

*August 17, 2017*

## **UPDATE: SPECIAL ECONOMIC ZONES**

Enacted on June 1<sup>st</sup>, 2016, Mexico's Federal Law on Special Economic Zones established the general framework concerning the creation, incentives, and operation of its Special Economic Zones (SEZ).

On June 23, 2017, the Inter-Ministerial Commission approved the creation of five SEZ, namely those that will be located in the states of Chiapas (Puerto Chiapas), Veracruz (Coatzacoalcos), Michoacán (Lázaro Cárdenas), Guerrero (Puerto Unión), Yucatán (Progreso) and Oaxaca (Salina Cruz).

Now, the next step is for the President to issue the Decrees that will officially create each SEZ. It is expected that in the upcoming months, or even weeks, Decrees will start being published in the Official Gazette.

Mexican States also play an important role in the development of a SEZ. Therefore, the purpose of this update is to inform which are the economic sectors that are being targeted by the Mexican government to invest in the SEZ, as well as the significant legal developments regarding the implementation of the Mexican SEZ at the state level.

### **1. Regional Clusters: The Targeted Economic Sectors.**

As noted in our [report](#), to invest in an SEZ and benefit from the incentives, companies will have to request an authorization before the authority in charge of the Special Economic Zones (AFDZEE, acronym in Spanish). The AFDZEE aims at creating regional clusters and it has already identified the potential economic sectors that they are seeking to attract for each SEZ. Therefore, it is important for a potential investor to know in which SEZ it is more likely for their authorization request to be granted.

i. Puerto Chiapas, Chiapas.

Located in the south-pacific and close to the Mexico-Guatemala border, Puerto Chiapas is a key zone because it is meant to capitalize its agricultural lands and agribusinesses as well as to facilitate exports to Central and South America.

The principal economic sectors targeted for Puerto Chiapas are the following:

- Agribusiness (e.g. organic coffee, African palm oil, banana, soy, sesame and corn);
- Chemical (e.g. plastics, rubber and petroleum products);
- Energy (e.g. wind energy);
- Construction; and,
- Textile.

ii. Salina Cruz–Coatzacoalcos, Oaxaca and Veracruz.

Located in the poles of the Tehuantepec isthmus, the narrowest zone between the Pacific Ocean and the Gulf of Mexico, these SEZs will benefit from new transport and energy infrastructure, including gas pipelines, transmission lines, wind farms and petrochemical facilities

The principal economic sectors targeted for Salina Cruz–Coatzacoalcos are the following:

- Textile;
- Renewable energy;
- Automotive;
- Mining;
- Chemical and Petrochemical;
- Steel; and,
- Forest industries (e.g. pulp and paper, cardboard, furniture).

### iii. Lázaro Cárdenas-Puerto Unión, Michoacán and Guerrero.

Located at the east of Mexico, these SEZs will benefit from the existing and advanced port infrastructure.

The principal targeted economic sectors for Lázaro Cárdenas are the following:

- Automotive;
- Chemical;
- Mining;
- Steel and metal manufacture;
- Hydroelectric energy; and,
- Building construction.

### iv. Progreso, Yucatán

Located in the southwest of Mexico or Yucatán Peninsula, this SEZ will find support in the fast growing economy and industrial development in the state of Yucatán as well as its nearby infrastructure.

The principal economic sectors targeted for Progreso are the following:

- Information and communication technologies;
- Advanced manufacturing; and,
- High value services.

## **2. General framework of State Laws**

As noted in our previous update, States have issued their local laws. In this section, we will briefly address the common and relevant traits of the Local Laws of the states of Chiapas, Veracruz, Michoacán, Guerrero, Yucatán, and Oaxaca.

i. Tax incentives and facilitations

All SEZ States laws are silent on which tax incentives States and the municipalities will grant to investors that locate within the SEZ. Moreover, state laws address tax incentives differently as compared to the Federal SEZ Law, which provides that the tax incentives will last at least 8 years, decreasing gradually and cannot be modified without affecting investors.

Although not expressly referred in the State SEZ Laws, state and municipal tax incentives will be provided in the “*Collaboration Agreement*”, a legal enforceable instrument.<sup>1</sup> These incentives are based on the Intention Letters that were already submitted by the States and municipal authorities.

In general, Local laws provide that tax incentives granted by states and municipalities will be of a temporal and gradually decreasing nature. Only Chiapas’ SEZ Law provides that the incentives cannot be modified in prejudice of the investor, while most local laws mention that the incentives shall have a duration no less than eight years or what is provided in the Collaboration Agreement; surprisingly, Oaxaca’s SEZ Law is completely silent on this matter.

Notably, Michoacán SEZ Law also established that investors that invest in the Area of Influence may benefit from local tax incentives provided that certain requirements are fulfilled. The SEZ regime, in theory, provides tax incentives to those companies that invest within the SEZ, while those that are outside the SEZ may benefit from the administrative facilitation measures.

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<sup>1</sup> The Collaboration Agreement (*Convenio de Coordinación*) is a legal instrument executed by the Federal Government and the States and Municipalities that are located in the Special Economic Zones and nearby locations, known as Area of Influence. The Collaboration Agreement will provide the obligations applicable to the Federal, State and Municipal governments.

In our last [update](#), we informed that the following local tax incentives will be granted to investors:

- Payroll Tax;
- Property Tax;
- Property Acquisition Tax;
- Domain Transfer Tax; and,
- Lodging Tax.<sup>2</sup>

For information on the Federal tax incentives, please download our [report](#).

ii. Federal-State Coordination

In local laws it is normally provided that States and their municipalities will work jointly with Federal authorities in the development of the SEZ pursuant the “*Collaboration Agreement*” and the “*Development Plan*”.<sup>3</sup> Local laws also mention the development of the Area of Influence. Some Local Laws, such as Oaxaca and Michoacán, expressly mention that the private sector will play an important role in the establishment and optional operation of the SEZ.

Interestingly, Chiapas, Guerrero, Michoacán and Veracruz SEZ Laws provide the existence of an additional State Advisory Body, constituted by high-state officials. Its function will mainly be to review and advise on State and Municipal actions, programs, policies concerning the development of the SEZ and its areas of influence.

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<sup>2</sup> <https://www.gob.mx/zee/prensa/comunicado-no-03-la-shcp-anuncia-los-incentivos-que-aplicaran-en-las-zee?idiom=es>

<sup>3</sup> The **Development Plan** is a planning instrument concerning land-use planning, required infrastructure, and public policies.

iii. Collaboration Agreement

In harmony with the Federal Law on SEZ, State laws refer to the “Collaboration Agreement” that provides the obligations and public policies that will be undertaken by the Federal, State and Municipal governments regarding the establishment and development of the SEZ and the areas of influence.

iv. Single Window

As noted in our report, each SEZ will have a single window that will receive and process all administrative formalities, such as import requirements, construction licenses, etc. In that sense, the Local Laws reaffirm that States and the municipalities will agree in the Collaboration Agreement to work jointly with the Federal Government for this matter.

v. "Technical Counsel"

According to the Federal Law each SEZ will have a “technical council” that will function as an advisory body meant to monitor the operation of the SEZ and ensure that it fulfills its objectives, as well as to issue recommendations for the proper development of the SEZ and the area of influence. Members of said body include academics, business and labor community as well as representatives of the Federal Government, State and Municipal Government, the Integral Administrator, an SEZ investor and a civil society representative.

vi. Social and environmental concerns

Most States reaffirm the importance of environmental and social concerns prior the creation of the SEZ.<sup>4</sup> Before the creation of the SEZ, indigenous communities should have been taken into account by the State and Federal authorities in order to respect their human rights. Also, the Development Program for each SEZ will take into account environmental concerns.

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<sup>4</sup> Though the Michoacán and Chiapas SEZ laws do not mention the protection of indigenous communities in their law, the Federal Law covers this issue nonetheless.