

BACKGROUND NOTE

VERITÉ RESEARCH SRI LANKA POLICY GROUP

Looking Beyond the Economic Transformation Bill

— Three steps Sri Lanka can take to increase the supply of high-quality investment zones.

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Looking beyond the Economic Transformation Bill: Three Steps Sri Lanka Can Take to Increase the Supply of High-Quality Investment Zones

Abstract:

This note proposes three steps Sri Lanka could take to construct and manage high quality Investment Zones, drawing from regional and global best practices. First, is enacting a separate, overarching legislation to govern Zones. Second, is enhancing the quality of Zones by mandating minimum quality standards and establishing minimum criteria for selecting investors to develop and manage Zones. Third, is preventing conflicts of interest by separating the roles and responsibilities of regulators, developers, and operators and establishing a level playing field by ensuring regulatory independence. Underlying these proposals is the recognition that Sri Lanka needs to have a more robust regulatory framework than what is provided in the Economic Transformation Bill (ETB) gazetted on May 14, 2024. The need for such a framework is higher in Sri Lanka, given the scarcity of land and intense competition in the Asian region for foreign investments. The recommendations address three critical problems that have made Sri Lanka fall behind many of its regional peers. First, Sri Lanka has under-invested in both the quantity and quality of Zones. Second, it has exclusively depended on the public sector to build and manage Zones. Third, the country lacks an appropriate regulatory framework to attract private sector investment in Zones and to enhance their quality and performance. While the ETB is an important attempt to resolve these issues, the proposals outlined underscore the need to look beyond the ETB in setting up a regulatory framework to govern Zones.

1. Introduction

Access to land with state-of-the-art infrastructure facilities and connectivity to sea and airports is critical to attracting commercial investments. Investment zones, such as Export Processing Zones (EPZs), have proven to be a successful method in many developing countries, particularly in Asia, for creating industrial land that is attractive to investors. These zones play a pivotal role in overcoming multiple constraints, such as poor infrastructure, complex regulations, and excessive taxation that hinder investments in developing countries.

Although Zones have been used by developing countries to overcome excessive regulations and taxation, it is important to note that they only serve as a second-best alternative to more comprehensive economic reforms needed to attract investments. There are multiple additional benefits beyond relaxed regulations that make Zones relevant and important for industrial development. These include lower production costs through shared infrastructure and enhanced efficiency in material, water, and energy use, including improvements in waste recycling, water management, and resource recovery.¹ Further, the Zones can facilitate industrial agglomeration, or concentration of the same industry and related enterprises in a single geographical area, leading to productivity improvements, innovation and knowledge spillovers.

Sri Lanka also ventured into building EPZs, creating its first EPZ in Katunayake in 1978. Since then, the country has established 15 EPZs. However, Sri Lanka's Zones have faced three issues that have caused it to fall behind its competitors over the last two decades. First, Sri Lanka has under-invested in improving the quantity and quality of its EPZs. Second, the country has exclusively relied on public resources to create and manage its Zones. Third, Sri Lanka lacks the appropriate regulations to effectively facilitate the development and management of its Zones.

The proposed Economic Transformation Bill (ETB) gazetted on May 14, 2024, is noteworthy as it demonstrates the Sri Lankan government's desire to address these problems. It recognises the need to bring in private investment into the development and management of Zones.² This is a commendable shift from the previous Board of Investment Act No. 4 of 1978 (BOI Act), which does not expressly provide for private involvement in the management and ownership of zones. Further, the ETB recognises the importance of having an institutional mechanism to evaluate the need for Investment Zones in Sri Lanka and provide regulatory oversight for their operation and management.³

The ETB is a welcome shift from the previous approach to Zone development and management. However, this note argues that Sri Lanka should do better than the ETB to fix the current problems and keep up with its regional competitors. Sri Lanka's scarcity of land compared to many of its regional peers, such as Thailand, Vietnam, and Bangladesh, is another compelling reason for having a robust regulatory framework that enables it to be competitive in terms of the quality of its Zones over quantity.

This background note makes three recommendations on what the Sri Lankan government can do to build better Zones that can withstand regional competition for foreign direct investments (FDI), based on regional and international best practices. First, Sri Lanka should move beyond the partial provisions provided in the ETB that attempt to fix multiple economic problems by enacting separate, overarching legislation to govern investment zones exclusively. Second, the government should enhance the quality of the Zones by incorporating minimum standards for Zones and minimum criteria for selecting investors. Third, policymakers should prevent conflicts of interest between the regulator, developers, and operators by separating their roles and responsibilities and establishing a fair playing field by ensuring regulatory independence.

¹ United National Industrial Development Organization, *International Guidelines for Industrial Parks* (November 2019), p. 30, at https://www.unido.org/sites/default/files/files/2019-11/International_Guidelines_for_Industrial_Parks.pdf [last accessed 6 July 2024].

² Section 15 (6)(b), *Economic Transformation Bill (Issued on 14.05.2024)(ETB)*.

³ Section 12 (b), *ETB*.

2. Key Issues in Export Processing Zones

This section details the three critical issues Sri Lanka currently faces regarding its EPZs. These issues have made access to quality industrial land a significant challenge for investors. Addressing these challenges is essential for Sri Lanka to build better zones that are attractive to investors.

2.1 Sri Lanka has under-invested in improving both the quantity and the quality of EPZs

Starting from its first EPZ in Katunayake, Sri Lanka has developed 15 EPZs. However, despite multiple initiatives, Sri Lanka has failed to complete the development of new Zones over the last two decades. Although there have been multiple initiatives to create new Zones, such as Bingiriya, Arabokka, and Eravur, they are only partially completed.⁴ Limited access to quality industrial land is identified as a key constraint faced by investors in Sri Lanka. A 2018 study found that the country's key EPZs were operating at nearly total capacity. In the largest zones, such as Katunayake, Biyagama, Koggala, Seethawaka, Horana, and Mirigama, less than 10% of the land was vacant.⁵

In contrast, regional competitors, such as Vietnam, Thailand, and Bangladesh, have maintained the momentum of investing in new zones. Vietnam, for example, plans to add 161 Special Economic Zones (SEZs) to the existing 397 in the next ten years.⁶ Similarly, Bangladesh aims to establish 100 economic zones by 2030, with 97 approved, ten already in operation, and 29 under development.⁷

These countries are not only expanding the quantity of zones but are also taking steps to improve their quality by adopting higher social and environmental standards. For example, the emergence and expansion of eco-industrial parks (EIPs) indicate a greater focus on higher environmental standards. EIPs have risen from fewer than 50 in 2000 to around 250 in recent years.⁸ The Vietnamese government plans to create new EIPs in 8-10% of Vietnam's provinces and convert existing industrial parks to EIPs in 40-50% of its provinces by 2030.⁹

Vietnam's regulatory framework also demonstrates its desire to improve the social standards of Zones. The regulations require the regulator to ensure that zone employees have easy access to healthcare, educational, social, cultural, and sports services, as well as the necessary public services and utility facilities.¹⁰

⁴ Board of Investment, Sri Lanka, Arabokka Industrial Zone Hambantota, at <https://investsrilanka.com/wp-content/uploads/2023/08/Arabokka-Industrial-Zone.pdf>, [last accessed 23 July 2024]; Board of Investment, Sri Lanka, Locations - Eravur EPZ - Site Map, 12 September 2023, at <https://investsrilanka.com/locations/>, [last accessed 23 July 2024]; President's Media Division, Sri Lanka, 'President Directs Officials to Complete Bingiriya Industrial Zone Infrastructure Development by Year's End', 8 May 2024, at <https://pmd.gov.lk/news/president-directs-officials-to-complete-bingiriya-industrial-zone-infrastructure-development-by-years-end/>, [last accessed 6 July 2024].

⁵ Sehar Noor, Timothy O'Brien, and Daniel Stock, *Can industrial zones address the binding constraints to Sri Lanka's growth?* (2018), at https://growthlab.hks.harvard.edu/files/growthlab/files/Growth_Diagnostic_And_Zones_24May2018.pdf [last accessed 6 July 2024].

⁶ 'Vietnam to have 560 industrial parks by 2030', *Vietnam Today*, 3 September 2021, at <https://en.vneconomy.vn/vietnam-to-have-560-industrial-parks-by-2030.htm>

⁷ Abbas Uddin Noyon and Jahir Rayhan, 'Beza will add \$40b to the economy by 2030', *The Business Standard*, 11 March 2023, at <https://www.tbsnews.net/economy/beza-will-add-40b-economy-2030-597686> [last accessed 6 July 2024]; Bangladesh Economic Zones Authority, Government of the People's Republic of Bangladesh, 'Bangladesh: A Development Miracle', 2021, at https://beza.gov.bd/wp-content/uploads/2021/11/BEZA_Flyer_2021.pdf [last accessed 6 July 2024].

⁸ 'Eco-Industrial Parks Emerge as an Effective Approach to Sustainable Growth', *World Bank Group*, 23 January 2018, at <https://www.worldbank.org/en/news/feature/2018/01/23/eco-industrial-parks-emerge-as-an-effective-approach-to-sustainable-growth> [last accessed 6 July 2024].

⁹ 'Green Ambitions: Navigating Challenges in Vietnam's Eco-Industrial Landscape', *Source of Asia*, 21 December 2023, at <https://www.sourceofasia.com/green-ambitions-navigating-challenges-in-vietnams-eco-industrial-landscape/> [last accessed 6 July 2024]; Nisasia Ekafitrina and Charles Arthur, 'Eco-Industrial Parks: Resource Efficiency and Industrial Symbiosis', *United Nations Industrial Development Organization*, 13 December 2023, at <https://www.unido.org/stories/eco-industrial-parks-resource-efficiency-and-industrial-symbiosis> [last accessed 6 July 2024].

¹⁰ Government of Vietnam, Decree: Management of Industrial Parks and Economic Zones in Vietnam, No. 35/2022/ND-CP (Decree No. 35/2022/ND-CP), 2022, Article 29, at [35-2022-ND-CP-Vietnam.pdf](https://www.vietnam.com.vn/35-2022-ND-CP-Vietnam.pdf) [last accessed 6 July 2024].

2.2 Sri Lanka has exclusively relied on public resources to build and manage Zones

With the exception of the MAS Fabric Park, a small private EPZ established in 2006, all other EPZs in Sri Lanka were built and managed using public funds. Although the Sri Lankan government has, over the years, indicated its interest in engaging the private sector, none of the proposed projects have materialised.

Sri Lanka is a latecomer to private Zones. The movement towards private investments in developing Zones dates back to the 1980s. By 2008, private ownership of industrial zones worldwide had risen to 62%.¹¹ According to the Asian Economic Integration Report published by the ADB in 2015, private EPZs account for about 89% of Vietnam's total zones.¹² This trend is now visible even in South Asia. For example, in Bangladesh, 29 of the 97 approved zones expected to be established by 2030 are private EPZs.¹³ (Refer to Annex 1 for more information on the percentage of private ownership of zones in peer countries).

In addition to reducing the financial burden on the Government, research indicates that, when done right, EPZs developed and managed by the private sector have outperformed their public counterparts in economic yield, market access, and quality of amenities.¹⁴ Private zones that operate within an appropriate regulatory framework are less influenced by short-term political forces and, to a large extent, shielded from corruption and red tape, making them more attractive to investors compared to public zones.¹⁵ Further, when regulations support and promote fair competition between public and private zones, the best practices in private EPZs are likely to trickle down to existing public zones, which are compelled to compete with private zones for customers and investors.¹⁶

2.3 Sri Lanka lacks the appropriate regulations to govern the Zones

Having the right regulations is a key factor in explaining why some countries fare better than others in building better zones. Such regulations that help improve the quality of the Zones become even more critical for Sri Lanka, which cannot compete in quantity with its regional competitors due to the limited availability of land.

Sri Lanka does not maintain an appropriate regulatory regime on par with international standards required to facilitate the creation of quality investment zones. The EPZs in Sri Lanka are governed by the BOI Act, which only gives the Board of Investment (BOI) responsibility for allocating land and managing public EPZs. The BOI Act does not mandate specific processes or governance mechanisms of EPZs and has no provisions for private sector involvement in developing and managing EPZs in Sri Lanka.

In contrast, many other Asian countries implemented such legislation decades ago. Annex 1 provides details of countries with separate legislation to govern Zones. These countries have separate, overarching regulatory frameworks focusing exclusively on zone development and management, such as Vietnam's Decree on Management of Industrial Parks and Economic Zones (No. 35/2022/ND-CP) and the Industrial Estate Authority of Thailand Act (1979)¹⁷. The absence of a comprehensive regulatory framework governing the development and management of Zones in Sri Lanka is a significant gap that needs to be addressed.

¹¹ FIAS, *Special Economic Zones Performance, Lessons Learned, and Implications for Zone Development* (April 2008), p. 2, at <https://documents1.worldbank.org/curated/en/343901468330977533/pdf/458690WP0Box331s0April200801PUBLIC1.pdf>, [last accessed 6 July 2024].

¹² Asian Development Bank, *Asian Economic Integration Report* (2015), p. 71, at https://aric.adb.org/pdf/aeir/AEIR2015_specialchapter.pdf, [last accessed 6 July 2024].

¹³ Bangladesh Economic Zone Investors Association, *List of Economic Zones in Bangladesh*, at <https://www.bezia.net/economic-zones/list-of-economic-zones-in-bangladesh>, [last accessed 6 July 2024].

¹⁴ Mohak Mangal, *Institutional Structure of Special Economic Zones*, (IGC 2019), at <https://www.theigc.org/sites/default/files/2019/12/Mangal-2019-policy-paper.pdf>, [last accessed 6 July 2024].

¹⁵ Thomas Farole, *Special Economic Zones in Africa: Comparing Performance and Learning from Global Experience*, (The World Bank 2011), at <https://documents1.worldbank.org/curated/en/996871468008466349/pdf/600590PUB0ID181onomic09780821386385.pdf>, [last accessed 6 July 2024].

¹⁶ FIAS (2008), *op. cit.*

¹⁷ Decree No. 35/2022/ND-CP; *Industrial Estate Authority of Thailand, The Kingdom of Thailand, Industrial Estate Authority of Thailand Act*, B.E. 2522 (IEAT Act 1979), 1979, available at: <https://www.ieat.go.th/web->

3. Increasing the Supply of Quality Investment Zones: The Way Forward

Sri Lanka should address the issues identified above to build higher quality Zones that facilitate investment and increase exports. While the ETB is a step in the right direction towards recognising the need to address these problems, this section argues that Sri Lanka needs to be more ambitious and aim to surpass the provisions in the ETB. This section outlines three steps Sri Lanka can take to attract quality private investments and build zones that provide facilities and services of the highest standard.

3.1 Introduce single over-arching legislation to govern Zone development and management

The ETB attempts to address multiple problems, including the issues mentioned above associated with Investment Zones. It is an ambitious piece of legislation covering a wide range of areas, from drafting national economic policy and improving productivity to promoting and managing investments and international trade. However, by including Zones within its broad scope, the ETB has left many critical gaps in the proposed regulatory and institutional framework governing the Zones, significantly undermining its ability to achieve the desired impact.

In contrast, many other countries have introduced separate, overarching legislation exclusively focused on Zones. Annex 1 provides a list of such legislation in other countries. These laws aim to provide clarity, consistency, and transparency in establishing and managing Zones. They outline the Zone's purpose, objectives, legal status, functions; establish governing structures; clarify the powers, roles, and responsibilities of different actors, and define operational rules and procedures.¹⁸ Annex 2 lists areas related to Zone development and management covered by such legislation.

The right regulations that help increase investor confidence by ensuring a fair playing field, credibility, and transparency will help entice the private sector to invest in developing and managing Zones in Sri Lanka. These regulations will also aid in efficiently managing Zones by avoiding potential conflicts of interest between public and private operators, enhancing accountability.

Given the intense regional competition to attract FDI and Sri Lanka's poor track record, Sri Lanka needs to establish a robust regulatory and institutional framework to govern Zones. Ideally, it should aim to surpass its competitors, or at a minimum, be on par with them.

3.2 Mandating minimum quality standards and minimum criteria for investor selection

To compensate for Sri Lanka's land disadvantage, it must emphasise the quality of its Zones over quantity. Minimum standards for infrastructure facilities and services provided by the zone, as well as the experience and expertise of the companies selected to develop and/or manage the Zones, are critical factors that will determine the overall quality of the Zones. These factors should be incorporated into the legislation governing Investment Zones.

[upload/1xff0d34e409a13ef56eea54c52a291126/m_document/8341/14633/file_download/acb5b14e6414ecee5fbf2e6b9ffc1657.pdf](https://openjicareport.jica.go.jp/pdf/11623600_11.pdf). [last accessed 6 July 2024].

¹⁸ Japanese International Cooperation Agency, *The Study on Special Economic Zone Development in Border Area (Savannahet Province) in Lao People's Democratic Republic: Chapter VII (February 2001)*, at https://openjicareport.jica.go.jp/pdf/11623600_11.pdf [last accessed 6 July 2024].

3.2.1 Minimum Quality Standards

Zone regulations should outline minimum standards for infrastructure facilities and services, including roads, water, electricity, telecommunications, security systems, public services, and facilities for employees such as accommodation, healthcare services, and other social facilities. Investors should also comply with architectural and design norms and building regulations and integrate sustainable and socio-environmentally conscious practices in the design and development of Zones.¹⁹ These standards ensure consistency in the quality of facilities and services provided by Investment Zones nationwide.

Establishing minimum standards as a legal requirement can strengthen the Government's position in negotiations and ensure that benefits to the country are not compromised to accommodate vested interests. It will also reduce the room for bribery and corruption in the approval process and assure potential investors of high-quality, efficient, and internationally benchmarked facilities and services, enhancing investor confidence and appetite.²⁰

The significance of the quality of the Investment Zones' facilities and services has increased in importance, as fiscal incentives are becoming less critical in attracting export-oriented investors to establish businesses in these Zones. Research conducted in 77 countries reveals that infrastructure and trade facilitation play a significant role in the success of EPZs, while tax incentives have little to no measurable impact.²¹ This is because EPZs globally offer similar incentives. Fiscal incentives are increasingly considered a marginal factor rather than a primary driver of competitiveness to avoid losing investment to neighbouring EPZ competitors with comparable characteristics.²²

3.2.2 Documented criteria for the selection of investors

Regulations should document criteria that the potential investors need to meet to help establish a fair, stable, and predictable investment environment. This boosts investor confidence and safeguards the Government from entering into disadvantageous agreements with under-resourced or inexperienced developers. Transparency in the developer selection process will also enhance public support for these projects and reduce the room for complaints from private entities over favouritism and corruption.²³

Zone regulations should outline the developer selection process, ideally through competitive bidding, and clearly define the criteria for choosing developers. This entails transparent and rigorous application and approval processes as well as provisions for the extension and revocation of EPZ designations. The key aspects that need to be covered in such legislation are,

1. **Developer's technical capacity, financial strength, and commitment to the project:** In addition to these, the legislation should also stipulate a minimum financial commitment or equity requirement for the EPZ developer. This ensures the developer's commitment to the Investment Zone's success and filters out developers who might purchase land solely for speculative purposes.
2. **Robustness of the proposal:** Developers should provide financial modelling, market demand assessment, and logistics studies to ensure that the proposed Zone is technically and financially viable.²⁴

¹⁹ FIAS (2008), *op. cit.*

²⁰ *ibid.*

²¹ Amit K. Khandelwal and Matthieu Teachout, *Special Economic Zones for Myanmar (IGC 2016)*, at <https://www.theigc.org/sites/default/files/2016/03/SEZs-in-Myanmar.pdf>, [last accessed 6 July 2024].

²² The World Bank Group, *On the Path to Industrialization: A Review of Industrial Parks in Ethiopia (2022)*, at <https://documents1.worldbank.org/curated/en/099350011132228872/pdf/P1741950a12ef10560af5008750d1393b7c.pdf> [last accessed 6 July 2024].

²³ Thomas Farole, Claude Baissac and Jean-Paul Gauthier, *Special Economic Zones: A Guidance Framework for Policymaking (June 2013)*, at

<https://static1.squarespace.com/static/54d667e5e4b05b179814c788/t/5bc6f862a4222f9ca0735485/1539766376427/Farole-et-al-2013--SEZ+Policy+Framework-FinalDraft.pdf> [last accessed 6 July 2024]; FIAS (2008), *op. cit.*

²⁴ FIAS (2008), *op. cit.*

The proposed ETB does not mandate minimum quality standards for the Zones or criteria for the selection of Zone developers and operators. In contrast, legislation in Thailand, Vietnam, and Bangladesh requires developers to adhere to minimum standards for EPZs relating to road connectivity, utilities, security systems, and provisions for renewable energy sources.²⁵ Vietnam also incorporates public service and utility facilities standards for employees and establishes eco-industrial zones.²⁶ Moreover, Vietnamese legislation provides detailed criteria for selecting investors.²⁷

3.3 Separation of roles of key stakeholders and providing for regulatory independence

Historically, government agencies have simultaneously assumed the roles of regulator, developer, and operator of Zones. In Sri Lanka, for example, the BOI functions as both the regulator and operator of public zones. However, with the private sector entering the field and competing with public sector zones, this dual role creates a conflict of interest and an "un-level playing field". For example, the government agency can extend preferential treatment to its own zones over private zones in terms of land allocation, incentive provision, and lax regulation enforcement.²⁸ Additionally, the government agency's ability to effectively carry out its role as a regulator can be compromised as private zones may be reluctant to share necessary information, knowing that the government agency is also a competitor. Effective EPZ legislation addresses this potential conflict of interest by separating and clarifying the roles of regulator, developer/operator, and landowner. The United Nations Industrial Development Organisation (UNIDO) International Guidelines for Industrial Parks classify the roles and responsibilities of the regulator and the developer/operator.²⁹ Regulations should also provide for an independent regulating authority to ensure regulatory independence. Such an independent body would also make public zones more competitive and accountable by holding them to the same standards as private Zones, ensuring a level playing field and more effective oversight. Annex 3 lists best practices countries can adopt to prevent politicisation of the decision-making process and overregulation based on ASEAN guidelines for special economic zones (SEZs) development and collaboration.

Overlapping roles and responsibilities that give rise to conflicts of interest is a critical problem in the proposed ETB, undermining its effectiveness. When comparing the ETB provisions against the guidelines published by UNIDO, it becomes evident that Investment Zones Sri Lanka (Zones SL), a newly established institution under the ETB to oversee the creation, operation and management of zones in Sri Lanka, performs certain functions that belong to multiple stakeholders simultaneously. (Refer to Annex 4 for examples of multiple roles held by Zones SL).

²⁵ *Industrial Estate Authority of Thailand, The Kingdom of Thailand, Ministerial Regulation prescribing rules, procedures and conditions for the Establishment of Industrial Estates (Ministerial Regulation prescribing rules, procedures and conditions for the Establishment of Industrial Estates of 2005), 2005, at https://www.ieat.go.th/web-upload/1xff0d34e409a13ef56eea54c52a291126/m_document/8216/14886/file_download/f6296c8e1dcb537b28ed832ae86f34d8.pdf [last accessed 6 July 2024]; Decree No. 35/2022/ND-CP; Bangladesh Economic Zones Authority, The Government of the People's Republic of Bangladesh, Bangladesh Private Economic Zones Policy (BPEZ Policy 2015), 2015, at <https://beza.gov.bd/wp-content/uploads/2016/08/BPEZ-Policy-2015-English-Text.pdf> [last accessed 6 July 2024].*

²⁶ Decree No. 35/2022/ND-CP.

²⁷ *ibid.*

²⁸ *United Nations Industrial Development Organisation (2019), op. cit., p. 45.*

²⁹ *ibid.*

Annex One: Legal frameworks for EPZs and the percentage of private EPZs in Sri Lanka's peer countries

Country	Legal and Regulatory Framework	Year	Percentage of private EPZs
Thailand	Industrial Estate Authority of Thailand Act BE 2522	1979	84% (92)
Philippines	The Special Economic Zone Act	1995	92% (423)
Ghana	The Free Zone Act	1995	100% (4)
Turkey	Free Zones Law	Initial: 1985 Latest: 2010	100% (21)
Kenya	Export Processing Zones Act 1990 (Amended by Act No. 4 of 2023) Special Economic Zone Act 2015	1990, 2015	96% (53)
Vietnam	No. 35/2022/ND-CP: Decree on the management of industrial parks and economic zones in Vietnam	Initial: 2008 Latest: 2022	89% (365)
India	The Special Economic Zone Act No.28	2005	74% (455)
Korea	Special Act on Designation and Management of Free Economic Zones 1990 (Incorporated Private operators in 2013)	2013	10% (10)
Bangladesh	Bangladesh Economic Zones Act No. 42	2010	11% (1)
Sri Lanka	No regulations to govern the standards and governance of EPZs	N/A	6%(1)[†]

† MAS Fabric Park has been operating on a 99-year lease from the Government since 2006. It was established as a one-off investment governed by a Memorandum of Understanding (MOU) between MAS Holdings and the BOI.

Source: FIAS (2008); Asian Development Bank (2015); for the sources of each legislation, please refer to footnote 30³⁰

³⁰ FIAS (2008), *op. cit.*; Asian Development Bank (2015), *op. cit.* p. 71.; IEAT Act 1979; Philippine Economic Zone Authority, Republic of the Philippines, The Special Economic Zone Act (PSEZ Act 1995), 1995, at: <https://www.peza.gov.ph/special-economic-zone-act> Special Economic Zone Act | PEZA [last accessed 6 July 2024]; Ghana Revenue Authority, Republic of Ghana, The Free Zone Act, 1995, at <https://gra.gov.gh/wp-content/uploads/2020/10/Free-Zones-Act-1995-Act-504.pdf> [last accessed 6 July 2024]; Government of Turkey, Free Zones Law No. 3218 of 1985, 1985, at <https://www.lawsturkey.com/law/free-zones-law-3218> [last accessed 6 July 2024]; Kenya Investment Authority, Republic of Kenya, The Export Processing Zones Act, 1990, at <http://www.kenyalaw.org:8181/exist/rest//db/kenyalaw/Kenya/Legislation/English/Acts%20and%20Regulations/E/Export%20Processing%20Zones%20Act%20-%20No.%2012%20of%201990/docs/ExportProcessingZonesAct12of1990.pdf> [last accessed 6 July 2024]; Ministry of Investments, Trade and Industry, Republic of Kenya, The Special Economic Zones Act, 2015, at <https://www.industrialization.go.ke/sites/default/files/2023-02/SEZ%20Act%202015.pdf> [last accessed 6 July 2024]; Decree No. 35/2022/ND-CP; Export Promotion Council for EOUs & SEZs, Ministry of Commerce & Industry, Government of India, The Special Economic Zone Act No. 28 of 2005 (SEZ Act 2005), 2005, at <http://www.epces.in/Act-Book.pdf> [last accessed 6 July 2024]; Korea Legislation Research Institute, Government of Korea, Special Act on Designation and Management of Free Economic Zones 1990 Amended by Act No. 15309 of Dec. 26, 2017, at https://elaw.klri.re.kr/eng_service/lawView.do?hseq=46782&lang=ENG [last accessed 6 July 2024]; Bangladesh Economic Zones Authority, The Government of the People's Republic of Bangladesh, The Bangladesh Economic Zone Act No.42 of 2010 (BEZA 2010), 2010, at: <http://beza.gov.bd/wp-content/uploads/2015/06/BEZA-Act-English.pdf> [last accessed 6 July 2024].

Annex Two: Features and content of EPZ regulations in peer countries.

Description		Sri Lanka	Thailand (1996 / 2005)	Vietnam (2022)	Bangladesh (2010)	India (2005)	Pakistan (2022)	Philippines (1995)
Selection of private developer	Criteria	X	✓	✓	✓	✓	✓	✓
	Application process	X	✓	✓	✓	✓	✓	✓
Developer Agreements		X	✓	X	✓	✓	✓	✓
Minimum requirements for the EPZs	Quality standards (Utilities and Infrastructure)	X	✓	✓	✓	✓	✓	✓
The incentive structure for the EPZs	For private EPZ developer	X	✓	✓	✓	✓	✓	✓
	For companies operating in EPZs,	X	✓	✓	✓	✓	✓	✓
Rights of developers / operators		X	X	✓	✓	✓	✓	✓
Duties and responsibilities	For private EPZ developer	X	✓	✓	✓	✓	✓	X
	For BOI/ EPZ Authority	X	✓	✓	✓	✓	X	✓
Monitoring and evaluation of the PPP-developed EPZ		X	X	✓	X	✓	X	✓
Provisions to ensure coherence between SEZs and the overall economic policy and regional policies.		X	X	✓	X	✓	✓	✓
Pre-allocation of land for the EPZs - Zoning		X	X	✓	✓	X	✓	✓
Standards on environmental and sustainability issues.		X	✓	✓	✓	✓	✓	✓
Independent Regulator		X	X	✓	X	X	X	X
Clarity and separation of roles		X	X	✓	X	X	X	X

Note: The assessment for Sri Lanka has been done based on the existing legal framework governing zones, the BOI Act.

Source: For the sources of each country, please refer to footnote 31³¹

³¹ Board of Investment, Sri Lanka, Board of Investment Act No. 4 of 1978, at <https://investsrilanka.com/boi-act-2/> [last accessed 6 July 2024]; IEAT Act 1979; Ministerial Regulation prescribing rules, procedures and conditions for the Establishment of Industrial Estates of 2005; Industrial Estate Authority of Thailand, The Kingdom of Thailand, Regulations of the Board of Directors of the Industrial Estate Authority of Thailand Governing Application for Establishment or Expansion of Joint-Development Industrial Estates B.E. 2555, 2012, at https://www.ieat.go.th/en/benefits-in-industrial-estates/download/?did=31660&filename=3+Regulations+on+Application+for+Establishment+or+Expansion_25+Dec+2012.pdf&mid=82.14&mkey=m_document&lang=en&url=https%3A%2F%2Fwww.ieat.go.th%2Fweb-upload%2F1xff0d34e409a13ef56eea54c52a291126%2Fm_document%2F8214%2F14924%2Ffile_download%2F86ac0f2ffa4477614a67f45f02389948.pdf [last accessed 6 July 2024]; Industrial Estate Authority of Thailand, The Kingdom of Thailand, Regulations of the Board of Directors of the Industrial Estate Authority of Thailand Governing Rules and Conditions for Joint Development with Others in Establishment of Service Industrial Estates B.E. 2552, 2009, at https://www.ieat.go.th/web-upload/1xff0d34e409a13ef56eea54c52a291126/m_document/8214/14924/file_download/84e1dea1789ba259f6162654eb7f65f7.pdf [last accessed 6 July 2024]; Industrial Estate Authority of Thailand, The Kingdom of Thailand, Regulations of the Board of Directors of the Industrial Estate Authority of Thailand Governing Standards for Utility Systems, Facilities and Services in Industrial Estates B.E. 2555, 2012, at <https://www.ieat.go.th/web->

Annex Three: Best practices for effective EPZ management

- Granting EPZ regulators sufficient autonomy to manage finances, staffing, and operations independently, allowing exemption from restrictive civil service and budget rules.
- Aligning the regulator closely with the highest political office to enhance coordination with other ministries.
- Enabling regulators to coordinate effectively with other government agencies, possibly through 'one-stop-shop' setups or Interagency Memoranda of Understanding (MoUs) to streamline processes and improve inter-agency collaboration.
- Providing cross-ministerial and private sector representation to protect the regulatory environment from political influences and balance public and private interests in EPZ designation, focusing on profitability and socioeconomic benefits through collaborative approaches.
- In situations where creating an independent agency is not immediately feasible due to existing conditions or political and economic factors, a timeline for transitioning to an autonomous or semi-autonomous body should be established. This gradual approach allows for addressing legacy issues while progressively moving towards a more effective and independent operational structure.

Source: Association of Southeast Asian Nations, *ASEAN Guidelines for Special Economic Zones (SEZs) Development and Collaboration*, 2016, at <https://asean.org/wp-content/uploads/2020/12/Adopted-ASEAN-Guidelines-for-Special-Economic-Zone-SEZ-Development-and-Collaboration.pdf>

[upload/1xff0d34e409a13ef56eea54c52a291126/m_document/8214/14924/file_download/e1e3d44fff96969cdebc57b52511581d.pdf](https://www.iate.go.th/web-upload/1xff0d34e409a13ef56eea54c52a291126/m_document/8214/14924/file_download/e1e3d44fff96969cdebc57b52511581d.pdf) [last accessed 6 July 2024]; Industrial Estate Authority of Thailand, The Kingdom of Thailand, Layout map of project submission/approval for industrial estate establishment, at https://www.iate.go.th/web-upload/1xff0d34e409a13ef56eea54c52a291126/m_document/8208/15103/file_download/d35529d545e453fa57d79ea1c9df2414.pdf [last accessed 6 July 2024]; Decree No. 35/2022/ND-CP; Government of Vietnam, Law on Public Investment No. 39/2019/QH14, 2019, at <https://faolex.fao.org/docs/pdf/vie202112.pdf> [last accessed 6 July 2024]; Government of Vietnam, Law on Planning No. No. 21/2017/QH14, 2017, at <https://vepg.vn/wp-content/uploads/2019/07/21-2017-QH14-Planning-Law.pdf> [last accessed 6 July 2024], Government of Vietnam, Decision supplementing the National Land Use Planning Targets for The 2021–2030 period, with a Vision to 2050, 5–Year National Land Use Plan 2021–2025 No. 326/QĐ-TTg, 2022, at [Decision 326/QĐ-TTg 2022 indicators of national land use planning for the period 2021 and 2030 \(thuvienphapluat.vn\)](https://thuvienphapluat.vn) [last accessed 6 July 2024]; BEZA 2010; BPEZ Policy 2015; Bangladesh Economic Zones Authority, The Government of the People’s Republic of Bangladesh, The Bangladesh Economic Zones (Appointment of Developer) Rules, 2020, at <https://beza.gov.bd/wp-content/uploads/2023/02/BEZA-Appointment-of-Developer-Rules-2020.pdf> [last accessed 6 July 2024]; SEZ Act 2005; Export Promotion Council for EOUs & SEZs, Ministry of Commerce & Industry, Government of India, The Special Economic Zone Rules, 2006, at: <https://www.epces.in/Rule-Book.pdf> [last accessed 6 July 2024]; Export Processing Zone Authority, Islamic Republic of Pakistan, The Export Processing Zones Authority Ordinance, 1980, at https://epza.gov.pk/wp-content/uploads/2024/04/EPZA_Ordinance.pdf [last accessed 6 July 2024]; Export Processing Zone Authority, Islamic Republic of Pakistan, Private/Public Private Partnership Export Processing Zones Rules, 2022, at <https://epza.gov.pk/wp-content/uploads/2022/10/Minutes-of-the-meeting-on-development-of-autoze.pdf> [last accessed 6 July 2024]; Export Processing Zone Authority, Islamic Republic of Pakistan, Private and Public Participated Export Processing Zones Rules, 2023, at https://epza.gov.pk/wp-content/uploads/2024/03/PPP_EPZ-Rules-2024-1.pdf [last accessed 6 July 2024]; PSEZ Act 1995; Philippine Economic Zone Authority, Republic of the Philippines, Rules and Regulations to implement Republic Act No. 7916, otherwise known as The Special Economic Zone Act of 1995, at <https://www.peza.gov.ph/implementing-rules-and-regulations> [last accessed 6 July 2024].

Annex Four: Examples of Multiple Roles held by Zones SL

Regulator	Developer	Operator	Landlord
<p>Section 63(1)(f) – Supervise and regulate the management of Investment Zones.</p> <p>Section 63(1)(m) – to appoint an investment zone developer for each investment zone declared under this Part and to develop and manage the acquired land and different types of infrastructure.</p>	<p>Section 63(1)(k) – to hold shares in a public-private partnership entity established for the purpose of developing and managing the designated economic development zone.</p>	<p>S 63(1)(c) – operate and manage the Investment Zones on behalf of the Government of Sri Lanka.</p>	<p>S 81(3) – owns the site land: Upon the Cabinet of Ministers approving the establishment of an Investment Zone, the Minister shall procure the vesting of such site to the Zones SL having acquired the proposed site under the Land Acquisition Act (Chapter 450) or by the grant or lease thereof under the Crown Lands Act (Chapter 454) as the case may require.</p>

Note: The categorisation was done by the authors using UNIDO Guidelines.³²

³² United Nations Industrial Development Organisation (2019), *op. cit.*, p. 45.

