

## VI THE SPECIAL ECONOMIC ZONES

### VI-1 Legal Frame for the Special Economic Zone (SEZ) Scheme

The examination of introducing the concept of economically promoted zone/area into Cambodia was originally started back in 1960's, and the SEZ scheme has been finally introduced to Cambodia for the first time in December 2005. "Sub-Decree No.147 on the Organization and Functioning of the CDC" was issued on 29 December 2005 to restructure the organization of the CDC and a new wing of the CDC called the "Cambodian Special Economic Zone Board (CSEZB)" was established to manage the SEZ scheme. To govern the SEZ scheme, "Sub-Decree No. 148 on the Establishment and Management of the Special Economic Zone" (the SEZ Sub-Decree) was issued on 29 December 2005. In addition, the "Law on the Special Economic Zones" has been drafted by the CDC in 2008 and is now under examination of the RGC.

### VI-2 Basic Concept and Conditions for the SEZ

Regarding the basic concept and conditions for the SEZ, the SEZ Sub-Decree defines as follows (Article 2 and 3.1.3).

- SEZ refers to the special area for the development of the economic sectors which brings together all industrial and other related activities and may include General Industrial Zones and/or Export Processing Zones. Each Special Economic Zone shall have a Production Area which may have a Free Trade Area, Service Area, Residential Area and Tourist Area.
- It must have a land of more than 50 hectares with precise location and geographic boundaries.
- It must have a surrounding fence (for Export Processing Zone, Free Trade Area and the premise of each investor in each zone).

- It must have management office building and Zone Administration offices and all necessary infrastructures must be provided.
- It must have water sewage network, waste water treatment network, location for storage and management of solid wastes, environment-protection measures and other related infrastructures as deemed necessary.

### VI-3 Application Process for the Development of the SEZ

The Special Economic Zone may be established by the State, private enterprise or joint venture between State and private enterprise (Article 3.1.2, the SEZ Sub-Decree).

Zone developer has to have the following ability and duties (Article 4.4, the SEZ Sub-Decree).

- Have sufficient capital and means to develop the infrastructures in the zone, including the human resources to manage the activities of the zone
- Have the legal rights to possess the land for establishing the SEZ
- Construct the infrastructures in the zone
- Lease the land and provide services to the Zone Investors
- Arrange security personnel and ensure good public order in the zone at all the time, etc.

The application process for the development of the SEZ is summarized in Table VI-3-1 (Article 3.2, The SEZ Sub-Decree).

Table VI-3-1 Application Process for the SEZ Development

Item	Description
1. Application for the development of the SEZ	Zone Developer submits a request for approval for the development of a Special Economic Zone to the CSEZ and applies for the QIP (Application fee: 7 million Riels).
2. Examination of an application	The CSEZB shall notify whether to approve or reject the request to the Zone Developer within 28 working days. When it is approved, a CRC shall be issued.
3. Feasibility study	The Zone Developer conducts the detailed economic feasibility study, infrastructure master plan and other certified documents as stipulated in the CRC within 180 working days.
4. A Final Registration Certificate (FRC)	Within 100 working days after it receives the above project materials, the CSEZB obtains all necessary approvals and authorization from the government and issues the FRC.
5. Declaration of the establishment of the SEZ	Upon issuance of the FRC by the CSEZB, the Sub-Decree is issued to define the establishment of the SEZ and its boundaries.
6. Withdrawal of the approval	The CSEZB has the right to withdraw the approval on the establishment of the zone and incentives which were granted through the FRC on the basis that the Zone Developer has not implemented at least 30% of the total investment capital of the project within 365 working days after receiving the FRC.

## VI-4 Management Structure of the SEZ

The CSEZB under the CDC is the “One-Stop Service” organization in charge of the development, management and supervision of operations of the SEZ and the SEZ Administration is the State administration management unit which is the “One-Stop Service” mechanism at the site of the SEZ and set up by the CSEZB in order to be permanently stationed in each SEZ (Article 2, Article 4.2 and 4.3, The SEZ Sub-Decree).

The “Special Economic Zones Trouble Shooting Committee (SEZ TSC)”, which is located at the CDC, has a duty to promptly settle all issues occurring in the SEZ, whether pertaining to technical or legal aspects, or issues under the joint jurisdiction of ministries or institutions and beyond the competence of the SEZ Administration or the CSEZB. It has the further duty to be a mechanism to receive any complaint, and find solutions to such complaints filed by Zone Developers as well as by Zone Investors. The composition of the SEZ TSC is as follows (Article 4.1, The SEZ Sub-Decree):

- |   |           |
|---|-----------|
| 1) Chairmen of the CDC                                    | Chairmen  |
| 2) Minister of the Council of Ministers                   | Member    |
| 3) Minister of Economy and Finance                        | Member    |
| 4) Minister of Commerce                                   | Member    |
| 5) Minister of Land Management, Urbanism and Construction | Member    |
| 6) Minister of Environment                                | Member    |
| 7) Minister of Industry, Mines and Energy                 | Member    |
| 8) Minister of Public Works and Transportation            | Member    |
| 9) Minister of Labor and Vocational Training              | Member    |
| 10) Secretary General of the CDC                          | Member    |
| 11) Secretary General of the CSEZB                        | Secretary |

## VI-5 Procedures for Registration of the Investment Project in the SEZ

The Zone Investor who starts its activity of production or services in the fields permitted by related Laws and Sub-Decrees in any SEZ shall complete the formalities based on the procedure by preparing all the required documents and submit to the office of the SEZ Administration in the SEZ for registering investment proposals during working hours and before the office of the SEZ Administration. The SEZ Administration has a duty to decide on the registration of the investment proposal based on the legal, administrative and technical aspects and on the issuance of the FRC. Such process has to be in compliance with the procedures of investment registration set forth in the Law and Sub-Decree on the Implementation of the Law on Amendment to the Law on Investment.

Any incentive provided to the Zone Investor shall be decided by the SEZ Administration through the “One-Stop Service” mechanism located on the site and in accordance to the relevant laws and regulations.

On all other requests in the investment process of Zone Investors, the SEZ Administration shall play the role of facilitator to address issues of the Zone Investor with the relevant ministries/institutions of the Royal Government of Cambodia (Article 3.3, The SEZ Sub-Decree).

## VI-6 Incentives (Chapter 4, the SEZ Sub-Decree)

The SEZ Sub-Decree sets forth that the CSEZB shall examine and provide incentives to all the SEZs and that all the incentives shall be specified in the FRC.

As the Law on Amendment to the Law on Investment of 2003 defines in Article 14.9, a QIP located in a designated Special Promotion Zone (SPZ) or Export Processing Zone (EPZ) is entitled to the same incentives and privileges as other QIPs stipulated in the Law. The incentives to be granted to the Zone Developers and Zone Investors are summarized below in Table VI-6-1.

Table VI-6-1 Incentives in the SEZ

Beneficiary	Incentives
Zone developers	<ul style="list-style-type: none"> <li>-The exemption period for the Tax on Profit shall be provided for a maximum period of 9 years, in compliance with article 14.1 of the Law on the Amendment to the Law on Investment.</li> <li>-The import of equipments and construction materials to be used for infrastructure construction in the zone shall be allowed and exempted of import duties and other taxes.</li> <li>-The Zone Developer shall receive custom duty exemption on the import of machineries, equipments for the construction of the road connecting the town to the zone, and other public services infrastructures for the public interests as well as for the interests of the zone.</li> <li>-The Zone Developer may request, under the form of a temporary admission (AT), the import of means of transport and machineries used for the construction of the infrastructures in accordance with the laws and regulations in force.</li> <li>-The Zone Developer may obtain a land concession from the State for establishing the SEZ in areas along the border or isolated region in accordance with the Land Law, and may lease this land to the Zone Investors</li> </ul>
Zone investors	<ul style="list-style-type: none"> <li>-The same incentives on customs duty and tax as other QIP shall be entitled.</li> <li>-The Zone Investor entitled to the incentive<sup>1</sup> on Value Added Tax (VAT) at the rate of 0% shall record the amount of tax exemption for its every import. The said record shall be disregarded if the Production Outputs are re-exported. In case the Production Outputs are imported into the domestic market, the Zone Investor shall refund the amount of Value Added Tax as recorded in comparison with the quantity of export.</li> </ul>
Common	<ul style="list-style-type: none"> <li>-Zone developers, investors or foreign employees have the right to transfer all the income derived from the investment and salaries received in the zone to banks located in other countries after payment of tax.</li> <li>-The Zone Developer and the Zone Investor are entitled to obtain the investment guarantees as stated in Article 8, Article 9 and Article 10 of the Law on Investment in the Kingdom of Cambodia and other relevant regulations.</li> <li>-Non-discriminatory treatment as foreigners, non-nationalization and no-fixing price</li> </ul>

Note 1 : The Zone Investor entitled to the incentive: Investors such as garment and footwear manufacturers, their supporting industries or contractor.

***Additional Incentives to the Zone investors in SEZ***

(a) Incentive on VAT Exemption (the Prime Minister's Notation on Letter #2128 SHV (MoEF) dated on 2 March 2010 of Ministry of Economic and Finance on the request to continue the temporary suspension of VAT for the investors in the Special Economic Zones)

Incentive on VAT exemption to the investors located in the SEZ has been extended without specific time limit. The imposition of VAT shall be automatically suspended for the followings. This incentive shall not be applied to the immovable property development project in the SEZ.

- The construction materials, production equipments and materials to be imported by Export-oriented QIP in SEZ.
- The construction materials and production equipments to be imported by Domestic Manufacturing QIP in SEZ
- Products produced by QIP in the SEZ, which will become the production input to other QIP in the same SEZ

(b) It has been decided that the special customs procedures shall be applied to the SEZ (Prakas No. 734 MEF on the Special Customs Procedures to be implemented in SEZ, dated September 11, 2008).

1) SEZ located within 20km from the official border

- For importation: At border check point, only present and provide the duplicated copies of goods and not required to submit customs declaration. No customs seal shall be affixed. The goods shall be transported through the Seamless Route. At SEZ gate, submit Customs Summarized Declaration. Customs officers shall preliminarily verify the identification of involved staff, mean of transport and related documents then allow the goods to be transported to investor's premise. Importer can use the imported goods without the presence of customs offices.
- For exportation: The customs procedure must be conducted in the SEZ. If no irregularity found, goods shall be immediately released to the border with copy of relevant export documents. At border check point, present the customs export documents to customs officer for verification. If no irregularity found, the goods shall be released for export.

2) SEZ not located within 20km from the official border

- For importation: Applying the National Transit Procedure. Containers must be sealed by customs officers.
- For exportation: The customs procedures must be conducted in the SEZ and the container be sealed before shipping out to border.

**VI-7 Other Regulations****Rules for the Export Processing Zone (EPZ)**

In the EPZ, such special rules are applied as follows (Chapter 5, The SEZ Sub-Decree):

- The EPZ has specific entrances/exits, which are determined by the CSEZ.
- Nobody can stay after working hours except for permanent guards and persons authorized by the SEZ Administration.
- Scheduled time for entry and exit from the EPZ for the authorized persons, including the import-export of goods, shall be determined by the internal rules of the SEZ Administration according to the agreement between the Zone Developer and the SEZ Administration.
- Import/Export of goods to/from the EPZ shall be considered as Import/Export of goods to/from Cambodia, which requires the owner of the goods to fulfill the formalities of import-export with the competent authority in the EPZ prior to its import-export.
- The aforementioned competent agent shall prepare all forms which should be simplified, transparent and do not cause any difficulty for the control of those goods.
- The goods shall be properly sealed by the customs officers before Import/Export.
- No retail business can locate in the EPZ, even though it is conducted for serving the public or social interests.
- The Zone Investor, although being the owner, shall not use Output Materials of Production produced in the EPZ without permission of the Administration of the SEZ.

**Workforce**

Foreign managers, technicians or experts may be employed, provided that the number of foreign staff does not exceed 10% (Ten) of the total number of its personnel (Article 11, The SEZ Sub-Decree).

**Vocational training**

Zone Developer has a duty to cooperate with the Ministry of Labor and Vocational Training (MLVT) to facilitate the training of Cambodian workers and employees and to promote new knowledge and skills for them with specific and effective programs (Article 12, The SEZ Sub-Decree).