legal Mandate To Regulate Rozs
- Obtain Funding, Office Space, Appoint Director And Senior Managers Of Regulator
- Review Capacity Of Existing Federal And Local Agencies To Execute Regulatory Functions Delegated From Regulator And Set Performance Delivery Standards Through Memoranda Of Agreements With These Agencies
- Senior Managers Prepare Strategic Plan
- Agree Organization Chart And Functional Analysis
- Prepare HR Development Plan, Recruit And Train Staff
- Prepare SOPS, Forms And Procedures
- Prepare Social Outreach Plan, Gender Empowerment And Local Community Business Linkages Plan

# SECTION 2:

## 2. DEVELOPMENT AND OPERATION

### 2.1 DEVELOPMENT

Design and construction of the first phase will require considerable coordination between off-site infrastructure and on-site build out to ensure timely hook-up between the two. Any significant time lag between these two will result in overruns and credibility issues.

- Review existing PPP arrangements in Pakistan and assess potential for private provision of utilities to each selected ROZ
- Agree with Steering Committee on institutional arrangement for development operation of the two ROZs
- Conduct the remaining feasibility elements, i.e. cost infrastructure requirements, prepare the high level land use master plan and undertake economic and financial modeling
- Steering Group recommends ROZ program/project options to government
- ROZ Regulator develops and implements a work force training program
- Appropriate government entity designates the site as an ROZ
- The ROZ public owner/sponsor contracts a Project Manager, ROZ Design Firm and General Contractor for upgrade
- Based on the findings of the feasibility study, the ROZ Design consultant develops the detailed land-use master plan, which is then approved by the Committee.
- The ROZ public owner/sponsor coordinates off-site utility service delivery with existing utility providers, obtains their commitments of off-site utility loads and plans for supply of unmet ROZ utility requirements
- The ROZ Design consultant designs the necessary off-site and on-site civil works, infrastructure and other structures for ROZ Project site(s), including any captive utility supply (three months)
- The General Contractor prepares the site and constructs off-site and on-site public works, engineering and infrastructure facilities for the project site.

### 2.2 ROZ OPERATION

- The ROZ owner/sponsor contracts the ROZ operator, preferably private sector, to operate the ROZ for a renewable period of X years
- Operator develops business plan and arranges delivery of appropriate ROZ services
- The ROZ Regulator owner/sponsor contracts the industrial marketing company which designs and conducts an ROZ marketing strategy to attract tenants.
- The ROZ Regulator and the ROZ operator develop a standard operating procedures manual and model forms
- The ROZ Regulator procures any necessary regulatory equipment, including customs and computer equipment for itself and the operator
- The ROZ Regulator and operator recruit and train their own and other agency staff on the standard operating procedures
- The General Contractor constructs on-site Standard Factory Buildings
- First tenants enter into land or SFB lease agreements with operator and are licensed by the ROZ Regulator

- The ROZ Regulator issues necessary building and foreign work permits
- Workforce training graduates begin to be employed by tenants
- ROZ Customs facilitate entry and exit of goods

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