

Some Aspect of Legal Regulation of Special Economic Zones in Russia

Yu.A. Tarasova^{1*}, S.A. Kozhevnikova¹, T.S. Bobkova¹, and O.G. Porunova¹

* Corresponding author: sangria80@yandex.ru.

¹Syzran Branch of Samara State University of Economics, Syzran, Russia

Abstract. The authors analyze the Russian and international experience of functioning of territories with special legal status. The multiple advantages of establishing and developing of such territories in the country in the short-term and long term are noted. On the basis of the analysis of the Federal Law "About special economic zones in the Russian Federation" and the other normative legal acts, the advantages and the shortcomings of the legal regulation of the creation, management and closing of the special economic zones are revealed. The factors defining a set of privileges for the foreign investors in various territories with special legal status and also the conditions of the effective work of the special economic zone of industrial and production type are considered. The authors support their analysis of the legislation with the description and comparison of economic indicators of work of two special economic zones of industrial and production type in the Volga Federal District. The authors also consider jurisprudence on the controversial issues arising in the connection with the establishment of special economic zones. The article comes to the end with the consideration of possible prospects of the territories with special legal status transformation.

Keywords: special economic zones, legal regulation, direct investments, benefits and preferences, infrastructure, zone of industrial and production type.

1 Introduction

The Special Economic Zones (SEZ) as the tools of attracting foreign investments are widespread. The economist researchers recognize the benefits of setting up special economic zones on the territory of the country. For example, the report of Th. Farole and G. Akinci indicates the main goals of the SEZ creation - attraction of investment resources, expansion of cooperation with foreign partners, modernization of the economy [1]. Wang notes that special economic zones are the instruments of economic diversification and competitiveness [2]. Ablaev emphasizes the role of special economic zones for the development of certain regions of the Russian Federation [3].

In Europe, where the experience of using special economic zones has proved to be the most successful, they have had a long history. The same Farole and Akinci note that "free ports" and urban-engulfed free zones that guaranteed free storage and exchange of goods on safe trade routes - such as Gibraltar, Hamburg and Singapore - existed for centuries. The first modern industrial free zone was established in Shannon, Ireland, in 1959. But since the early 1970s, special economic zones have been established in East Asia and Latin America to attract investment in labour-intensive production. These zones have become the cornerstone of trade and investment policies in countries that abandon import substitution policies and seek to integrate into global markets through export-oriented growth policies.

In developed countries, such as Canada and the USA, territories with special legal status serve primarily to increase the competitiveness of products of the national producer.

In Russia, the creation of special economic zones is a large-scale federal project aimed primarily to attract direct Russian and foreign investments in high-tech sectors of the economy, import-substituting industries, shipbuilding and tourism. The advantages of these territories are the special regime of business activity and the possibility of implementing the regime of a free customs zone [4].

2 Problem statement

However, the attractiveness of special economic zones in Russia remains weak, as evidenced by the closure in 2016 of nine economic zones, which during the whole period of their existence did not attract any investors [5]. It can be assumed that the development of legal regulations is one of the main factors in the attractiveness of the territory for foreign investment, as it makes the work of the zone predictable and the possibility of profit guaranteed. But despite the long existence of special economic zones, legislation in this area is still in the process of change.

The purpose of this investigation is to overview the legislation of the Russian Federation on the establishment, management, and legal regime of special economic zones.

3 Methods

Our leading methods come from qualitative approach. A qualitative attitude is based on theoretical analysis of the conceptual questions. We examined the substantial points of SEZ legislation in Russia, compared them with the ones in the Republic of the Philippines legislation on SEZ. We also looked into the realization of SEZ legislation on the example of the two zones of the same type in two different regions of Russia.

4 Results

The implementation and operation of the SEZ in Russia began in 2005 with the adoption of the Federal Law "About special economic zones" 22.07.2005 [6]. According to this law four types of SEZ are identified – industrial production, technical innovation, tourism and recreation and ports. The area of each type is subject to strict requirements. For example, on the territory of SEZ, with the exception of tourist and recreational, accommodation of housing stock is not allowed.

The Resolution of the Government of the Russian Federation "On approval of the criteria for the establishment of a special economic zone", 26.04.2012 [7] eliminated the ambiguity of the criteria for the establishment of a special economic zone, which was present in the core law. Now these criteria include natural economic and geographical competitive advantages; investment projects and potential investors who have confirmed in writing their readiness to implement these projects in the territory of the proposed special economic zone; and at least one economic company intending to perform the functions of a managing company. The aim of returning budgetary investments in the creation of SEZs is stressed. In particular, planned investment projects should correspond in volume to public funds invested in infrastructure creation, and the managing company undertakes to attract at least 50 percent of the planned volume of extra-budgetary investments in the creation and operation of the special economic zone.

The experience of the Philippines in organizing Special Economic Zones is worth to be mentioned. Criteria for establishing a new territory under the Special Economic Zone Act of the Republic of the Philippines (Republic Act No. 7916 25.07.1994), [8] are economic advantages over existing zones, high level of industrial development and strategic position. In the absence of these conditions, the zone can be established, however, financial infusions into infrastructure and other types of material support are placed on local budgets or private investments, without the involvement of the central government. In addition, such a zone should, in five years, demonstrate "substantial development".

In the latest version of the Law on special economic zones, the direct management of the SEZ is carried out by the joint-stock company "JSC" SEZ", the only shareholder of which is the state. Part of the authority to manage the SEZ may be transferred to the territorial subject of the federation. In such a case, the executive authority of the subject of the Russian Federation shall disclose information on its activities and on the special economic zone under its management in the information and telecommunication network "Internet".

Significant legal difficulties arise in the case of the closure of the SEZ. Each zone is established for forty-nine years and agreements with residents can be concluded for a significant period of time [9].

The legislation provides for three reasons for the closure of the SEZ ahead of schedule - the need to protect the life and health of people, the protection of nature and cultural property, the safety of the country and the security of the State; the absence of residents for three years or the failure to implement agreements in accordance with the specialization of the zone. The financing for the creation of facilities for engineering, transport, social, innovation and other infrastructures of the special economic zone is provided from the federal budget, the budgets of the subjects of the Russian Federation and the local budgets [10]. Considering that the period of three years provided for establishing SEZ by the law looks unduly long. It can be considered as the upper limit of the period, the lower limit can be set in a year. Despite the general legislative framework, different sets of investor benefits may be provided in different economic zones. For example, the benefits granted to residents of the industrial production SEZ "Tolyatti" (Samara region) and industrial production SEZ "Alabuga" (Republic of Tatarstan) differ significantly [11]. Compare them in the following table:

Table 1. Benefits and preferences for residents of "Tolyatti" SEZ and "Alabuga" SEZ

Benefits and preferences	"Tolyatti" SEZ	"Alabuga" SEZ
Income tax	2% until 2018 5% from 2019 to 2020. 9% from 2021 to 2022. 12% from 2023 to 2024. 15.5% from 2025 onwards	2% first 5 years 7% next 5 years 15.5% next 10 years
The property tax	0% for 10 years	0% for 10 years
Transport tax	0% for 5 years	0% на 10 years
Possibility of the right to buy a land plot	138,415 RUB per 1 ha.	100 thousand rubles for 1 ha.
Down Factors	No	With the capital investments of at least EUR 10 million - 0.9; With capital investments of at least EUR 20 million - 0.7; With capital investments of at least EUR 30 million - EUR 0.5.

Source: Composed by the authors based on data analysis of SEZ Tolyatti and SEZ Alabuga [12].

The right to purchase land within the special economic zone was introduced by law only in 2015. Despite this innovation, the specifics of land use in SEZ have remained. In particular, the tenant of the land plot and the resident of the special economic zone do not have the right to sub-lease, which is a feature of land use in the territory and does not apply to other categories of land.

In addition, a land plot located within the boundaries of the SEZ may be seized for state or municipal needs in accordance with the procedure established by law, if it is intended to house a linear object constituting the infrastructure of the SEZ [13]. The exception is to place a linear object under easement conditions.

The territories of priority socio-economic development (TPSED) have begun to be a significant competition of SEZ as an institution for attracting foreign investment since 2014 [14]. In the period from 2016 to 2020 the number of TPSED will increase to 45. To ensure their effective functioning in Russia adopted the Federal Law of 29.12.2014 "About territories of advancing socio-economic development in the Russian Federation" [15].

TPSED unlike SEZs, are established on the basis of agreements between specific large investors and an authorized federal public authority, the elaboration of the main direction of economic activity, the determination of the volume of investments and the number of jobs created.

The life of the territory of priority socio-economic development is defined as 70 years, but can be extended. In the case of SEZs, there is no extension of the life of SEZs. A distinctive feature of the TPSED is that the management of any subject of the Russian Federation, unlike special economic zones, has the right to apply for its establishment. In general, the procedure for establishing and managing the TPSED is much easier to create and manage SEZ.

5 Conclusion

There is already a tendency to reorient regional authorities from the establishment of special economic zones in the constituent entities of the Russian Federation to the registration of territories ahead of development. Meanwhile, competition between similar legal institutions can significantly affect the economic sustainability of those real industrial and production complexes that have been established in Russia since 2005. Perhaps this prospect was anticipated by the legislator, limiting the possibility of creating a TPSED in those regions where the Special Economic Zone is already functioning. Nevertheless, the experience of legislation on the establishment, management and development of special economic zones should be taken into account in the implementation of such projects in the future.

References

1. Th. Farole, G. Akinci, Special economic zones. Progress, emerging challenges, and future directions (New York, Washington DC, 2011). URL: <https://openknowledge.worldbank.org/bitstream/handle/10986/2341/638440PUB0Exto00Box0361527B0PUBLIC0.pdf>. Accessed: 11.08.2019.
2. J. Wang, The economic impact of special economic zones: Evidence from Chinese municipalities. *Journal of Development Economics*, **101**, 133-147 (2013). DOI: <https://doi.org/10.1016/j.jdeveco.2012.10.009>.
3. I. Ablav, Innovation clusters in the Russian economy: Economic essence, concepts, approaches. *Procedia Economics and Finance*, **24**, 3-12 (2015). DOI: 10.1016/S2212-5671(15)00605-X.
4. M.E. Suvorova, Creation and management of special economic zones in the regions of Russia. *Strategy for Sustainable Development of Regions of Russia*, **13**, 28-35 (2013). [in Rus.].
5. S. Sosnovskikh, Industrial clusters in Russia: The development of special economic zones and industrial parks. *Russian Journal of Economics*, **3**(2), 174-199 (2017). DOI: <https://doi.org/10.1016/j.ruje.2017.06.004>.
6. The Federal Law of 22.07.2005 N 116-FZ (an edition of 03.07.2016)"About special economic zones in the Russian Federation" (2005). URL: http://www.consultant.ru/document/cons_doc_LAW_54599/. Accessed: 11.08.2019.
7. Resolution of the Government of the Russian Federation No. 398 of 26 April 2012 "On Approval of Criteria for the Creation of a Special Economic Zone" (as amended and supplemented on 27 March 2013) 92012). URL: <https://base.garant.ru/70168878/>. Accessed: 19.08.2019.
8. Special Economic Zone Act. REPUBLIC ACT NO. 7916 25.07.1994, Republic of the Philippines (1994). URL: <http://www.peza.gov.ph/index.php/about-peza/special-economic-zone-act>. Accessed: 11.08.2019.
9. A.V. Pushkin, *Legal regime of foreign investments in the Russian Federation* (Moscow, Alpine Books, 2012). [in Rus.].
10. S.N. Shevtsova, Specifics of management of special economic zones in Russia at the present stage. *Journal of the Belgorod University of Cooperation, Economics and Law*, **4**, 368-373 (2012). [in Rus.].
11. E.N. Zubkova, E.Yu. Dremova, Special economic zone of industrial production type (SEZ PPT) "Tolyatti" as an instrument of regional economic development. *News of the Institute of Management Systems of the SSUE*, **2**(3), 141-144 (2011). [in Rus.].
12. JSC "SEZ PPT" Togliatti, *Data of SEZ Tolyatti* (2019). URL: <http://oeztlr.ru/ru/project/>. Accessed: 11.08.2019.
13. A.V. Kuchinskaya, S.A. Lipski, Conditions for the creation of special economic zones and the definition of the territory adjacent to special economic zones in the Russian Federation. *Property Relations in the Russian Federation*, **3**(150), 34-38 (2014). [in Rus.].

14. S. Beliakov, A. Kapustkina, Analysis of performance indicators of functioning of territories with special economic status in the Russian Federation. *Procedia Engineering*, **165**, 1424-1429 (2016). DOI: 10.1016/j.proeng.2016.11.874.
15. The Federal Law of 29.12.2014 N 473-FZ "About territories of advancing socio-economic development in the Russian Federation" (2014). URL: http://www.consultant.ru/document/cons_doc_LAW_172962/. Accessed: 17.08.2019.